

TABLE OF CHAPTERS

REISSUE REVISED STATUTES

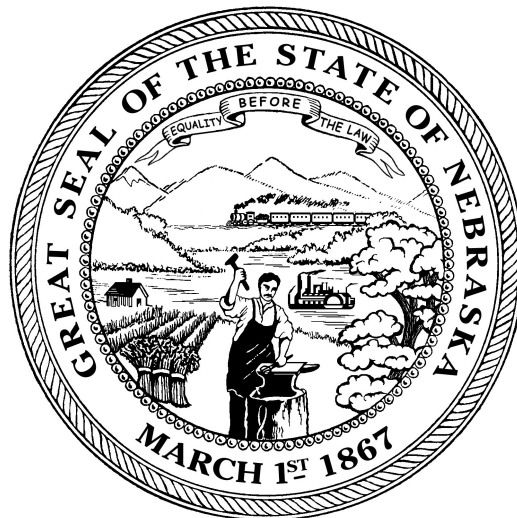
Chapter Number	No. of Articles	Chapter Number	No. of Articles
1. Accountants	1	45. Interest, Loans, and Debt	13
2. Agriculture	57	46. Irrigation and Regulation of Water	17
3. Aeronautics	8	47. Jails and Correctional Facilities	11
4. Aliens	1	48. Labor	37
5. Apportionment	Transferred or Repealed	49. Law	18
6. Assignment for Creditors	Repealed	50. Legislature	15
7. Attorneys at Law	2	51. Libraries and Museums	8
8. Banks and Banking	31	52. Liens	22
9. Bingo and Other Gambling	13	53. Liquors	5
10. Bonds	12	54. Livestock	29
11. Bonds and Oaths, Official	2	55. Militia	9
12. Cemeteries	14	56. Milldams	Repealed
13. Cities, Counties, and Other Political Subdivisions	34	57. Minerals, Oil, and Gas	16
14. Cities of the Metropolitan Class	21	58. Money and Financing	8
15. Cities of the Primary Class	13	59. Monopolies and Unlawful Restraint of Trade..	18
16. Cities of the First Class	11	60. Motor Vehicles	34
17. Cities of the Second Class and Villages	10	61. Natural Resources	5
18. Cities and Villages; Laws Applicable to All	34	62. Negotiable Instruments	3
19. Cities and Villages; Particular Classes	58	63. Newspapers and Periodicals	1
20. Civil Rights	8	64. Notaries Public	4
21. Corporations and Other Companies	29	65. Oaths and Affirmations	Transferred
22. Counties	4	66. Oils, Fuels, and Energy	23
23. County Government and Officers	39	67. Partnerships	4
24. Courts	13	68. Public Assistance	21
25. Courts; Civil Procedure	36	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 Courts, Municipal; Civil Procedure	Transferred or Repealed	70.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	96
28. Crimes and Punishments	17	72. Public Lands, Buildings, and Funds	26
29. Criminal Procedure	48	73. Public Lettings and Contracts	9
30. Decedents' Estates; Protection of Persons and Property	47	74. Railroads	16
31. Drainage	10	75. Public Service Commission	11
32. Elections	17	76. Real Property	37
33. Fees and Salaries	1	77. Revenue and Taxation	73
34. Fences, Boundaries, and Landmarks	3	78. Salvages	Repealed
35. Fire Companies and Firefighters	14	79. Schools	37
36. Fraud and Voidable Transactions	8	80. Servicemembers and Veterans	10
37. Game and Parks	18	81. State Administrative Departments	38
38. Health Occupations and Professions	47	82. State Culture and History	9
39. Highways and Bridges	28	83. State Institutions	12
40. Homesteads	1	84. State Officers	16
41. Hotels and Inns	2	85. State University, State Colleges, and Postsecondary Education	32
42. Households and Families	13	86. Telecommunications and Technology	15
43. Infants and Juveniles	49	87. Trade Practices	11
44. Insurance	94	88. Warehouses	6
		89. Weights and Measures	2
		90. Special Acts	5
		91. Uniform Commercial Code	15

REVISED STATUTES OF NEBRASKA

REISSUE OF VOLUME 5A

2024

COMPRISING ALL THE STATUTORY LAWS OF A
GENERAL NATURE IN FORCE AT DATE OF
PUBLICATION ON THE SUBJECTS ASSIGNED
TO CHAPTER 81



Published by the Revisor of Statutes

CERTIFICATE OF AUTHENTICATION

I, Marcia M. McClurg, Revisor of Statutes, do hereby certify that the Reissue of Volume 5A of the Revised Statutes of Nebraska, 2024, contains all of the laws set forth in Chapter 81, appearing in Volumes 5 and 5A, Revised Statutes of Nebraska, 2014, as amended and supplemented by the One Hundred Fourth Legislature, First Session, 2015, through the One Hundred Eighth Legislature, First Special Session, 2024, of the Nebraska Legislature, in force at the time of publication hereof.

Marcia M. McClurg
Revisor of Statutes

Lincoln, Nebraska
November 1, 2024

Recommended manner of
citation from
this volume

REISSUE REVISED STATUTES
OF NEBRASKA, 2024

(in full)

R.R.S.2024

(abbreviated)

EDITORIAL STAFF

Marcia M. McClurg Revisor of Statutes
Micah L. Uher Assistant Revisor of Statutes
Mark A. Ludwig Assistant Revisor of Statutes
Andrew J. Conroy Associate Revisor of Statutes
Matthew J. Pernicek Legal Counsel
Loguen P. Blazek Legal Counsel
Dana L. McNeil Legal Counsel
Quinn N. Conzemius Legal Counsel
Jane Plettner Statute Technician
Marilee McPherson Deputy Statute Technician
Brandi Thorn Assistant Statute Technician
Gaylena Gibson Assistant Statute Technician
Saige Hastings Assistant Statute Technician
Alexander Harrison Assistant Statute Technician
Savannah Hastings Assistant Statute Technician

CHAPTER 81

STATE ADMINISTRATIVE DEPARTMENTS

Article.

1. The Governor and Administrative Departments.
 - (a) General Provisions. 81-101 to 81-124.
 - (b) State Budget. 81-125 to 81-138.04.
 - (c) Printing and Office Supplies. 81-139 to 81-144. Repealed.
 - (d) Materiel Division of Administrative Services. 81-145 to 81-163.01.
 - (e) Central Mailing Room. 81-164 to 81-172.
 - (f) Deferred Building Renewal and Maintenance. 81-173 to 81-191.01.
 - (g) Termination of Agencies, Boards, and Commissions. 81-192 to 81-1,108. Repealed.
 - (h) Gifts to the State. 81-1,109 to 81-1,115.
2. Department of Agriculture.
 - (a) General Powers. 81-201 to 81-202.02.
 - (b) Food Codes. 81-203 to 81-217.32. Transferred or Repealed.
 - (c) Frozen Desserts. 81-218 to 81-228. Repealed.
 - (d) Control of Dairy Industry. 81-229 to 81-263.123. Transferred or Repealed.
 - (e) Condensed Milk. 81-264 to 81-267. Repealed.
 - (f) Eggs. 81-268 to 81-275.35. Repealed.
 - (g) Produce Commission Merchants. 81-276 to 81-280. Repealed.
 - (h) Cider and Vinegar. 81-281 to 81-286. Repealed.
 - (i) Oleomargarine and Butterine. 81-287 to 81-2,110. Repealed.
 - (j) Food; Premises Used for Manufacture or Preparation; Sanitation. 81-2,111 to 81-2,121. Repealed.
 - (k) Cold Storage Warehouses. 81-2,122 to 81-2,134. Repealed.
 - (l) Frozen Food Locker Plants. 81-2,134.01 to 81-2,134.11. Repealed.
 - (m) Seeds. 81-2,135 to 81-2,157.
 - (n) Commercial Fertilizer and Soil Conditioner. 81-2,158 to 81-2,162.28.
 - (o) Publicity. 81-2,163 to 81-2,164.03.
 - (p) Beekeeping. 81-2,165 to 81-2,181.
 - (q) Soft Drinks. 81-2,182 to 81-2,185. Repealed.
 - (r) Antifreeze. 81-2,186 to 81-2,197. Repealed.
 - (s) Mobile Home Courts. 81-2,198 to 81-2,210. Repealed.
 - (t) Meats. 81-2,211 to 81-2,216. Repealed.
 - (u) Grade A Milk. 81-2,217 to 81-2,232. Repealed.
 - (v) Organic Food. 81-2,233 to 81-2,235. Repealed.
 - (w) Animal Damage Control. 81-2,236 to 81-2,238.
 - (x) Nebraska Pure Food Act. 81-2,239 to 81-2,292.
 - (y) Laboratory Testing Services. 81-2,293.
 - (z) Zoning. 81-2,294.
3. Department of Banking and Finance.
 - (a) General Powers. 81-301.
 - (b) Department of Banking and Finance Settlement Cash Fund. 81-302.
4. Department of Labor. 81-401 to 81-407.
5. State Fire Marshal.
 - (a) Department of Insurance; General Powers. 81-501. Transferred.
 - (b) General Provisions. 81-501.01 to 81-541.01.
 - (c) Natural Gas Pipeline Safety. 81-542 to 81-552.
 - (d) State Electrical Division. 81-553 to 81-570. Repealed.
 - (e) State Electrical Act. 81-571 to 81-5,114. Transferred.
 - (f) Arson Reporting Immunity Act. 81-5,115 to 81-5,131.
 - (g) Smoke Detectors. 81-5,132 to 81-5,146.
 - (h) Accessibility Standards. 81-5,147 to 81-5,150.
 - (i) Training Division. 81-5,151 to 81-5,157.
 - (j) Fire Protection Systems. 81-5,158 to 81-5,164.

STATE ADMINISTRATIVE DEPARTMENTS

Article.

- (k) Boiler Inspection Act. 81-5,165 to 81-5,189.
- (l) Nebraska Amusement Ride Act. 81-5,190 to 81-5,209.
- (m) Conveyance Safety Act. 81-5,210 to 81-5,243.
- (n) Appropriations. 81-5,244.
- 6. Health and Human Services.
 - (a) Powers and Duties. 81-601 to 81-604.03.
 - (b) Maternity and Infancy. 81-605 to 81-608. Transferred.
 - (c) Maternal and Child Health. 81-609 to 81-616. Transferred.
 - (d) Dependent and Delinquent Children. 81-617, 81-618. Transferred.
 - (e) Branch Laboratory at Scottsbluff. 81-619. Transferred.
 - (f) Drugs. 81-620 to 81-624. Transferred.
 - (g) Poisons. 81-625 to 81-636. Transferred.
 - (h) Research Grants. 81-637 to 81-640.01.
 - (i) Cancer Registry. 81-641 to 81-650.
 - (j) Community and Home Health Services. 81-651, 81-652.
 - (k) Brain Injury Registry. 81-653 to 81-662.
 - (l) Medical Records and Health Information. 81-663 to 81-675.
 - (m) Health Care Data Analysis. 81-676 to 81-680.
 - (n) Parkinson's Disease Registry Act. 81-681 to 81-6,110.
 - (o) Outpatient Surgical Procedures Data Act. 81-6,111 to 81-6,119.
 - (p) Transportation Services. 81-6,120.
 - (q) Persons with Disabilities. 81-6,121, 81-6,122.
 - (r) Population Health Information. 81-6,123 to 81-6,126.
 - (s) Health Information Technology Board. 81-6,127, 81-6,128.
- 7. Department of Transportation.
 - (a) General Powers. 81-701 to 81-703.
 - (b) Natural Lakes. 81-704 to 81-708. Transferred.
 - (c) Highways; Salvaged Material. 81-709. Repealed.
 - (d) State Wayside Areas. 81-710, 81-711.
- 8. Independent Boards and Commissions.
 - (a) Game and Parks Commission. 81-801 to 81-815.65. Transferred or Repealed.
 - (b) Council of State Governments. 81-816 to 81-824.
 - (c) Emergency Management. 81-825 to 81-829.75.
 - (d) Homeland Security. 81-830 to 81-838.
 - (e) Board of Examiners for Professional Engineers and Architects. 81-839 to 81-856. Repealed.
 - (f) Sundry Claims Board. 81-857 to 81-861. Transferred.
 - (g) Real Estate Commission. 81-862 to 81-887.03.
 - (h) Nebraska Merit System. 81-888 to 81-8,107. Repealed.
 - (i) Land Surveying. 81-8,108 to 81-8,127.
 - (j) State Athletic Commissioner. 81-8,128 to 81-8,142.01.
 - (k) Centennial Commission. 81-8,143 to 81-8,145.03. Repealed.
 - (l) Nebraska Song Committee. 81-8,146 to 81-8,148. Repealed.
 - (m) Nebraska Industrial Research Institute. 81-8,149 to 81-8,157. Repealed.
 - (n) Collection Agency. 81-8,158 to 81-8,183. Transferred or Repealed.
 - (o) Professional Landscape Architects. 81-8,183.01 to 81-8,208.
 - (p) Tort Claims, State Claims Board, and Risk Management Program. 81-8,209 to 81-8,239.11.
 - (q) Public Counsel. 81-8,240 to 81-8,254.
 - (r) Commission on the Status of Women. 81-8,255 to 81-8,261. Repealed.
 - (s) Commission on Latino-Americans. 81-8,262 to 81-8,271.01.
 - (t) Nebraska American Revolution Bicentennial Commission. 81-8,272 to 81-8,275. Repealed.
 - (u) Real Estate Appraisers. 81-8,276 to 81-8,293. Repealed.
 - (v) State Miscellaneous Claims Act. 81-8,294 to 81-8,301.
 - (w) State Contract Claims Act. 81-8,302 to 81-8,306.
 - (x) Nebraska Lewis and Clark Bicentennial Commission. 81-8,307, 81-8,308. Repealed.
 - (y) Nebraska Sesquicentennial Commission. 81-8,309, 81-8,310.
 - (z) Semiquincentennial Commission. 81-8,311 to 81-8,314.
 - (aa) In the Line of Duty Compensation Act. 81-8,315 to 81-8,319.

STATE ADMINISTRATIVE DEPARTMENTS

Article.

9. State Cooperation with Federal Government. 81-901 to 81-918.
10. State-Owned Motor Vehicles. 81-1001 to 81-1025.
11. Department of Administrative Services.
 - (a) General Provisions. 81-1101 to 81-1139.01.
 - (b) State Office Wastepaper Recycling. 81-1140 to 81-1161. Transferred or Repealed.
 - (c) Forms Management Program. 81-1162 to 81-1169. Repealed.
 - (d) Requests for Payments from the State. 81-1170 to 81-1173.
 - (e) Payment of Expenses. 81-1174 to 81-1182.01.
 - (f) State Government Recycling Management Act. 81-1183 to 81-1189.
 - (g) Information Technology Infrastructure Act. 81-1190 to 81-11,103. Transferred or Repealed.
 - (h) Performance Evaluation for Certain Administrative Heads. 81-11,104.
 - (i) Nebraska Public Safety Communication System Revolving Fund. 81-11,105.
 - (j) Public Funds. 81-11,106.
12. Department of Economic Development.
 - (a) General Provisions. 81-1201 to 81-1213.05.
 - (b) Customized Job Training Act. 81-1214 to 81-1219.
 - (c) Nebraska Film Office Fund. 81-1220, 81-1221.
 - (d) Property Controlled by Department. 81-1222 to 81-1225.
 - (e) Workforce Housing Investment. 81-1226 to 81-1244.
 - (f) Nebraska Visitors Development Act. 81-1245 to 81-1264. Transferred or Repealed.
 - (g) Venture Capital Network Act. 81-1265 to 81-1271. Repealed.
 - (h) Business Development Partnership Act. 81-1272 to 81-1277.
 - (i) Agricultural Products Research. 81-1278 to 81-1280. Repealed.
 - (j) Housing Affordability Strategy. 81-1281.
 - (k) Rural Development. 81-1282 to 81-1287. Transferred.
 - (l) Partnerships for Economic Development Act. 81-1288 to 81-1294. Repealed.
 - (m) Microenterprise Development Act. 81-1295 to 81-12,105.01. Repealed.
 - (n) Nebraska Innovation Hub Act. 81-12,106 to 81-12,116.
 - (o) Nebraska Opportunity Zone Act. 81-12,117 to 81-12,124. Repealed.
 - (p) Building Entrepreneurial Communities Act. 81-12,125 to 81-12,128. Repealed.
 - (q) Nebraska Operational Assistance Act. 81-12,129 to 81-12,135.
 - (r) Small Business Innovation Act. 81-12,136 to 81-12,143. Repealed.
 - (s) Site and Building Development Act. 81-12,144 to 81-12,151.
 - (t) Business Innovation Act. 81-12,152 to 81-12,167.
 - (u) Nebraska Transformational Projects Act. 81-12,168 to 81-12,194.
 - (v) Nebraska Rural Projects Act. 81-12,195 to 81-12,218.
 - (w) Shovel-Ready Capital Recovery and Investment Act. 81-12,219 to 81-12,226.
 - (x) Small Business Stabilization Grant Program Act. 81-12,227 to 81-12,231.
 - (y) Small Business Assistance Act. 81-12,232 to 81-12,237.
 - (z) Economic Recovery Act. 81-12,238 to 81-12,244.
 - (aa) Federal Coronavirus Capital Projects Fund. 81-12,245, 81-12,246.
 - (bb) American Rescue Plan Travel, Tourism and Outdoor Recreation Program. 81-12,247.
 - (cc) Development of Underutilized Tax-Exempt Property. 81-12,248.
13. Personnel.
 - (a) State Personnel Service. 81-1301 to 81-1354.05.
 - (b) Affirmative Action Program. 81-1355 to 81-1368.
 - (c) State Employees Collective Bargaining Act. 81-1369 to 81-1390.
 - (d) State Employees. 81-1391 to 81-1394.
 - (e) Sexual Harassment. 81-1395.
 - (f) Criminal History Record Checks. 81-1396.
14. Law Enforcement.
 - (a) Law Enforcement Training. 81-1401 to 81-1414.19.
 - (b) Nebraska Commission on Law Enforcement and Criminal Justice. 81-1415 to 81-1429.03.
 - (c) Human Trafficking. 81-1430 to 81-1437.
 - (d) Law Enforcement Reserve Forces. 81-1438 to 81-1446.
 - (e) Office of Violence Prevention. 81-1447 to 81-1451.

STATE ADMINISTRATIVE DEPARTMENTS

Article.

- (f) Body-worn Cameras. 81-1452 to 81-1454.
- (g) Eyewitness Suspect Identification. 81-1455.
- (h) Employment Records. 81-1456, 81-1457. Transferred.
- (i) Law Enforcement Attraction and Retention Act. 81-1458 to 81-1465.
- 15. Environment and Energy.
 - (a) Environmental Protection Act. 81-1501 to 81-1533.
 - (b) Nebraska Litter Reduction and Recycling Act. 81-1534 to 81-1566.01.
 - (c) Hazardous Materials. 81-1567 to 81-1570.
 - (d) Landfill and Waste Disposal. 81-1571 to 81-1574. Transferred or Repealed.
 - (e) Storage of Hazardous Substances. 81-1575 to 81-1577.01.
 - (f) Low-Level Radioactive Waste Disposal Act. 81-1578 to 81-15,116.
 - (g) Petroleum Products and Hazardous Substances Storage and Handling. 81-15,117 to 81-15,127.
 - (h) Wastewater Treatment Operator Certification Act. 81-15,128 to 81-15,143.
 - (i) Motor Vehicle Exhaust Emissions. 81-15,144, 81-15,145. Repealed.
 - (j) Solid Waste Disposal Sites. 81-15,146. Repealed.
 - (k) Wastewater Treatment Facilities Construction Assistance Act. 81-15,147 to 81-15,158.
 - (l) Waste Reduction and Recycling. 81-15,158.01 to 81-15,165.
 - (m) Solid Waste Management Plan. 81-15,166.
 - (n) Nebraska Environmental Trust Act. 81-15,167 to 81-15,176.
 - (o) Solid Waste Landfill Closure Assistance Fund. 81-15,177 to 81-15,179.
 - (p) Superfund Cost Share Cash Fund. 81-15,180.
 - (q) Remedial Action Plan Monitoring Act. 81-15,181 to 81-15,188.
 - (r) Technical Advisory Committee. 81-15,189, 81-15,190. Repealed.
 - (s) Nebraska Emergency Planning and Community Right to Know Act. 81-15,191 to 81-15,235.
 - (t) Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act. 81-15,236 to 81-15,253.
 - (u) Merger of State Energy Office and Department of Environmental Quality. 81-15,254 to 81-15,259.
 - (v) Volkswagen Settlement Cash Fund. 81-15,260.
 - (w) Environmental Safety Act. 81-15,261 to 81-15,292.
 - (x) Transfer of Powers, Duties, and Functions under Environmental Safety Act. 81-15,293 to 81-15,298.
 - (y) Environmental Safety Cash Fund. 81-15,299.
 - (z) Engineering Plan Review Cash Fund. 81-15,300.
 - (aa) Nebraska Environmental Response Act. 81-15,301 to 81-15,311.
 - (bb) Real-Time Nitrate Sensors. 81-15,312.
- 16. State Energy Office.
 - (a) State Energy Office. 81-1601 to 81-1607.01.
 - (b) Lighting and Thermal Efficiency Standards. 81-1608 to 81-1626.
 - (c) Energy Audits. 81-1627 to 81-1631. Repealed.
 - (d) School District Energy Efficiency Loans and Grants. 81-1632 to 81-1634. Repealed.
 - (e) Petroleum Overcharges. 81-1635 to 81-1641.
 - (f) State Government Recycling Management Act. 81-1642 to 81-1648. Transferred.
- 17. Nebraska Consultants' Competitive Negotiation Act. 81-1701 to 81-1721.
- 18. Crime Victims and Witnesses.
 - (a) Crime Victim's Reparations. 81-1801 to 81-1842.
 - (b) Crime Victims and Witnesses Assistance. 81-1843 to 81-1851.
- 19. Truth and Deception Examiners. 81-1901 to 81-1936.
- 20. Nebraska State Patrol.
 - (a) General Provisions. 81-2001 to 81-2013.04.
 - (b) Retirement System. 81-2014 to 81-2041.
- 21. State Electrical Division. 81-2101 to 81-2145.
- 22. Aging Services.
 - (a) Nebraska Community Aging Services Act. 81-2201 to 81-2228.
 - (b) Care Management Services. 81-2229 to 81-2236.
 - (c) Long-Term Care Ombudsman. 81-2237 to 81-2264.

THE GOVERNOR AND ADMINISTRATIVE DEPARTMENTS

Article.

- (d) Preadmission Screening. 81-2265 to 81-2271.
- (e) Department on Aging Cash Fund. 81-2272. Repealed.
- (f) Nebraska Senior Volunteer Program Act. 81-2273 to 81-2283.
- 23. Intergovernmental Data Communications Act. Transferred.
- 24. Prompt Payment Act. 81-2401 to 81-2408.
- 25. Commission on Indian Affairs. 81-2501 to 81-2517.
- 26. Commission on African American Affairs. 81-2601 to 81-2608.
- 27. State Government Effectiveness Act. 81-2701 to 81-2711.
- 28. Railroad Right-of-Way. 81-2801.
- 29. State Civil Officers. 81-2901.
- 30. Nebraska Health and Human Services System Act. Repealed.
- 31. Department of Health and Human Services. 81-3101 to 81-3145.
- 32. Department of Health and Human Services Regulation and Licensure. Repealed.
- 33. Department of Health and Human Services Finance and Support. Repealed.
- 34. Engineers and Architects Regulation Act. 81-3401 to 81-3455.
- 35. Geologists Regulation Act. 81-3501 to 81-3541.
- 36. Nebraska Development Network Program. 81-3601 to 81-3609.
- 37. Nebraska Visitors Development Act. 81-3701 to 81-3730.
- 38. Commission on Asian American Affairs. 81-3801 to 81-3807.

Cross References

Constitutional provisions:

- Employees, appointment of, see Article IV, section 1, Constitution of Nebraska.
 - Expenses, specific appropriation for, see Article III, section 25, Constitution of Nebraska.
 - Heads of executive departments:
 - Accounts, keep, see Article IV, section 22, Constitution of Nebraska.
 - Appointment and removal, power of Governor, see Article IV, sections 1, 10, 11, and 12, Constitution of Nebraska.
 - Contracts, conflicts of interest in, see Article III, section 16, Constitution of Nebraska.
 - Defaulter as collector and custodian of public money or property, cannot hold office, see Article XV, section 2, Constitution of Nebraska.
 - Executive officers, who are, see Article IV, section 1, Constitution of Nebraska.
 - Extra compensation, prohibited, see Article III, section 19, Constitution of Nebraska.
 - Fees, costs, and interest, cannot receive for own use, see Article IV, section 25, Constitution of Nebraska.
 - Felon cannot hold office, see Article XV, section 2, Constitution of Nebraska.
 - Impeachment, see Article III, section 17, and Article IV, section 5, Constitution of Nebraska.
 - Ineligible for other state office, see Article IV, section 2, Constitution of Nebraska.
 - Official oath, see Article XV, section 1, Constitution of Nebraska.
 - Residence of, see Article IV, section 1, Constitution of Nebraska.
 - Salary, see Article III, section 19, and Article IV, section 25, Constitution of Nebraska.
 - Vacancies, filled by Governor, see Article IV, section 12, Constitution of Nebraska.
 - Impeachment:
 - Procedure, see Article III, section 17, Constitution of Nebraska.
 - When, see Article IV, section 5, Constitution of Nebraska.
 - Powers of government, distribution of, see Article II, section 1, Constitution of Nebraska.
 - Publications in English language, see Article I, section 27, Constitution of Nebraska.
 - Records kept at seat of government, see Article IV, section 1, Constitution of Nebraska.
 - State debts, limitation, see Article XIII, section 1, Constitution of Nebraska.
- Accounts**, audited by Auditor of Public Accounts, see section 84-304.
- Basic workweek**, see section 84-1001 et seq.
- Bonds of employees**, see Chapter 11.
- Felons**:
 - Disqualified as elector, restoration, when, see sections 29-112 and 29-113.
 - Disqualified as juror or officeholder, see sections 29-112 and 29-113.
 - Restoration of civil rights, procedure, see section 29-112.01.
- Impeachment of state officers**, see section 24-101 et seq.
- Oaths of officers and employees**, see sections 11-101 to 11-101.03.
- Property**, Governor is custodian, when, see section 84-101.
- Records Management Act**, see section 84-1220.
- Workers' compensation**, subject to, see section 48-190.

ARTICLE 1

THE GOVERNOR AND ADMINISTRATIVE DEPARTMENTS

(a) GENERAL PROVISIONS

- Section
81-101. Executive department; civil administration vested in Governor; departments created.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
- 81-101.01. Repealed. Laws 1981, LB 497, § 1.
 - 81-102. Department heads; enumeration; appointment and confirmation; removal.
 - 81-102.01. Repealed. Laws 1981, LB 497, § 1.
 - 81-103. Department heads; salaries; powers of Governor.
 - 81-103.01. Repealed. Laws 1957, c. 367, § 11.
 - 81-103.02. Repealed. Laws 1959, c. 266, § 1.
 - 81-103.03. Repealed. Laws 1971, LB 33, § 1.
 - 81-103.04. Repealed. Laws 1961, c. 286, § 1.
 - 81-103.05. Repealed. Laws 1967, c. 402, § 1.
 - 81-103.06. Repealed. Laws 1967, c. 402, § 1.
 - 81-103.07. Repealed. Laws 1967, c. 402, § 1.
 - 81-103.08. Repealed. Laws 1967, c. 402, § 1.
 - 81-104. Expending agency; special funds; available for expenditure upon approval of estimate of expenses.
 - 81-104.01. Agency; petty cash funds; how established; voucher; warrant.
 - 81-105. Repealed. Laws 1965, c. 538, § 40.
 - 81-106. Tax Commissioner; examination and audit of books of Auditor of Public Accounts; report to Governor and Clerk of the Legislature.
 - 81-107. Departments; assistants and employees; appointment; termination; compensation.
 - 81-108. Department heads; restrictions on office holding or employment; exceptions.
 - 81-109. Department heads; serve without term.
 - 81-110. Departments; officers; oath.
 - 81-111. Departments; officers; bond or insurance required.
 - 81-112. Department heads; rules and regulations; power to make.
 - 81-113. Departments; business hours.
 - 81-114. Departments; official seal.
 - 81-115. Repealed. Laws 1957, c. 398, § 6.
 - 81-116. Repealed. Laws 1973, LB 469, § 2.
 - 81-117. Department heads; employees; extra services; compensatory time off or payment; employees on hourly basis; guaranteed workweek; work period; how treated.
 - 81-117.01. Terms, defined.
 - 81-117.02. Compensatory time off or payment; when not applicable.
 - 81-118. Departments; receipts; payment to treasury; expenditures; when authorized.
 - 81-118.01. Electronic payment; acceptance; conditions; central bank digital currency; acceptance prohibited.
 - 81-118.02. State purchasing card program; created; requirements; State Treasurer and Director of Administrative Services; duties.
 - 81-119. Departments; investigations; power to compel testimony and produce documents.
 - 81-120. State agency; securities; held for safekeeping; book entry account.
 - 81-121. State agency; installation or purchase of electric vehicle charging station; certification on component parts; required.
 - 81-122. Repealed. Laws 1951, c. 312, § 1.
 - 81-123. Repealed. Laws 1986, LB 741, § 1.
 - 81-124. Repealed. Laws 1986, LB 741, § 1.
- (b) STATE BUDGET
- 81-125. State budget; submission to Legislature by Governor; when; contents.
 - 81-125.01. State budget; include reserve.
 - 81-126. Governor; recommendations as to deficiency funding; bill form.
 - 81-127. Repealed. Laws 1967, c. 577, § 2.
 - 81-128. Repealed. Laws 1965, c. 538, § 40.
 - 81-129. Director of Administrative Services; investigation of all spending agencies; reports.
 - 81-130. Repealed. Laws 1965, c. 538, § 40.
 - 81-131. Repealed. Laws 1965, c. 538, § 40.
 - 81-132. State budget; departmental budget estimates; duty to submit; contents; proposed changes; filing.

THE GOVERNOR AND ADMINISTRATIVE DEPARTMENTS

- Section
81-133. State budget; estimates and recommendations; duty of Director of Administrative Services.
81-134. State budget; departmental budget estimates; Governor may alter.
81-135. State budget; departmental needs; duty to supply information requested by Governor.
81-136. State budget; estimates; hearing; when authorized.
81-137. State budget; appropriations bill; increase; when authorized.
81-138. Appropriations; quarterly estimates required before expending.
81-138.01. Valid encumbrance; what constitutes.
81-138.02. Contracts; not valid encumbrances; exception.
81-138.03. Encumbrance; when paid; lapse.
81-138.04. State budget officer; review encumbrances; lapse.

(c) PRINTING AND OFFICE SUPPLIES

- 81-139. Repealed. Laws 1945, c. 242, § 1.
81-140. Repealed. Laws 1951, c. 312, § 1.
81-141. Repealed. Laws 1951, c. 312, § 1.
81-142. Repealed. Laws 1989, LB 16, § 1.
81-143. Repealed. Laws 1951, c. 59, § 1.
81-144. Repealed. Laws 1951, c. 59, § 1.

(d) MATERIEL DIVISION OF ADMINISTRATIVE SERVICES

- 81-145. Materiel division; terms, defined.
81-146. Repealed. Laws 2024, LB461, § 53.
81-147. Materiel administrator; appointment.
81-148. Materiel administrator; salary.
81-148.01. Repealed. Laws 1961, c. 286, § 1.
81-148.02. Repealed. Laws 1967, c. 402, § 1.
81-149. Materiel administrator; qualifications.
81-150. Materiel administrator; oath.
81-151. Materiel administrator; bond or insurance.
81-152. Materiel division; established; duties; materiel administrator; branches; established.
81-153. Materiel division; powers and duties; enumerated.
81-153.01. Materiel Division Revolving Fund; created; use; investment.
81-154. Repealed. Laws 2024, LB461, § 53.
81-154.01. Transferred to section 73-818.
81-155. Materiel administrator; inventory record; state property; powers and duties.
81-156. Transferred to section 73-819.
81-157. State property; inventory; how stamped; action to recover.
81-158. State purchasing bureau; use reverse auction; powers and duties.
81-159. Repealed. Laws 2024, LB461, § 53.
81-160. Department of Administrative Services; real property; purchases authorized.
81-161. Transferred to section 73-808.
81-161.01. Transferred to section 73-809.
81-161.02. Transferred to section 73-810.
81-161.03. Transferred to section 73-814.
81-161.04. Materiel division; surplus property; sale; procedure; proceeds of sale, how credited.
81-161.05. Materiel administrator or employee; financial or beneficial personal interest forbidden; gifts and rebates prohibited; violations; penalty.
81-161.06. State Surplus Property Revolving Fund; created; use; investment.
81-162. Transferred to section 73-811.
81-163. Repealed. Laws 1963, c. 508, § 15.
81-163.01. Repealed. Laws 2000, LB 654, § 58.

(e) CENTRAL MAILING ROOM

- 81-164. Central mailing room; equipment required.
81-165. Official outgoing mail to be metered; members of Legislature, when exempt.
81-166. Postage records; requirements.

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-167. Repealed. Laws 2022, LB1012, § 33.
- 81-168. Central mailing room; employees; hours staggered.
- 81-169. Rules and regulations; authority of materiel division.
- 81-170. Repealed. Laws 1963, c. 508, § 15.
- 81-171. Delivery of mail to mailing room for unofficial business; violation; penalty.
- 81-172. Repealed. Laws 1963, c. 508, § 15.

(f) DEFERRED BUILDING RENEWAL AND MAINTENANCE

- 81-173. Terms, defined.
- 81-174. Task Force for Building Renewal; established; purpose; consultants; appointment; how selected.
- 81-175. Task force; members; compensation; expenses.
- 81-176. Task force; review; report.
- 81-177. State agency; inspection of facilities; report; contents; referred to task force.
- 81-178. Report; classification of work items; task force, duties.
- 81-179. Building Renewal Allocation Fund; created; use; investment.
- 81-180. Building renewal funds; expenditures; allocation of funds; procedure.
- 81-181. Agency; proposed building renewal projects report; submitted, when; contents; allocation of funds; conditions.
- 81-182. Governor monitor activities of task force and agencies; authorize issuance of warrants.
- 81-183. Property not eligible for renewal and maintenance funds.
- 81-184. Administration costs.
- 81-185. Committee on Building Maintenance; membership; purpose.
- 81-186. Committee on Building Maintenance; meetings; duties.
- 81-187. Legislative Fiscal Analyst; receive copy of estimates, reports, and allocation requests.
- 81-188. Energy audit report.
- 81-188.01. State Building Renewal Assessment Fund; created; use; investment.
- 81-188.02. Repealed. Laws 2011, LB 380, § 6.
- 81-188.03. University Building Renewal Assessment Fund; created; use; investment.
- 81-188.04. Repealed. Laws 2011, LB 380, § 6.
- 81-188.05. State College Building Renewal Assessment Fund; created; use; investment.
- 81-188.06. Repealed. Laws 2011, LB 380, § 6.
- 81-189. Repealed. Laws 1984, LB 838, § 4.
- 81-190. Act, how cited.
- 81-191. Repealed. Laws 1984, LB 838, § 4.
- 81-191.01. Repealed. Laws 2011, LB 228, § 5.

(g) TERMINATION OF AGENCIES, BOARDS, AND COMMISSIONS

- 81-192. Repealed. Laws 1986, LB 745, § 1.
- 81-193. Repealed. Laws 1978, LB 569, § 14.
- 81-194. Repealed. Laws 1980, LB 94, § 19.
- 81-195. Repealed. Laws 1980, LB 939, § 8.
- 81-196. Repealed. Laws 1986, LB 745, § 1.
- 81-197. Repealed. Laws 1984, LB 470, § 7.
- 81-198. Repealed. Laws 1986, LB 745, § 1.
- 81-198.01. Repealed. Laws 1986, LB 745, § 1.
- 81-198.02. Repealed. Laws 1986, LB 745, § 1.
- 81-198.03. Repealed. Laws 1986, LB 745, § 1.
- 81-198.04. Repealed. Laws 1986, LB 745, § 1.
- 81-198.05. Repealed. Laws 1986, LB 745, § 1.
- 81-198.06. Repealed. Laws 1986, LB 745, § 1.
- 81-199. Repealed. Laws 1986, LB 745, § 1.
- 81-1,100. Repealed. Laws 1986, LB 745, § 1.
- 81-1,101. Repealed. Laws 1986, LB 745, § 1.
- 81-1,102. Repealed. Laws 1986, LB 745, § 1.
- 81-1,103. Repealed. Laws 1986, LB 745, § 1.
- 81-1,104. Repealed. Laws 1986, LB 745, § 1.
- 81-1,105. Repealed. Laws 1986, LB 745, § 1.
- 81-1,106. Repealed. Laws 1986, LB 745, § 1.

Section

- 81-1,107. Repealed. Laws 1986, LB 745, § 1.
 81-1,108. Repealed. Laws 1986, LB 745, § 1.

(h) GIFTS TO THE STATE

- 81-1,109. State Acceptance of Gifts Act, how cited.
 81-1,110. Purpose of act.
 81-1,111. Terms, defined.
 81-1,112. Gift; allocation; use; approval, required; terms or conditions.
 81-1,113. Gift or acquisition of real property; state building division; Task Force for Building Renewal; reviews required; report; approval; when required.
 81-1,114. Gift of personal property; approval by Governor; required, when.
 81-1,115. Gift of money; approval of Governor; required, when; expenditures.

(a) GENERAL PROVISIONS

81-101 Executive department; civil administration vested in Governor; departments created.

The civil administration of the laws of the state is vested in the Governor. For the purpose of aiding the Governor in the execution and administration of the laws, the executive and administrative work shall be divided into the following agencies: (1) Department of Agriculture; (2) Department of Labor; (3) Department of Transportation; (4) Department of Natural Resources; (5) Department of Banking and Finance; (6) Department of Insurance; (7) Department of Motor Vehicles; (8) Department of Administrative Services; (9) Department of Economic Development; (10) Department of Correctional Services; (11) Nebraska State Patrol; and (12) Department of Health and Human Services.

Source: Laws 1929, c. 51, § 1, p. 209; C.S.1929, § 81-101; Laws 1933, c. 149, § 1, p. 571; C.S.Supp.,1941, § 81-101; R.S.1943, § 81-101; Laws 1955, c. 329, § 4, p. 1027; Laws 1957, c. 365, § 8, p. 1236; Laws 1957, c. 366, § 51, p. 1282; Laws 1959, c. 424, § 1, p. 1423; Laws 1961, c. 415, § 29, p. 1259; Laws 1961, c. 416, § 9, p. 1267; Laws 1963, c. 504, § 1, p. 1609; Laws 1969, c. 778, § 1, p. 2949; Laws 1973, LB 563, § 16; Laws 1976, LB 561, § 4; Laws 1981, LB 541, § 4; Laws 1991, LB 58, § 2; Laws 1996, LB 1044, § 835; Laws 1999, LB 36, § 35; Laws 2000, LB 900, § 246; Laws 2007, LB296, § 726; Laws 2007, LB334, § 102; Laws 2017, LB339, § 272.

Cross References

Department of Administrative Services, see section 81-1103.
Department of Correctional Services, see section 83-171.
Department of Economic Development, see section 81-1201.02.
Department of Environment and Energy, see section 81-1502.
Department of Health and Human Services, see section 81-3113.
Department of Revenue, see section 77-360.
Department of Veterans' Affairs, see section 80-401.02.
Military Department, see section 55-120.
Nebraska State Patrol, see section 81-2001.
State Department of Education, see section 79-301 and Article VII, section 2, Constitution of Nebraska.

The statutes which give the Court of Industrial Relations jurisdiction over public employees are not unconstitutional. *American Fed. of S., C. & M. Emp. v. Department of Public Institutions*, 195 Neb. 253, 237 N.W.2d 841 (1976).

Matters of fair employment practices and civil rights are matters of statewide and not local concern. *Midwest Employers Council, Inc. v. City of Omaha*, 177 Neb. 877, 131 N.W.2d 609 (1964).

The terms of this section limit its application to the departments named therein. *State ex rel. Beck v. Obbink*, 172 Neb. 242, 109 N.W.2d 288 (1961).

Department of Water Resources was created by this section. *Ainsworth Irr. Dist. v. Harms*, 170 Neb. 228, 102 N.W.2d 429 (1960).

Reclamation Act was not unconstitutional as conferring judicial powers on an executive or administrative body. *Nebraska*

Mid-State Reclamation District v. Hall County, 152 Neb. 410, 41 N.W.2d 397 (1950).

Language used in the civil administrative code refers to executive departments. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

Executive department was reorganized in 1933, and, by the terms of the reorganization, heads were established for various departments. State ex rel. Howard v. Marsh, 146 Neb. 750, 21 N.W.2d 503 (1946).

Department of Banking is an executive and administrative branch of state government with general supervision of banks

and banking laws. State v. Kastle, 120 Neb. 758, 235 N.W. 458 (1931).

Civil administration of laws is vested in Governor, and to aid Governor, departments of state government were created. Eidenmiller v. State, 120 Neb. 430, 233 N.W. 447 (1930).

Department secretary was not authorized to lease building for use of his department, and state was not bound thereby. State ex rel. Brownell Bldg. Co. v. Cochran, 113 Neb. 846, 205 N.W. 568 (1925).

81-101.01 Repealed. Laws 1981, LB 497, § 1.

81-102 Department heads; enumeration; appointment and confirmation; removal.

The Governor shall appoint heads for the various agencies listed in section 81-101, subject to confirmation by a majority vote of the members elected to the Legislature. Such appointments shall be submitted to the Legislature within sixty calendar days following the first Thursday after the first Tuesday in each odd-numbered year. The officers shall be designated as follows: (1) The Director of Agriculture for the Department of Agriculture; (2) the Commissioner of Labor for the Department of Labor; (3) the Director-State Engineer for the Department of Transportation; (4) the Director of Natural Resources for the Department of Natural Resources; (5) the Director of Banking and Finance for the Department of Banking and Finance; (6) the Director of Insurance for the Department of Insurance; (7) the Director of Motor Vehicles for the Department of Motor Vehicles; (8) the Director of Administrative Services for the Department of Administrative Services; (9) the Director of Correctional Services for the Department of Correctional Services; (10) the Director of Economic Development for the Department of Economic Development; (11) the Superintendent of Law Enforcement and Public Safety for the Nebraska State Patrol; (12) the Property Tax Administrator as the chief administrative officer of the property assessment division of the Department of Revenue; and (13) the chief executive officer for the Department of Health and Human Services. Whoever shall be so nominated by the Governor and shall fail to receive the number of votes requisite for confirmation, shall not be subject to nomination or appointment for this or any other appointive state office requiring confirmation by the Legislature during the period for which his or her appointment was sought. In case of a vacancy in any of such offices during the recess of the Legislature, the Governor shall make a temporary appointment until the next meeting of the Legislature, when he or she shall nominate some person to fill such office. Any person so nominated who is confirmed by the Legislature, shall hold his or her office during the remainder of the term if a specific term has been provided by law, otherwise during the pleasure of the Governor subject to the provisions of this section; except any such officers may be removed by the Governor pursuant to Article IV of the Constitution of Nebraska.

Source: Laws 1929, c. 51, § 2, p. 209; C.S.1929, § 81-102; Laws 1933, c. 149, § 2, p. 571; Laws 1941, c. 177, § 1, p. 695; C.S.Supp., 1941, § 81-102; R.S.1943, § 81-102; Laws 1953, c. 335, § 1, p. 1100; Laws 1957, c. 365, § 9, p. 1237; Laws 1957, c. 366, § 52, p. 1282; Laws 1961, c. 415, § 30, p. 1260; Laws 1961, c. 416, § 10, p. 1268; Laws 1963, c. 504, § 2, p. 1609; Laws 1969, c. 778, § 2, p. 2950; Laws 1969, c. 514, § 4, p. 2105; Laws 1973, LB 563, § 17; Laws 1976, LB 561, § 5; Laws 1981, LB 249, § 4; Laws 1981, LB

541, § 5; Laws 1982, LB 404, § 34; Laws 1996, LB 1044, § 836; Laws 1999, LB 36, § 36; Laws 2000, LB 900, § 247; Laws 2007, LB296, § 727; Laws 2007, LB334, § 103; Laws 2017, LB339, § 273.

The Director of Water Resources is a state officer and membership on the Natural Resources Commission is an additional duty which could be imposed by the Legislature. *Neeman v. Nebraska Nat. Resources Commission*, 191 Neb. 672, 217 N.W.2d 166 (1974).

Head of the Department of Agriculture and Inspection is the director, who is appointed by the Governor. *State ex rel. Howard v. Marsh*, 146 Neb. 750, 21 N.W.2d 503 (1946).

Governor appoints heads of executive departments, subject to confirmation by Legislature. *State ex rel. Johnson v. Chase*, 147 Neb. 758, 25 N.W.2d 1 (1946).

81-102.01 Repealed. Laws 1981, LB 497, § 1.

81-103 Department heads; salaries; powers of Governor.

The Governor shall have authority to establish the salaries of all persons connected with the various departments including the heads thereof.

Source: Laws 1929, c. 51, § 3, p. 210; C.S.1929, § 81-103; Laws 1933, c. 149, § 3, p. 572; Laws 1937, c. 194, § 1, p. 789; Laws 1941, c. 181, § 1, p. 712; C.S.Supp.,1941, § 81-103; Laws 1943, c. 212, § 1, p. 698; R.S.1943, § 81-103; Laws 1945, c. 223, § 1, p. 667; Laws 1947, c. 309, § 1, p. 941; Laws 1951, c. 303, § 3, p. 996; Laws 1953, c. 335, § 2, p. 1100; Laws 1957, c. 365, § 10, p. 1237; Laws 1957, c. 366, § 53, p. 1283; Laws 1957, c. 367, § 8, p. 1292; Laws 1959, c. 425, § 3, p. 1428; Laws 1961, c. 415, § 31, p. 1261; Laws 1961, c. 416, § 11, p. 1269; Laws 1963, c. 507, § 1, p. 1614; Laws 1963, c. 503, § 2, p. 1607; Laws 1963, c. 505, § 1, p. 1612; Laws 1963, c. 504, § 3, p. 1610; Laws 1965, c. 543, § 1, p. 1730.

Cross References

Commissioner of Labor, additional salary, see section 48-605.

Salaries of executive officers were fixed by Legislature and could not be increased during term. *State ex rel. Laughlin v. Johnson*, 156 Neb. 671, 57 N.W.2d 531 (1953).

Authority is vested in Governor to establish salaries for all persons connected with executive departments, including the

heads thereof. *State ex rel. Johnson v. Chase*, 147 Neb. 758, 25 N.W.2d 1 (1946).

Attempt to reduce salaries of department heads was invalid because act failed to amend this section. *State ex rel. Day v. Hall*, 129 Neb. 699, 262 N.W. 850 (1935); *State ex rel. Taylor v. Hall*, 129 Neb. 669, 262 N.W. 835 (1935).

81-103.01 Repealed. Laws 1957, c. 367, § 11.

81-103.02 Repealed. Laws 1959, c. 266, § 1.

81-103.03 Repealed. Laws 1971, LB 33, § 1.

81-103.04 Repealed. Laws 1961, c. 286, § 1.

81-103.05 Repealed. Laws 1967, c. 402, § 1.

81-103.06 Repealed. Laws 1967, c. 402, § 1.

81-103.07 Repealed. Laws 1967, c. 402, § 1.

81-103.08 Repealed. Laws 1967, c. 402, § 1.

81-104 Expending agency; special funds; available for expenditure upon approval of estimate of expenses.

No appropriation from any fund except the General Fund shall become available for expenditure for any expending agency until such department shall submit to the Governor estimates of the amount required for each activity to be carried on, and such estimates shall have been approved by the Governor. A statement of the estimates as allowed shall be promptly furnished the Director of Administrative Services for his guidance.

Source: Laws 1929, c. 51, § 4, p. 210; C.S.1929, § 81-104; R.S.1943, § 81-104.

81-104.01 Agency; petty cash funds; how established; voucher; warrant.

Whenever a need exists, the executive head of any agency of state government may make application to the Director of Administrative Services and the Auditor of Public Accounts to establish and maintain a petty cash fund of not less than twenty-five dollars nor more than three hundred dollars at a specific location in this state. Such application shall specify the purpose for which the fund is to be used. When the Director of Administrative Services and the Auditor of Public Accounts have approved the establishment of any such fund, a voucher shall be submitted to the Department of Administrative Services accompanied by such information as the department may require for the establishment thereof. The Director of Administrative Services shall issue a warrant for the amount specified and deliver it to the establishing agency. The funds to initiate the petty cash fund shall be drawn from the appropriate fund of the agency based on the use of the petty cash fund. When it becomes necessary to replenish any such fund, the voucher therefor shall be accompanied by an accounting of transactions of the fund in such form and detail as the Department of Administrative Services may provide.

Source: Laws 1977, LB 513, § 1; Laws 1984, LB 933, § 10; Laws 1986, LB 930, § 2.

81-105 Repealed. Laws 1965, c. 538, § 40.

81-106 Tax Commissioner; examination and audit of books of Auditor of Public Accounts; report to Governor and Clerk of the Legislature.

The Tax Commissioner shall annually examine and audit or supervise and direct the examination and audit of the books, accounts, vouchers, records, and expenditures of the office of Auditor of Public Accounts and report promptly to the Governor and the Clerk of the Legislature the result of such examination and audit. The report submitted to the Clerk of the Legislature shall be submitted electronically. Each member of the Legislature shall receive an electronic copy of such report by making a request for it to the Tax Commissioner.

Source: Laws 1929, c. 51, § 6, p. 211; C.S.1929, § 81-106; Laws 1933, c. 96, § 15, p. 394; Laws 1941, c. 180, § 6, p. 703; C.S.Supp., 1941, § 81-106; Laws 1943, c. 216, § 1, p. 710; R.S.1943, § 81-106; Laws 1951, c. 310, § 1, p. 1063; Laws 1955, c. 231, § 14, p. 724; Laws 1965, c. 538, § 28, p. 1714; Laws 1979, LB 322, § 39; Laws 2012, LB782, § 164.

Cross References

Legislative purpose, Department of Administrative Services, see section 81-1101.

81-107 Departments; assistants and employees; appointment; termination; compensation.

The Governor shall, in each department, have the power to appoint such deputies, assistants, employees, and clerical help, as shall be necessary or essential to the economical, efficient and proper enforcement and administration of the laws of the state, and shall at the same time fix the salaries of such appointees and prescribe their duties. The Governor shall also have the power to discontinue the service of the head of any department or any employee when, in his judgment, the same is no longer necessary. Such an appointee may be required to serve in one or more departments and may be transferred from one department to another from time to time as an efficient and economical administration shall require. The Governor shall confer with the heads of the several departments who shall make recommendations to the Governor, from time to time, relative to appointments, services, salaries, and duties of the appointees for their respective departments. In providing for deputies, assistants, employees, or clerical help, the total expenditures for the biennium shall not exceed the appropriation made by the Legislature for such departments.

Source: Laws 1919, c. 190, § 5, p. 437; C.S.1922, § 7246; C.S.1929, § 81-108; R.S.1943, § 81-107; Laws 1945, c. 238, § 24, p. 715; Laws 1951, c. 311, § 6, p. 1068.

Possibility of discontinuance of office does not prevent officer from having definite term. State ex rel. Laughlin v. Johnson, 156 Neb. 671, 57 N.W.2d 531 (1953).

81-108 Department heads; restrictions on office holding or employment; exceptions.

(1) Except as provided in subsection (2) of this section, no head of any department referred to in section 81-101 shall hold any other public office or receive any profit from any other public or private employment. For purposes of this section, employment shall not be interpreted to mean membership on the board of directors of any corporation, business, or association, whether or not the head of the department receives compensation for such membership.

(2) Nothing in this section shall be interpreted as prohibiting the head of one of the departments referred to in section 81-101 from serving:

(a) On any public advisory or policymaking board, commission, committee, or council; or

(b) As a member of a reserve component of the armed forces of the United States.

Source: Laws 1919, c. 190, § 6, p. 438; C.S.1922, § 7247; C.S.1929, § 81-109; R.S.1943, § 81-108; Laws 1953, c. 335, § 3, p. 1101; Laws 1955, c. 329, § 5, p. 1027; Laws 1959, c. 424, § 2, p. 1423; Laws 1981, LB 249, § 5; Laws 1983, LB 82, § 1; Laws 1991, LB 852, § 1; Laws 2009, LB322, § 4; Laws 2024, LB731, § 1. Effective date July 19, 2024.

81-109 Department heads; serve without term.

Each head of a department shall serve without term.

Source: Laws 1919, c. 190, § 8, p. 438; C.S.1922, § 7249; C.S.1929, § 81-111; R.S.1943, § 81-109; Laws 1963, c. 335, § 4, p. 1101;

Laws 1953, c. 506, § 1, p. 1613; Laws 1963, c. 507, § 2, p. 1614; Laws 1965, c. 543, § 2, p. 1730; Laws 1981, LB 249, § 6; Laws 1999, LB 36, § 37; Laws 2007, LB334, § 104.

Provision relating to fixation of term has no application to Department of Aeronautics. State ex rel. Beck v. Obbink, 172 Neb. 242, 109 N.W.2d 288 (1961).

Possibility of removal from office does not prevent officer from having definite term. State ex rel. Laughlin v. Johnson, 156 Neb. 671, 57 N.W.2d 531 (1953).

Head of department herein referred to represents exactly the same head of executive department referred to in the Constitution. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

81-110 Departments; officers; oath.

Each head of a department, deputy, and assistant shall, before entering upon the duties of his office, subscribe and take the constitutional oath of office, which shall be filed in the office of the Secretary of State.

Source: Laws 1919, c. 190, § 9, p. 438; C.S.1922, § 7250; C.S.1929, § 81-112; R.S.1943, § 81-110.

Cross References

For a form of oath, see Article XV, section 1, Constitution of Nebraska, and sections 11-101 and 11-101.01.

Head of department herein referred to represents exactly the same head of executive department referred to in the Constitu-

tion. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

81-111 Departments; officers; bond or insurance required.

Each head of a department shall be bonded or insured as required by section 11-201, which bond or policy shall be filed in the office of the Secretary of State.

Source: Laws 1919, c. 190, § 10, p. 438; C.S.1922, § 7251; C.S.1929, § 81-113; R.S.1943, § 81-111; Laws 1947, c. 16, § 5, p. 101; Laws 1967, c. 36, § 6, p. 163; Laws 1978, LB 653, § 30; Laws 2004, LB 884, § 39.

Cross References

For bond, see section 11-102 and Chapter 11, article 2.

Head of department herein referred to represents exactly the same head of executive department referred to in the Constitu-

tion. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

81-112 Department heads; rules and regulations; power to make.

The head of each department is empowered to prescribe regulations, not inconsistent with law, for the government of his department, the conduct of its employees and clerks, the distribution and performance of its business, and the custody, use and preservation of the records, papers, books, documents and property pertaining thereto.

Source: Laws 1919, c. 190, § 11, p. 439; C.S.1922, § 7252; C.S.1929, § 81-114; R.S.1943, § 81-112.

Head of department herein referred to represents exactly the same head of executive department referred to in the Constitu-

tion. State ex rel. Johnson v. Chase, 147 Neb. 758, 25 N.W.2d 1 (1946).

81-113 Departments; business hours.

Each department shall be open for the transaction of business at least from 8 a.m. until 5 p.m., of each day except Saturdays, Sundays, and days declared by statutory enactment or proclamation of the President or Governor to be holidays.

Source: Laws 1919, c. 190, § 13, p. 439; C.S.1922, § 7254; C.S.1929, § 81-115; R.S.1943, § 81-113.

81-114 Departments; official seal.

Each department shall adopt an official seal.

Source: Laws 1919, c. 190, § 14, p. 439; C.S.1922, § 7255; C.S.1929, § 81-116; R.S.1943, § 81-114.

81-115 Repealed. Laws 1957, c. 398, § 6.**81-116 Repealed. Laws 1973, LB 469, § 2.****81-117 Department heads; employees; extra services; compensatory time off or payment; employees on hourly basis; guaranteed workweek; work period; how treated.**

(1) No head of a department or employee therein employed at a fixed compensation shall be paid for any extra services, unless expressly authorized by law; *Provided*, that when any employee is required to work more than forty hours in any week he or she may, in the discretion of the department head, be granted compensatory time off at the rate of one and one-half times the hours worked in excess of forty in subsequent weeks when his or her duties will permit, or be paid a sum equivalent to one and one-half times his or her hourly pay or his or her monthly pay prorated on an hourly basis for such overtime hours.

(2) No state agency, engaged in the operation of a hospital or an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises, shall be deemed to have violated sections 81-117 to 81-117.02 if a period of eight hours per day or eighty hours per fourteen consecutive calendar days is established for purposes of determining overtime compensation. Regular employees working on the hourly basis shall be paid wages equivalent to their regular wages for the usual number of work hours for days declared by statutory act or proclamation of the President of the United States or the Governor to be holidays; *Provided*, employees who have had at least one year of continuous employment with the state as hourly employees shall be guaranteed forty hours work each week.

(3) No state agency shall be deemed to have violated sections 81-117 to 81-117.02 with respect to employment in fire protection activities, law enforcement activities, including security personnel at correctional institutions, or agricultural activities, if (a) in a work period of twenty-eight consecutive days the employee receives, for four tours of duty which in the aggregate exceed two hundred hours, or (b) in the case of such employees to whom a work period of at least seven but less than twenty-eight days applies, in such work periods the employee receives, for four tours of duty which in the aggregate exceed the number of hours which bear the same ratio to the number of consecutive days of work period as two hundred hours bears to twenty-eight days, compensation at a rate not less than one and one-half times the regular rate at which the employee is paid for all hours in excess of subdivisions (a) and (b) of this subsection.

Source: Laws 1919, c. 190, § 17, p. 439; C.S.1922, § 7258; C.S.1929, § 81-119; R.S.1943, § 81-117; Laws 1955, c. 231, § 15, p. 725; Laws 1959, c. 426, § 1, p. 1429; Laws 1965, c. 545, § 1, p. 1732; Laws 1977, LB 88, § 2; Laws 1981, LB 545, § 51.

This section not applicable to state officers, employees, and others whose basic work week has not been established to be forty hours. Roth v. Lieske, 189 Neb. 216, 201 N.W.2d 846 (1972).

81-117.01 Terms, defined.

As used in section 81-117, unless the context otherwise requires:

(1) Employee shall mean an employee of any state agency, department, commission, board, or office, except (a) state employees who hold a publicly elected office of the State of Nebraska, (b) state employees who serve as a chief administrative officer for a state agency, department, commission, board, or office, and (c) all academic personnel of the University of Nebraska and the state colleges;

(2) Department shall mean and include any state agency, department, commission, board, or office, specifically including the University of Nebraska and the state colleges; and

(3) Overtime pay is computed on the basis of hours worked.

Source: Laws 1977, LB 88, § 1.

81-117.02 Compensatory time off or payment; when not applicable.

The payment or granting of compensatory time off in lieu of payment as prescribed in sections 81-117 to 81-117.02 shall not apply to (1) agency heads, their deputies and assistants, (2) chiefs of divisions, bureaus, or comparable organizational elements, and (3) other professional, executive, and administrative employees occupying classes of positions that by custom in business, industry, and other governmental jurisdictions are normally exempt from receiving overtime pay and may require the individual to work extra and irregular hours and that acceptance of such position constitutes the employee's acknowledgment that such requirement is a part of an obligation to the state as an employee thereof. The term deputy as used in this section shall not apply to the deputy state fire marshals or deputy state sheriffs.

Source: Laws 1977, LB 88, § 3.

81-118 Departments; receipts; payment to treasury; expenditures; when authorized.

The gross amount of money received by every department, from whatever source, belonging to or for the use of the state, shall be paid into the state treasury in accordance with section 84-710, without any deduction on account of salaries, fees, costs, charges, expenses, or claims of any description whatever. No money belonging to or for the use of the state shall be expended or applied by any department except in consequence of an appropriation made by law and upon the warrant of the Director of Administrative Services.

Source: Laws 1919, c. 190, § 19, p. 440; C.S.1922, § 7260; C.S.1929, § 81-120; R.S.1943, § 81-118; Laws 2021, LB509, § 19.

81-118.01 Electronic payment; acceptance; conditions; central bank digital currency; acceptance prohibited.

(1)(a) Any state official or state agency may accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a method of cash payment of any tax, levy, excise, duty,

custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by section 77-1702.

(b) A state official or state agency shall not accept a central bank digital currency as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature.

(2) The total amount of such taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card, charge card, debit card, or electronic funds transfer shall be collected by the state official or state agency.

(3) Any state official or state agency operating a facility in a proprietary capacity may choose to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a means of cash payment, and may adjust the price for services to reflect the handling and payment costs.

(4) The state official or state agency shall obtain, for each transaction, authorization for use of any credit card, charge card, or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing such service.

(5) The types of credit cards, charge cards, or debit cards accepted and the payment services provided for any state official or state agency shall be determined by the State Treasurer and the Director of Administrative Services with the advice of the committee convened pursuant to subsection (5) of section 13-609. The State Treasurer and the director shall contract with one or more credit card, charge card, or debit card companies or third-party merchant banks for services on behalf of the state and those counties, cities, and political subdivisions that choose to participate in the state contract for such services. Any negotiated discount, processing, or transaction fee imposed by a credit card, charge card, or debit card company or third-party merchant bank shall be considered, for purposes of this section, as an administrative expense.

(6) A state official or state agency obtaining, for each transaction, authorization for use of any credit card or charge card used pursuant to this section may, but is not required to, impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the state agency, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted under subsection (5) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to a state agency by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the state official or state agency shall be authorized but not required to

impose an additional surcharge or convenience fee upon the person making a payment.

(7) For purposes of this section:

(a) Central bank digital currency means a digital medium of exchange, token, or monetary unit of account issued by the United States Federal Reserve System or any analogous federal agency that is made directly available to the consumer by such federal entities. Central bank digital currency includes a digital medium of exchange, token, or monetary unit of account so issued that is processed or validated directly by such federal entities; and

(b) Electronic funds transfer means the movement of funds by nonpaper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.

Source: Laws 1978, LB 612, § 1; Laws 1997, LB 70, § 6; Laws 2002, LB 994, § 31; Laws 2024, LB1074, § 97.

Operative date July 19, 2024.

81-118.02 State purchasing card program; created; requirements; State Treasurer and Director of Administrative Services; duties.

(1) A state purchasing card program shall be created. The State Treasurer and the Director of Administrative Services shall determine the type of purchasing card or cards utilized in the state purchasing 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 the state purchasing card program on behalf of the state and those political subdivisions that participate in the state contract for such services. After the state purchasing card program has been in existence for two years, a joint report issued from the State Treasurer and the director shall be submitted to the Legislature and the Governor not later than January 1, 2001. The report shall include, but not be limited to, the utilization, costs, and benefits of the program. The state purchasing card program shall be administered by the Department of Administrative Services. The department may adopt and promulgate rules and regulations as needed for the implementation of the state purchasing card program. The department may adopt and promulgate rules and regulations providing authorization instructions for all transactions. Expenses associated with the state purchasing card program shall be considered, for purposes of this section, as an administrative or operational expense.

(2) Any state official, state agency, or political subdivision may utilize the state purchasing card program for the purchase of goods and services for and on behalf of the State of Nebraska.

(3) Vendors accepting the state's purchasing card shall obtain authorization for all transactions in accordance with the department's authorization instructions. 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 department for each state official, state agency, or political subdivision.

(4) An itemized receipt for purposes of tracking expenditures shall accompany all state purchasing card purchases. In the event that an itemized receipt does not accompany such a purchase, the Department of Administrative Services shall have the authority to temporarily or permanently suspend state purchasing card purchases in accordance with rules and regulations adopted and promulgated by the department.

(5) Upon the termination or suspension of employment of an individual using a state purchasing card, such individual's state purchasing card account shall be immediately closed and he or she shall return the state purchasing card to the department or agency from which it was obtained.

(6) No officer or employee of the state shall use a state purchasing card for any unauthorized use as determined by the department by rule and regulation.

Source: Laws 1999, LB 113, § 1; Laws 2016, LB978, § 1.

81-119 Departments; investigations; power to compel testimony and produce documents.

Each department created by section 81-101 shall have power through its head, or any deputy, assistant, or employee, when authorized by him or her, to make a thorough investigation into all the books, papers, and affairs of any person, firm, or corporation when in the judgment of such department such examination is necessary to the proper performance of its duties and the efficient enforcement of the laws. Such department may subpoena witnesses to attend investigative hearings and have such witnesses bring with them books, accounts, and documents necessary for a thorough investigation. Such witnesses may be examined under oath. These powers shall not be used for criminal investigations.

Source: Laws 1919, c. 190, § 24, p. 442; C.S.1922, § 7265; C.S.1929, § 81-123; R.S.1943, § 81-119; Laws 2008, LB952, § 1.

81-120 State agency; securities; held for safekeeping; book entry account.

Any state agency which receives and holds securities for safekeeping purposes may hold and evidence such securities by book entry account rather than obtaining and retaining the original certificate.

Source: Laws 1978, LB 763, § 3; R.S.1943, (1989), § 24-604.01; Laws 1990, LB 824, § 1.

81-121 State agency; installation or purchase of electric vehicle charging station; certification on component parts; required.

(1) For purposes of this section, restricted entity means:

(a) Any person or entity identified on the sanctions lists maintained by the Office of Foreign Assets Control of the United States Department of the Treasury;

(b) Any person or foreign government or entity determined by the United States Secretary of Commerce to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States pursuant to 15 C.F.R. 7.4; or

(c) Any person or foreign government or entity designated as a restricted entity by the Governor or a state agency under the authority of any other statute.

(2) State agencies shall require a certificate from the recipient of state funds or any funds administered by a state agency used for the installation or purchase of commercial electric vehicle charging stations or direct-current, fast-charging stations certifying that all component parts of a commercial electric vehicle charging station or a direct-current, fast-charging station which are capable of storing data, transmitting information via internet connection, or remotely controlling the operation of the commercial electric vehicle charging station or direct-current, fast-charging station are not to be produced, manufactured, or assembled by a restricted entity.

Source: Laws 2024, LB1317, § 69.

Operative date April 24, 2024.

81-122 Repealed. Laws 1951, c. 312, § 1.

81-123 Repealed. Laws 1986, LB 741, § 1.

81-124 Repealed. Laws 1986, LB 741, § 1.

(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 reports required by sections 77-5731 and 77-6837, and recommendations as to deficiency funding requirements pursuant to section 81-126. The summary of the tax expenditure report prepared pursuant to subsection (1) of section 77-385 and a summary of the reports required by sections 77-5731 and 77-6837 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; Laws 2014, LB989, § 4; Laws 2020, LB1107, § 139.

Cross References

Constitutional provisions:

Budget bill, see Article IV, section 7, Constitution of Nebraska.

81-125.01 State budget; include reserve.

The Governor, when preparing the budget provided for in section 81-125, and the Legislature, when preparing its proposed budget, shall include a reserve requirement, calculated pursuant to subsection (1) of section 77-2715.01, of not less than three percent of the appropriations included in such budget, except that for the biennium ending June 30, 2019, the percentage shall not be less than two and one-half percent.

Source: Laws 1982, LB 757, § 3; Laws 1983, LB 59, § 10; Laws 1985, LB 282, § 2; Laws 2017, LB331, § 43.

81-126 Governor; recommendations as to deficiency funding; bill form.

(1) The Governor shall present to each regular session of the Legislature his or her recommendations as to such deficiency funding requirements as he or she deems necessary for the continued operations of the various agencies, boards, and commissions of state government. The recommendations shall be in bill form and introduced to the Legislature as recommendations of the chief administrative office of the state, based upon the financial records and knowledge of the specific problems as brought to the attention of the Department of Administrative Services.

(2) For the purposes of subsection (1) of this section and the implementation of Article III, section 22, of the Constitution of Nebraska, deficiency shall mean any decrease or increase in any fund source for any budget program for the biennium in progress.

Source: Laws 1974, LB 1059, § 18; Laws 1978, LB 526, § 1; R.S.1943, (1984), § 50-423; Laws 1986, LB 258, § 8.

81-127 Repealed. Laws 1967, c. 577, § 2.

81-128 Repealed. Laws 1965, c. 538, § 40.

81-129 Director of Administrative Services; investigation of all spending agencies; reports.

It shall be the duty of the Director of Administrative Services to keep in close communication with each department, office, board, bureau, commission, or institution in the state for which money is to be appropriated and expended, including the executive and judicial departments, state colleges, university, and state institutions. The director shall make or cause to be made under his or her supervision an investigation of the needs and requirements thereof and whether

the appropriations are being judiciously and economically expended for the purposes for which they were made and shall transmit to the Governor and to the expending agency a complete report of each such investigation. In making such inspections and investigations, he or she shall, at all reasonable times, have access to the offices of all state departments, boards, bureaus, commissions, and institutions and all public works of the state and may, for the purpose of obtaining information as to the operation and fiscal needs thereof, examine the books, papers, and public records therein, and the activities shall, through their proper officers, furnish such data, information, or statements as may be requested of them.

Source: Laws 1921, c. 210, § 5, p. 747; C.S.1922, § 7272; C.S.1929, § 81-305; R.S.1943, § 81-129; Laws 1987, LB 31, § 4.

81-130 Repealed. Laws 1965, c. 538, § 40.

81-131 Repealed. Laws 1965, c. 538, § 40.

81-132 State budget; departmental budget estimates; duty to submit; contents; proposed changes; filing.

(1) All departments, offices, institutions, and expending agencies of the state government requesting appropriations for the next biennium shall file in the office of the Director of Administrative Services the budget forms furnished them by the director under the provisions of sections 81-1113 and 81-1113.01. Such budget forms shall be filed on or before September 15 of each even-numbered year. The forms shall show their total estimated requirements for the next biennium for each unit of their organization and activity classified as to object of expenditure. With such forms, each department, office, institution, and expending agency shall file a report showing all money received by such department, office, institution, or expending agency together with the estimated receipts for the next biennium. Such estimates shall be accompanied by a statement in writing giving facts and explanations of reasons for each item of increased appropriation requested. The report submitted by the Department of Health and Human Services shall include, but not be limited to, the key goals, benchmarks, and progress reports required pursuant to sections 81-3133 to 81-3133.03.

(2) Any department, office, institution, or expending agency proposing changes to its appropriation for the biennium in progress shall file in the office of the Director of Administrative Services the budget forms for requesting such changes furnished by the director under the provisions of sections 81-1113 and 81-1113.01. Such forms shall be filed on or before October 24 of each odd-numbered year.

Source: Laws 1921, c. 210, § 8, p. 748; C.S.1922, § 7275; C.S.1929, § 81-308; R.S.1943, § 81-132; Laws 1978, LB 526, § 3; Laws 1986, LB 258, § 25; Laws 2002, Second Spec. Sess., LB 12, § 2; Laws 2012, LB949, § 2; Laws 2014, LB974, § 4; Laws 2016, LB1092, § 2.

81-133 State budget; estimates and recommendations; duty of Director of Administrative Services.

The Director of Administrative Services may, at the direction of the Governor, make further inquiry and investigation as to any item requested. He shall

compile the requests of the different departments, offices, institutions and expending agencies of the state into a consolidated budget, together with his recommendation as to each item contained in the budget, and shall file the same with the Governor not later than November 15 preceding the convening of the regular session of the Legislature. He shall file with the Governor also all supporting schedules and written explanations furnished by the different agencies of the state.

Source: Laws 1921, c. 210, § 9, p. 748; C.S.1922, § 7276; C.S.1929, § 81-309; R.S.1943, § 81-133.

81-134 State budget; departmental budget estimates; Governor may alter.

The Governor shall have the right and authority to raise, lower or reject any requested appropriation or item therein, but in making any changes whatsoever, he shall give his reasons therefor in transmitting the budget to the Legislature.

Source: Laws 1921, c. 210, § 10, p. 749; C.S.1922, § 7277; C.S.1929, § 81-310; R.S.1943, § 81-134.

81-135 State budget; departmental needs; duty to supply information requested by Governor.

The departments, offices and institutions, and other agencies, shall upon request of the Governor furnish him any additional information which he may desire relative to their estimated requirements, expenditures or receipts.

Source: Laws 1921, c. 210, § 11, p. 749; C.S.1922, § 7278; C.S.1929, § 81-311; R.S.1943, § 81-135.

81-136 State budget; estimates; hearing; when authorized.

The Governor may provide for public hearings on any and all estimates included in the budget, which shall be held between November 15 and December 15 in the year preceding the regular session of the Legislature.

Source: Laws 1921, c. 210, § 12, p. 749; C.S.1922, § 7279; C.S.1929, § 81-312; R.S.1943, § 81-136.

81-137 State budget; appropriations bill; increase; when authorized.

The Governor shall also submit to the Legislature, at the same time he or she submits the budget, copies of a tentative bill for all proposed appropriations of the budget clearly itemized and properly classified, for the ensuing appropriation period, and no appropriation shall be made in excess of the items and recommendations contained in the budget unless by a three-fifths vote of the Legislature, but any item or recommendation therein contained may be rejected or decreased in amount.

Source: Laws 1921, c. 210, § 13, p. 749; C.S.1922, § 7280; C.S.1929, § 81-313; R.S.1943, § 81-137; Laws 1971, LB 28, § 1; Laws 1984, LB 933, § 11.

81-138 Appropriations; quarterly estimates required before expending.

No appropriation shall become available for expenditure to any expending agency until such department has submitted to the Director of Administrative Services quarterly estimates of the amount required in each fiscal year's

quarter for each activity to be carried on and such estimates have been approved by the Governor. Accounts shall be kept and reports rendered showing the expenditures for each such purpose.

Source: Laws 1921, c. 210, § 15, p. 749; C.S.1922, § 7282; C.S.1929, § 81-315; R.S.1943, § 81-138; Laws 1986, LB 258, § 26.

81-138.01 Valid encumbrance; what constitutes.

For appropriation and expenditure purposes, encumbrances represent financial obligations which are chargeable to the current biennium's appropriation and for which a part of that appropriation is reserved. Encumbrances which are established in one biennium to be liquidated in a subsequent biennium shall be limited to the following types of transactions:

- (1) A purchase order is issued, but the goods and accompanying invoice were not received and paid during the same biennium;
- (2) Goods or services were received, but an invoice has not been received and paid;
- (3) Goods or services and an invoice were received, but payment could not be made during the same biennium;
- (4) Salaries have been earned and are payable to the employees, but have not been paid as of the end of the biennium as a result of pay periods not being consistent with the end of the biennium, except that higher education institutions may encumber payrolls for the remainder of the summer session which is in progress at the end of the state's biennium if they have been budgeted and appropriated in such manner; and
- (5) A written agreement for a grant or award to distribute aid was signed but was not paid during the same biennium.

Source: Laws 1979, LB 233, § 1; Laws 1986, LB 258, § 27; Laws 1991, LB 651, § 1.

81-138.02 Contracts; not valid encumbrances; exception.

Contracts, other than a purchase order, for goods or services to be provided in a subsequent biennium do not represent valid encumbrances of current biennium appropriations and will require specific reappropriation by the Legislature. Only that portion of a contract which meets the criteria established in subdivision (2) of section 81-138.01 may be encumbered.

Source: Laws 1979, LB 233, § 2; Laws 1986, LB 258, § 28.

81-138.03 Encumbrance; when paid; lapse.

An encumbrance established in one biennium may only be carried over into the subsequent biennium. Any encumbrance shall be paid during the first biennium following the biennium in which established or shall be lapsed to the fund from which appropriated at the end of the first fiscal period following the biennium in which such encumbrance is established.

Source: Laws 1979, LB 233, § 3; Laws 1986, LB 258, § 29.

81-138.04 State budget officer; review encumbrances; lapse.

At the end of each biennium, the state budget officer shall review all encumbrances established in the preceding biennium and take appropriate

action to lapse those encumbrances which do not meet the provisions of sections 81-138.01 to 81-138.04.

Source: Laws 1979, LB 233, § 4; Laws 1986, LB 258, § 30.

(c) PRINTING AND OFFICE SUPPLIES

81-139 Repealed. Laws 1945, c. 242, § 1.

81-140 Repealed. Laws 1951, c. 312, § 1.

81-141 Repealed. Laws 1951, c. 312, § 1.

81-142 Repealed. Laws 1989, LB 16, § 1.

81-143 Repealed. Laws 1951, c. 59, § 1.

81-144 Repealed. Laws 1951, c. 59, § 1.

(d) MATERIEL DIVISION OF ADMINISTRATIVE SERVICES

81-145 Materiel division; terms, defined.

As used in sections 81-145 to 81-161.06, unless the context otherwise requires:

(1) Materiel division means the division of the state government charged with the administration of sections 81-145 to 81-161.06, which division shall be a part of and subject to the supervision of the office of the Director of Administrative Services; and

(2) Using agencies means and includes all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations, except that using agencies does not include the University of Nebraska and the Nebraska state colleges.

Source: Laws 1943, c. 215, § 1, p. 704; R.S.1943, § 81-145; Laws 1963, c. 508, § 1, p. 1616; Laws 1965, c. 538, § 29, p. 1714; Laws 1975, LB 359, § 3; Laws 1975, LB 447, § 1; Laws 1992, LB 1241, § 12; Laws 2000, LB 654, § 5; Laws 2023, LB705, § 103; Laws 2024, LB461, § 33.

Effective date July 19, 2024.

81-146 Repealed. Laws 2024, LB461, § 53.

81-147 Materiel administrator; appointment.

The materiel administrator shall be appointed by the Director of Administrative Services.

Source: Laws 1943, c. 215, § 3, p. 705; R.S.1943, § 81-147; Laws 1959, c. 427, § 1, p. 1430; Laws 1969, c. 780, § 1, p. 2954.

81-148 Materiel administrator; salary.

The compensation of the head of the materiel division, who shall be designated as the materiel administrator, shall be fixed by the Director of Administrative Services subject to availability of appropriations.

Source: Laws 1943, c. 215, § 4, p. 705; R.S.1943, § 81-148; Laws 1945, c. 223, § 2, p. 668; Laws 1951, c. 338, § 6, p. 1118; Laws 1957, c. 368, § 2, p. 1294; Laws 1963, c. 508, § 3, p. 1616; Laws 1967, c. 612, § 2, p. 2059; Laws 1969, c. 780, § 2, p. 2955.

81-148.01 Repealed. Laws 1961, c. 286, § 1.

81-148.02 Repealed. Laws 1967, c. 402, § 1.

81-149 Materiel administrator; qualifications.

The materiel administrator shall have had at least three years practical experience, in the ten years immediately preceding appointment, as an executive in a regularly organized purchasing department of some branch of government, municipal, state, or federal, or of some private business firm or corporation. He or she shall not be, at any time during his or her term of office, connected, interested, or otherwise concerned, directly or indirectly, with any person, partnership, limited liability company, firm, association, corporation, or other vendor, agent, or intermediary, from or through whom any purchases or contracts for purchases shall be made by him or her during his or her incumbency in office.

Source: Laws 1943, c. 215, § 5, p. 705; R.S.1943, § 81-149; Laws 1963, c. 508, § 5, p. 1617; Laws 1975, LB 447, § 2; Laws 1993, LB 121, § 521; Laws 2000, LB 654, § 6.

81-150 Materiel administrator; oath.

Before entering upon the discharge of his or her duties, the materiel administrator shall take and subscribe an oath, to be filed in the office of the Secretary of State, to the effect:

(1) That he or she will support the Constitution of the United States and the Constitution of Nebraska;

(2) That he or she will faithfully and impartially discharge the duties of his or her office; and

(3) That he or she is not then and will not be, at any time during his or her term of office, connected, interested, or otherwise concerned, directly or indirectly, with any person, partnership, limited liability company, firm, association, corporation, or other vendor, agent, or intermediary from or through whom any purchases or contracts for purchase, shall be made by him or her during his or her incumbency in office.

Source: Laws 1943, c. 215, § 6, p. 706; R.S.1943, § 81-150; Laws 1993, LB 121, § 522; Laws 2000, LB 654, § 7.

Cross References

For form of oath, see sections 11-101 to 11-101.03.

81-151 Materiel administrator; bond or insurance.

Before entering upon the discharge of his or her duties, the materiel administrator shall be bonded or insured as required by section 11-201. Neither

expiration of term of office nor removal therefrom shall operate as a discharge of the bond or termination of the insurance, but it shall remain in full force and effect as provided by law. The premium shall be paid by the state.

Source: Laws 1943, c. 215, § 7, p. 706; R.S.1943, § 81-151; Laws 1978, LB 653, § 31; Laws 2000, LB 654, § 8; Laws 2004, LB 884, § 40.

81-152 Materiel division; established; duties; materiel administrator; branches; established.

The materiel division of the Department of Administrative Services is hereby established and shall be managed by the materiel administrator.

There are hereby established the following seven branches of the materiel division of the Department of Administrative Services which shall have the following duties, powers, and responsibilities:

(1) The office supplies bureau shall be responsible for providing office supplies, paper, and forms to state agencies other than the University of Nebraska or the Nebraska state colleges;

(2) Central mail shall be responsible for all mailing operations, transportation of material, tracking shipments, and making freight claims;

(3) The print shop shall be responsible for specifications and for receiving bids and placing orders to the lowest and best commercial bidder for all printing and reproduction operations for the state. The print shop shall also be responsible for coordinating all existing printing and reproduction operations of the state;

(4) Copy services shall be responsible for the purchasing and placement of all copier requirements;

(5) The state purchasing bureau shall be responsible for all purchases of personal property by all state agencies other than the University of Nebraska or the Nebraska state colleges;

(6) The state recycling office shall be responsible for the administration and operation of the State Government Recycling Management Act; and

(7) State surplus property shall be responsible for the disposition of the state's surplus property and the maintenance of all inventory records.

Source: Laws 1965, c. 538, § 18, p. 1705; Laws 1969, c. 780, § 4, p. 2955; Laws 1974, LB 1054, § 32; Laws 1975, LB 359, § 14; Laws 1975, LB 447, § 8; Laws 1981, LB 381, § 29; Laws 1992, LB 1241, § 27; Laws 1997, LB 314, § 11; Laws 1998, LB 1129, § 24; Laws 2000, LB 654, § 26; Laws 2003, LB 626, § 10; Laws 2017, LB151, § 6; Laws 2017, LB320, § 5; Laws 2023, LB705, § 105; R.S.Supp.,2023, § 81-1118; Laws 2024, LB461, § 34.
Effective date July 19, 2024.

Cross References

State Government Recycling Management Act, see section 81-1183.

81-153 Materiel division; powers and duties; enumerated.

The materiel division shall have the power and duty to:

(1) Purchase or contract for, in the name of the state, the personal property required by the using agencies and the state;

(2) Sell and dispose of personal property that is not needed by the state or its using agencies as provided in section 81-161.04 or initiate trade-ins when determined to be in the best interest of the state;

(3) Determine the utility, quality, fitness, and suitability of all personal property tendered or furnished;

(4) Make rules and regulations consistent with sections 81-145 to 81-161.06 to carry into effect the provisions thereof. Such rules and regulations shall include provisions for modifying and terminating purchase contracts and the cost principles to be used in such modification or termination;

(5) Employ such clerical, technical, and other assistants as may be necessary to properly administer such sections, fix their compensation, and prescribe their duties in connection therewith, subject to existing laws and appropriations;

(6) Allow the purchase of personal property without competitive bidding when the price has been established by the federal General Services Administration or to allow the purchase of personal property by participation in a contract competitively bid by another state or group of states, a group of states and any political subdivision of any other state, or a cooperative purchasing organization on behalf of a group of states. The division may also give consideration to a sheltered workshop pursuant to section 48-1503 in making such purchases;

(7) Enter into any personal property lease agreement when it appears to be in the best interest of the state;

(8) Negotiate purchases and contracts when conditions exist to defeat the purpose and principles of public competitive bidding; and

(9) Obtain an electronic procurement system, which shall be funded or paid for by providing the system provider with, as determined by the materiel administrator, a percentage or portion of identified transactions. Such percentage or portion may be collected by the system provider from contractors and bidders.

Source: Laws 1943, c. 215, § 9, p. 706; R.S.1943, § 81-153; Laws 1947, c. 310, § 1(1), p. 942; Laws 1955, c. 231, § 16, p. 725; Laws 1957, c. 368, § 3, p. 1295; Laws 1963, c. 508, § 6, p. 1617; Laws 1974, LB 1054, § 31; Laws 1975, LB 359, § 5; Laws 1975, LB 447, § 3; Laws 1981, LB 381, § 2; Laws 1984, LB 540, § 12; Laws 1992, LB 1241, § 14; Laws 2000, LB 654, § 9; Laws 2001, LB 96, § 1; Laws 2014, LB974, § 5; Laws 2022, LB1037, § 2; Laws 2024, LB461, § 40.

Effective date July 19, 2024.

Cross References

Surplus property of United States, duties of Department of Correctional Services, see section 81-909.

These sections held not applicable to the Board of Regents which cannot delegate its constitutional powers and duties to other officers or agencies. Board of Regents v. Exon, 199 Neb. 146, 256 N.W.2d 330 (1977).

81-153.01 Materiel Division Revolving Fund; created; use; investment.

(1) The Materiel Division Revolving Fund is created. The fund shall be administered by the materiel division of the Department of Administrative Services. The fund shall consist of (a) fees paid for printing, copying, central supply, and mailing services provided to state agencies and local subdivisions

by the division, (b) assessments charged by the materiel administrator to state agencies, boards, and commissions for purchasing services provided by the division, and (c) any money collected pursuant to subdivision (9) of section 81-153. Such assessments shall be adequate to cover actual and necessary expenses that are associated with providing the service and not otherwise covered by the money collected pursuant to subdivision (9) of section 81-153. The fund shall be used to pay for expenses incurred by the division to provide such services.

(2) State agencies, boards, and commissions shall make the materiel division assessment payments to the fund no later than August 1 of each year, or in four equal payments to be made no later than August 1, October 1, February 1, and April 1 of each year, at the discretion of the materiel administrator.

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

Source: Laws 1994, LB 1194, § 2; Laws 1995, LB 7, § 119; Laws 2003, LB 424, § 6; Laws 2022, LB1037, § 3; R.S.Supp.,2022, § 81-1120; Laws 2024, LB461, § 39.
Effective date July 19, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-154 Repealed. Laws 2024, LB461, § 53.

81-154.01 Transferred to section 73-818.

81-155 Materiel administrator; inventory record; state property; powers and duties.

The materiel administrator shall have complete control of all furniture and equipment in the capitol, state laboratory, Governor's Mansion, and all other buildings owned or leased by the State of Nebraska, except telephone and telecommunications equipment and equipment and furniture of the Legislature and the Supreme Court. The materiel administrator shall keep in his or her office a complete record containing an itemized account of all state property, including furniture and equipment under his or her care and control. Such inventory record shall be maintained as a management system to assure efficient utilization of state property with particular emphasis on identification of surpluses. Such system shall be designed so as to provide the materiel administrator with the knowledge of potential surplus property available. The materiel administrator under the authority of the Director of Administrative Services shall have complete control and all powers necessary to assure efficient utilization of state property.

Source: Laws 1974, LB 1048, § 38; Laws 2000, LB 654, § 27; R.S.1943, (2014), § 81-1118.01; Laws 2024, LB461, § 35.
Effective date July 19, 2024.

81-156 Transferred to section 73-819.

81-157 State property; inventory; how stamped; action to recover.

(1) Except as otherwise provided in subsection (4) of this section, each executive, department, commission, or other state agency, and the Supreme Court, shall annually make or cause to be made an inventory of all property, including furniture and equipment, belonging to the State of Nebraska and in the possession, custody, or control of any executive, department, commission, or other state agency. The inventory shall include property in the possession, custody, or control of each executive, department, commission, or other state agency as of June 30 and shall be completed and filed with the materiel administrator by August 31 of each year.

(2) If any of the property of the state, referred to in subsection (1) of this section, is lost, destroyed, or unaccounted for by the negligence or carelessness of the executive, department, commission, or other state agency, the State Building Administrator shall, with the advice of the Attorney General, take the proper steps to recover such state property or the reasonable value thereof from the executive, department, commission, or other state agency charged with the same and from the person bonding such executive, department, commission, or other state agency, if any.

(3) Each such executive, department, commission, or other state agency shall indelibly tag, mark, or stamp all such property belonging to the State of Nebraska, with the following: Property of the State of Nebraska. In the inventory required by subsection (1) of this section, each such executive, department, commission, or other state agency shall state positively that each item of such property has been so tagged, marked, or stamped.

(4) This section does not apply to the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges.

Source: Laws 1937, c. 161, § 1, p. 625; Laws 1939, c. 94, § 1, p. 407; Laws 1941, c. 144, § 1, p. 573; C.S.Supp.,1941, § 72-707; R.S. 1943, § 72-707; Laws 1955, c. 278, § 3, p. 881; Laws 1957, c. 306, § 1, p. 1112; Laws 1959, c. 331, § 2, p. 1205; Laws 1963, c. 418, § 3, p. 1343; R.R.S.1943, § 72-707; Laws 1974, LB 1048, § 39; Laws 1981, LB 545, § 32; Laws 1984, LB 933, § 17; Laws 1989, LB 256, § 1; Laws 2011, LB59, § 3; Laws 2023, LB705, § 106; R.S.Supp.,2023, § 81-1118.02; Laws 2024, LB461, § 36. Effective date July 19, 2024.

81-158 State purchasing bureau; use reverse auction; powers and duties.

(1) Notwithstanding any other provision of law, the state purchasing bureau created by section 81-152 may use a reverse auction for the acquisition of goods if the bureau determines that the use of a reverse auction would be advantageous to the state.

(2) If the bureau conducts a reverse auction, the bureau shall provide notification of the intent to use the reverse auction process in the bid solicitation documents and, unless the solicitation is canceled, an award shall be made to the bidder determined by the bureau to be the lowest responsible bidder at the close of the bidding process. The bureau may require bidders to register before the opening date and time of the reverse auction.

(3) The bureau may contract with a third-party vendor to conduct a reverse auction pursuant to this section.

(4) The bureau may adopt and promulgate rules and regulations to implement this section.

(5) For purposes of this section, reverse auction means a process in which (a) bidders compete to provide goods in an open and interactive environment, which may include the use of electronic media, (b) bids are opened and made public immediately, and (c) bidders are given opportunity to submit revised bids until the bidding process is complete.

Source: Laws 2009, LB168, § 1; R.S.1943, (2014), § 81-1118.07; Laws 2024, LB461, § 37.
Effective date July 19, 2024.

81-159 Repealed. Laws 2024, LB461, § 53.

81-160 Department of Administrative Services; real property; purchases authorized.

The Department of Administrative Services may purchase real property needed by the state which costs an amount equal to or less than ten percent of the amount set forth in subdivision (1)(a) of section 81-1108.43 as adjusted by subsection (2) of section 81-1108.43 without legislative approval or a specific appropriation for such purchase unless the purchase is made to evade the dollar limitation in this section and additional unapproved purchases will be made which, when considered together, would exceed the dollar limitation.

Source: Laws 1992, LB 1241, § 29; Laws 2017, LB320, § 6; R.S.Supp.,2022, § 81-1119; Laws 2024, LB461, § 38.
Effective date July 19, 2024.

81-161 Transferred to section 73-808.

81-161.01 Transferred to section 73-809.

81-161.02 Transferred to section 73-810.

81-161.03 Transferred to section 73-814.

81-161.04 Materiel division; surplus property; sale; procedure; proceeds of sale, how credited.

(1) Whenever any using agency has any personal property for which it no longer has any need or use, it shall notify the materiel division in writing setting forth a description of the property and the approximate length of time that the property has been in the possession of the using agency. The materiel division shall appraise the property and notify all other using agencies of the state that the materiel division has the property for sale and that the property can be bought at the appraised price. No property will be sold until first offered to using agencies as provided by this section unless the property is unusable. If the materiel division fails to receive an offer from any using agency, it may sell or dispose of the property by any method which is most advantageous to the State of Nebraska, including auction, sealed bid, private or public sale, or trade-in for other property, with priorities given to the other political subdivisions. All sales shall be made in the name of the State of Nebraska. The materiel division shall charge an administrative fee for the disposition of surplus property. Such administrative fee shall be a percentage of the amount of the sale of the surplus

property. In the event surplus property is determined to have no market value, the materiel administrator may waive the administrative fee.

(2) Except as otherwise provided in this subsection, the proceeds of such sales shall be deposited with the State Treasurer and credited to the General Fund unless the using agency certifies to the materiel division that the property was purchased in part or in total from either cash accounts or federal funds or from a percentage of such accounts or funds, in which case the proceeds of the sale to that extent shall be credited to the cash or federal account in the percentage used in originally purchasing the property. The cost of selling surplus property shall be deducted from the proceeds of the surplus property sold. The proceeds received from the sale of passenger-carrying motor vehicles originally purchased with money from the General Fund, other than passenger-carrying motor vehicles used by the Nebraska State Patrol, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Transportation Services Bureau Revolving Fund. The proceeds received from the sale of passenger-carrying motor vehicles used by the Nebraska State Patrol, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Nebraska State Patrol Vehicle Replacement Cash Fund. The proceeds received from the sale of micrographic equipment, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Records Management Micrographics Services Revolving Fund. The proceeds received from the sale of aircraft, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Aeronautics Cash Fund.

Source: Laws 1943, c. 215, § 9, p. 706; R.S.1943, § 81-153; Laws 1947, c. 310, § 1(2), p. 943; Laws 1951, c. 313, § 1, p. 1071; R.R.S.1943, § 81-153.01; Laws 1963, c. 508, § 13, p. 1621; Laws 1969, c. 781, § 1, p. 2958; Laws 1972, LB 1452, § 1; Laws 1975, LB 447, § 6; Laws 1979, LB 559, § 17; Laws 1979, LB 590, § 1; Laws 1995, LB 381, § 1; Laws 2000, LB 654, § 17; Laws 2017, LB339, § 274; Laws 2023, LB705, § 104.

81-161.05 Materiel administrator or employee; financial or beneficial personal interest forbidden; gifts and rebates prohibited; violations; penalty.

Neither the materiel administrator nor any employee under his or her direction shall be financially interested or have any beneficial personal interest, directly or indirectly, in the purchase or leasing of any personal property nor in any firm, partnership, limited liability company, corporation, or association furnishing personal property. No such person shall receive or accept directly or indirectly from any person, firm, limited liability company, or corporation submitting any bid or to whom a contract may be awarded by rebate, gift, or otherwise, any money or other thing of value whatsoever or any promise, obligation, or contract for future reward, or compensation. Any person who violates this section shall be guilty of a Class IV felony and shall be subject to forfeiture of his or her office or position.

Source: Laws 1963, c. 508, § 14, p. 1621; Laws 1975, LB 359, § 10; Laws 1977, LB 39, § 265; Laws 1992, LB 1241, § 19; Laws 1993, LB 121, § 523; Laws 2017, LB320, § 3.

81-161.06 State Surplus Property Revolving Fund; created; use; investment.

There is hereby created the State Surplus Property Revolving Fund. The fund shall be administered by the materiel division of the Department of Administrative Services. The fund shall consist of money collected from the sale of surplus property and fees from such sales and shall be used to reimburse the appropriate funds from the proceeds of such sales and pay for expenses incurred by the division for the sale of the property.

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

Source: Laws 1994, LB 1194, § 6; Laws 1995, LB 7, § 96.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-162 Transferred to section 73-811.

81-163 Repealed. Laws 1963, c. 508, § 15.

81-163.01 Repealed. Laws 2000, LB 654, § 58.

(e) CENTRAL MAILING ROOM

81-164 Central mailing room; equipment required.

The materiel division, under the direction of the Director of Administrative Services, shall operate and maintain a central mailing room. The central mailing room shall be equipped with postage metering machines and postal handling equipment for the purpose of metering official mail of the state and employ such help as may be necessary for the efficient operation of such mailing room.

Source: Laws 1943, c. 218, § 1, p. 714; R.S.1943, § 81-164; Laws 2000, LB 654, § 18.

81-165 Official outgoing mail to be metered; members of Legislature, when exempt.

Beginning July 1, 1943, all official outgoing mail of each state officer, department, commission, board, bureau, court or other agency, occupying quarters in the Capitol Building in Lincoln, Nebraska, or in any state building which may hereafter be located adjacent thereto, shall be delivered unstamped to such central mailing room to be metered and dispatched; *Provided, however,* members of the Legislature shall be specifically exempt from the provisions of sections 81-164 to 81-171 for and during the time the Legislature is not in actual session. All employees of such state officers, departments, commissions, boards, bureaus, courts or other agencies, when working away from the Capitol Building, shall use the metered mail for outgoing mail so far as may be possible, consistent with postal regulations.

Source: Laws 1943, c. 218, § 2, p. 715; R.S.1943, § 81-165; Laws 1945, c. 225, § 1, p. 669.

81-166 Postage records; requirements.

The materiel division shall keep an accurate record of the postage used by each state officer, department, commission, board, bureau, court, or other agency and charge such state officer, department, commission, board, bureau, court, or other agency with the exact amount of postage so used plus administrative and operational costs. Administrative and operational costs shall be charged as a percentage of the amount charged for postage. Such charge shall, as nearly as may be practical, reflect the actual administrative and operational costs of the central mailing room and its related activities. The division shall submit electronically an annual report to the Appropriations Committee of the Legislature of the percentage charge. Rates planned for the coming fiscal year shall be included in the instructions for completion of budget request forms as annually prepared by the Department of Administrative Services' budget division. If rate revisions are required during the fiscal year to reflect changes in the administrative and operational costs, these revisions shall be announced to each state officer, department, commission, board, bureau, court, or other agency at least thirty days prior to their use.

Source: Laws 1943, c. 218, § 3, p. 715; R.S.1943, § 81-166; Laws 1978, LB 961, § 1; Laws 1981, LB 381, § 9; Laws 2000, LB 654, § 19; Laws 2012, LB782, § 165.

81-167 Repealed. Laws 2022, LB1012, § 33.

81-168 Central mailing room; employees; hours staggered.

The materiel division under the direction of the Director of Administrative Services shall stagger the hours of employees in the central mailing room so that the central mailing room is open until the last mail departs from the Capitol Building.

Source: Laws 1943, c. 218, § 5, p. 716; R.S.1943, § 81-168; Laws 2000, LB 654, § 20.

81-169 Rules and regulations; authority of materiel division.

The materiel division under the direction of the Director of Administrative Services may make such reasonable rules and regulations as may be deemed necessary for the administration of sections 81-164 to 81-171.

Source: Laws 1943, c. 218, § 6, p. 716; R.S.1943, § 81-169.

81-170 Repealed. Laws 1963, c. 508, § 15.

81-171 Delivery of mail to mailing room for unofficial business; violation; penalty.

It shall be unlawful to deliver any mail to any state mailing room, to be metered and dispatched, or to deposit in the United States mail any envelope, metered by a postage metering machine of the State of Nebraska, for any purpose or upon any business other than the dispatch of mail appertaining strictly to official business of the State of Nebraska. Any person violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars.

Source: Laws 1943, c. 218, § 8, p. 716; R.S.1943, § 81-171; Laws 2000, LB 654, § 21.

81-172 Repealed. Laws 1963, c. 508, § 15.

(f) DEFERRED BUILDING RENEWAL AND MAINTENANCE

81-173 Terms, defined.

For purposes of the Deferred Building Renewal Act and sections 85-106 and 85-304, unless the context otherwise requires:

(1) Renewal work means any (a) deferred or preventive maintenance projects that will restore facilities and utility systems as closely as practicable to their original constructed condition as defined by the Task Force for Building Renewal, (b) projects that will bring facilities into compliance with current fire safety, life safety, and hazardous materials abatement requirements, and (c) projects that will bring facilities into compliance with the federal Americans with Disabilities Act of 1990. The standard of quality maintenance shall be set after consideration of the facility users, geographical location, condition, and physical analysis of each building;

(2) Deferred maintenance means any measures taken to: (a) Correct or repair structural or mechanical defects that would endanger the integrity of a building or its components or allow unwanted penetration of the building by the outdoor elements; (b) correct or repair structural, mechanical, or other defects in a building or its components or utility systems which endanger the lives or health of state employees or the general public; (c) bring a building into compliance with the federal Americans with Disabilities Act of 1990; (d) correct a waste of energy, including minor repairs, alteration and maintenance painting, cost of materials, hiring of building maintenance personnel, and other necessary expenses for the maintenance of roofs, exterior walls, retaining walls, foundations, flooring, ceilings, partitions, doors, building hardware, windows, plaster, structural ironwork, screens, plumbing, heating, air-handling, and air conditioning equipment, or electrical systems, but excluding decorative finish or furnishing or building additions; or (e) conduct an energy audit;

(3) Preventive maintenance means any measures taken to maintain the structural or mechanical integrity of a building or its components including those measures listed in subdivision (2) of this section; and

(4) Task force means the Task Force for Building Renewal.

Source: Laws 1977, LB 309, § 1; Laws 1980, LB 835, § 1; Laws 1982, LB 604, § 1; Laws 1993, LB 369, § 1; Laws 1998, LB 1100, § 14; Laws 1998, LB 1129, § 15; Laws 2011, LB228, § 1.

81-174 Task Force for Building Renewal; established; purpose; consultants; appointment; how selected.

There is hereby established the Task Force for Building Renewal to carry out the Deferred Building Renewal Act. The Director of Administrative Services shall appoint an administrator as the chief officer of the task force. The administrator shall retain not more than four consultants to assist him or her in the administration of the Deferred Building Renewal Act. Each task force member shall be selected on the basis of his or her ability to administer and accomplish efficient building maintenance and shall have knowledge of and experience in the contracting of construction projects and the maintaining of buildings. Members shall be selected so that the task force represents diversified expertise needed for maintenance judgments and, if practical, each mem-

ber should reside at a location that allows efficient visitation of state-owned buildings.

Source: Laws 1977, LB 309, § 2; Laws 1980, LB 835, § 2; Laws 1997, LB 314, § 8; Laws 1998, LB 1129, § 16.

81-175 Task force; members; compensation; expenses.

The compensation of the members of the task force shall be established by the Governor on a per diem basis, and they shall work the days and hours required to accomplish the task. Members of the task force shall be reimbursed for expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1977, LB 309, § 3; Laws 1981, LB 204, § 168; Laws 2020, LB381, § 101.

81-176 Task force; review; report.

The task force shall conduct a review of the plans, specifications, and other construction and repair documents and ongoing maintenance requirements for real property that may be proposed to be made available to any state agency by means of gift and any acquisition of real property by any state agency using gifts of money pursuant to section 81-1,113. The task force shall submit a report of its findings and recommendations to the Committee on Building Maintenance. For purposes of this section, the terms gift and state agency have the same meanings as in section 81-1,111.

Source: Laws 1999, LB 369, § 2; Laws 2011, LB264, § 3; Laws 2012, LB761, § 1; Laws 2024, LB998, § 9.
Operative date July 1, 2025.

81-177 State agency; inspection of facilities; report; contents; referred to task force.

Each state agency operating or managing state-owned buildings, utilities, or grounds shall make a detailed inspection of facilities under its care to determine accurately what renewal work items exist and the probable cost and time required for doing the work. A detailed report of the findings shall be made to the Governor, listing for each building, utility, or grounds improvement, the individual work items with estimated quantities and unit prices. Such report shall also include a listing of projects needed in state-owned structures to accommodate persons with handicaps as provided in sections 81-5,147 and 81-5,148. The report shall state which work items are recommended to be done under contract and which are proposed to be done by agency forces with an estimate of hours of labor and labor costs. The Governor shall refer the report to the task force for its study and recommendations pursuant to section 81-178.

Source: Laws 1977, LB 309, § 5; Laws 1980, LB 835, § 4; Laws 1995, LB 8, § 1; Laws 2002, LB 93, § 21.

81-178 Report; classification of work items; task force, duties.

The report required by section 81-177 shall classify work items by urgency of need using three classes defined as follows:

Class I — items for immediate action to (1) provide safety and protection against costly damage to buildings or their utility systems, (2) make structural,

mechanical, or other repairs to buildings or their components or utility systems which are an immediate danger to the lives or health of state employees or the general public, or (3) bring buildings into compliance with the federal Americans with Disabilities Act of 1990;

Class II — items of imperative need to correct problems that if neglected will quickly deteriorate further into Class I items that must be done to provide efficient and safe use of the facility or system; and

Class III — additional items necessary to fully renew or provide efficient and safe use of the facility or system.

The task force shall recommend to the Governor the classification of projects and priorities to be established for grants within the classifications. The Governor shall make such classification of projects and establish such priorities as shall be best calculated to achieve the purposes of the Deferred Building Renewal Act.

Source: Laws 1977, LB 309, § 6; Laws 1979, LB 322, § 40; Laws 1980, LB 835, § 5; Laws 1982, LB 604, § 2; Laws 1993, LB 369, § 2; Laws 1998, LB 1129, § 17.

81-179 Building Renewal Allocation Fund; created; use; investment.

(1) There is hereby created under the control of the Governor, for allocation to building renewal projects of the various agencies, a fund to be known as the Building Renewal Allocation Fund. The fund shall contain the revenue from the special privilege tax as provided in section 77-2602 and such other money as is appropriated by the Legislature. Such appropriation is declared to consist of building renewal funds which shall be kept separate and distinct from the program continuation funds and project construction funds.

(2) Separate subfunds, subprograms, projects, or accounts shall be established to separately account for any expenditures on state buildings or facilities to comply with the federal Americans with Disabilities Act of 1990. A minimal amount of the funds contained in the subfunds, subprograms, projects, or accounts may be used for planning and evaluation of buildings and facilities.

(3) The budget division of the Department of Administrative Services may administratively transfer funds to appropriate accounting entities to correctly account for the operating expenditures. A separate fund, cash fund, project, or other account may be administratively established for such purpose.

(4) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

(5) The State Treasurer shall transfer seven hundred eighty-three thousand six hundred sixty-seven dollars from the Building Renewal Allocation Fund to the General Fund on or after June 15, 2018, but before June 30, 2018, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(6) The State Treasurer shall transfer two hundred thousand dollars from the Building Renewal Allocation Fund to the General Fund on or after June 15, 2019, but before June 30, 2019, on such date as directed by the budget

administrator of the budget division of the Department of Administrative Services.

(7) The State Treasurer shall transfer one million seven hundred sixteen thousand three hundred thirty-three dollars from the Building Renewal Allocation Fund to the Accounting Division Cash Fund on July 1, 2017, or as soon thereafter as administratively possible.

(8) The State Treasurer shall transfer two million three hundred thousand dollars from the Building Renewal Allocation Fund to the Accounting Division Cash Fund on July 1, 2018, or as soon thereafter as administratively possible.

Source: Laws 1977, LB 309, § 7; Laws 1993, LB 369, § 3; Laws 1994, LB 1066, § 96; Laws 1995, LB 530, § 2; Laws 1996, LB 1190, § 16; Laws 1998, LB 1100, § 15; Laws 2000, LB 1349, § 2; Laws 2002, LB 1310, § 11; Laws 2003, LB 410, § 1; Laws 2004, LB 1090, § 1; Laws 2007, LB323, § 2; Laws 2017, LB331, § 44; Laws 2024, First Spec. Sess., LB3, § 31.
Effective date August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-180 Building renewal funds; expenditures; allocation of funds; procedure.

The Building Renewal Allocation Fund, State Building Renewal Assessment Fund, University Building Renewal Assessment Fund, and State College Building Renewal Assessment Fund shall only be expended for the purpose of building renewal work except as appropriated by the Legislature to meet the cost of administering the Deferred Building Renewal Act or as otherwise provided. In each fiscal year, expenditures for the cost of administering the act from any one of such funds shall be proportional to the revenue credited to such fund in the preceding fiscal year in comparison to the total revenue credited to all of such funds in such year. As applicable, each agency shall be allocated funds as directed by the Governor using the system of priorities established in section 81-178. In the making of allocations from such funds, the Governor shall follow a policy that first considers the use of private enterprise services for deferred maintenance projects while using state employees primarily for the performance of preventive maintenance. When such preventive maintenance is of a nature that only occasional highly technical attention is scheduled, primary consideration shall be given to using contractual services. The task force shall review all such contracts for such services from private enterprises.

Source: Laws 1977, LB 309, § 8; Laws 1980, LB 835, § 7; Laws 1982, LB 604, § 3; Laws 1998, LB 1100, § 16; Laws 2003, LB 410, § 2.

81-181 Agency; proposed building renewal projects report; submitted, when; contents; allocation of funds; conditions.

(1) Not later than September 15 of each even-numbered year, each agency shall submit to the Governor, in the form prescribed by him or her, a report of its proposed building renewal projects for the next biennium. Such report shall contain the information specified in section 81-177 and shall constitute a request for the allocation of funds from the Building Renewal Allocation Fund. Such report shall also constitute, as applicable, a request for the allocation of

funds from the State Building Renewal Assessment Fund, University Building Renewal Assessment Fund, or State College Building Renewal Assessment Fund. The Governor shall, with the advice of the task force, allocate from such funds the sum necessary for the accomplishment of projects approved by him or her. Allocations from the Building Renewal Allocation Fund shall be made in a manner that assures accomplishment of Class I projects first, followed by accomplishment of Class II projects, and then accomplishment of Class III projects, unless doing so in a particular case would violate sound building renewal policies and practices. The amount of such allocation shall not be transferred to the agency but shall remain within, as applicable, the Building Renewal Allocation Fund, State Building Renewal Assessment Fund, University Building Renewal Assessment Fund, or State College Building Renewal Assessment Fund subject to the control of the Governor until disbursed consistent with the provisions of the Deferred Building Renewal Act.

(2) The University of Nebraska and the state colleges may include in their reports under subsection (1) of this section their proposed building renovation projects that have received approval of the Coordinating Commission for Postsecondary Education, if required pursuant to section 85-1414, for the coming biennium as authorized by section 81-188.03 or 81-188.05, as applicable, which shall constitute requests for allocation of funds for such proposed projects from the University Building Renewal Assessment Fund or the State College Building Renewal Assessment Fund, as applicable. The Governor, with the advice of the task force, shall allocate from the University Building Renewal Assessment Fund or the State College Building Renewal Assessment Fund, as applicable, the sum necessary for the accomplishment of the renovation projects approved by him or her. Such allocations shall not be transferred to the University of Nebraska or the state college or colleges making the request but shall remain in the University Building Renewal Assessment Fund or the State College Building Renewal Assessment Fund, as applicable, subject to the control of the Governor until disbursed pursuant to the Deferred Building Renewal Act.

Source: Laws 1977, LB 309, § 9; Laws 1993, LB 369, § 4; Laws 1998, LB 1100, § 17; Laws 2004, LB 1092, § 1; Laws 2014, LB974, § 6.

81-182 Governor monitor activities of task force and agencies; authorize issuance of warrants.

The Governor, using such staff assistance as he or she may desire, shall monitor the activities of the task force and the agencies. To assure adequate accomplishment of the terms of each allocation, the Governor shall assure that expert inspection of projects is made by a competent inspector from either his or her staff, the task force, or the agency. For the purpose of making partial payments as the work progresses, the Governor may authorize the issuance of warrants from the Building Renewal Allocation Fund, State Building Renewal Assessment Fund, University Building Renewal Assessment Fund, and State College Building Renewal Assessment Fund upon certificates of the inspector in charge showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuance of the project in a sum not exceeding ninety-five percent of the cost thereof. Upon the certificate of the inspector that the project has been completed and the terms of

the allocation have been complied with, the Governor shall authorize the issuance of a warrant for the balance due the contractor.

Source: Laws 1977, LB 309, § 10; Laws 1998, LB 1100, § 18.

81-183 Property not eligible for renewal and maintenance funds.

No building held in trust, property of the Board of Educational Lands and Funds, nor highways or roads and revenue bond structures shall receive funds for renewal and maintenance under sections 81-173 to 81-190.

Source: Laws 1977, LB 309, § 11.

81-184 Administration costs.

The cost of administration of the Deferred Building Renewal Act shall be paid from the Building Renewal Allocation Fund, the State Building Renewal Assessment Fund, the University Building Renewal Assessment Fund, and the State College Building Renewal Assessment Fund in such amounts as may be appropriated by the Legislature. The Governor shall each odd-numbered year submit a specific itemized appropriation request to cover such administrative costs.

Source: Laws 1977, LB 309, § 12; Laws 1986, LB 258, § 31; Laws 1997, LB 314, § 9; Laws 2002, LB 1310, § 12; Laws 2003, LB 410, § 3.

81-185 Committee on Building Maintenance; membership; purpose.

The Executive Board of the Legislative Council shall appoint a select committee of the Legislative Council to consist of six members of the Legislature, to be known as the Committee on Building Maintenance, to exercise oversight of the deferred and preventive maintenance activities required in the Deferred Building Renewal Act. The selection of members shall be made on the basis of maintenance interest and knowledge. At least two members shall be selected from the Committee on Appropriations, one of whom shall be the chairperson of the Committee on Appropriations. On or before the sixth day of each regular legislative session, the board shall appoint or reappoint members of the committee. Such committee may utilize Legislative Council staff as required or may contract for necessary expertise. Such staff shall provide close liaison with the task force, all agencies subject to the act, and the Governor.

Source: Laws 1977, LB 309, § 13; Laws 1980, LB 835, § 8; Laws 1984, LB 838, § 1; Laws 1998, LB 1100, § 19.

81-186 Committee on Building Maintenance; meetings; duties.

The Committee on Building Maintenance shall meet as necessary, but not less than four times annually, to monitor the activities required of the task force and the agencies, boards, and commissions who are responsible for the state buildings and to review the proposed rental charges as provided in sections 81-1108.17 and 81-1108.22. The committee shall study progress and propose any necessary legislation to assure that state-owned buildings are protected through proper maintenance.

Source: Laws 1977, LB 309, § 14; Laws 1980, LB 835, § 9; Laws 1982, LB 604, § 4; Laws 1984, LB 838, § 2; Laws 1995, LB 530, § 3.

81-187 Legislative Fiscal Analyst; receive copy of estimates, reports, and allocation requests.

A copy of all estimates, reports, and allocation requests required by the Deferred Building Renewal Act shall be submitted electronically to the Legislative Fiscal Analyst upon his or her request.

Source: Laws 1977, LB 309, § 15; Laws 1985, LB 2, § 6; Laws 1998, LB 1129, § 18; Laws 2012, LB782, § 166.

81-188 Energy audit report.

A report of the findings of any energy audit conducted under the Deferred Building Renewal Act shall be sent electronically to the state agency operating or managing the state-owned building, utility, or ground on which the audit was conducted and the Committee on Building Maintenance of the Legislature.

Source: Laws 2011, LB228, § 3.

81-188.01 State Building Renewal Assessment Fund; created; use; investment.

(1) The State Building Renewal Assessment Fund is created. The fund shall be under the control of the Governor for allocation to building renewal projects of the various agencies and shall be administered in a manner consistent with the administration of the Building Renewal Allocation Fund pursuant to the Deferred Building Renewal Act. No amounts accruing to the State Building Renewal Assessment Fund shall be expended in any manner for purposes other than as provided in this section or as appropriated by the Legislature to meet the cost of administering the act. Transfers may be made from the fund to the General Fund at the direction of the Legislature.

(2) Revenue credited to the State Building Renewal Assessment Fund shall include amounts derived from charges assessed pursuant to subdivision (4)(b) of section 81-1108.17 and such other revenue as may be incident to the administration of the fund.

(3) Amounts appropriated from the fund shall be expended to conduct renewal work as defined in section 81-173 and to complete other improvements incident to such renewal work as deemed necessary or appropriate by the task force. From amounts accruing to the fund as the result of depreciation charges assessed pursuant to subdivision (4)(b) of section 81-1108.17, expenditures for capital improvements shall be limited to improvements to only those facilities for which such charges have been assessed and remitted. From amounts accruing to the fund as the result of depreciation charges assessed pursuant to section 81-188.02 prior to July 1, 2011, expenditures for capital improvement projects shall be limited to exclude (a) capital improvement projects relating to facilities, structures, or buildings owned, leased, or operated by the (i) University of Nebraska, (ii) Nebraska state colleges, (iii) Department of Transportation, (iv) Game and Parks Commission, or (v) Board of Educational Lands and Funds and (b) capital improvement projects relating to facilities, structures, or buildings for which depreciation charges are assessed pursuant to subdivision (4)(b) of section 81-1108.17.

(4) The State Treasurer shall transfer three million four hundred thirty-two thousand six hundred sixty-seven dollars from the State Building Renewal

Assessment Fund to the Accounting Division Cash Fund on July 1, 2017, or as soon thereafter as administratively possible.

(5) The State Treasurer shall transfer four million six hundred thousand dollars from the State Building Renewal Assessment Fund to the Accounting Division Cash Fund on July 1, 2018, or as soon thereafter as administratively possible.

(6) Any money in the State Building Renewal Assessment Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1998, LB 1100, § 8; Laws 2000, LB 654, § 22; Laws 2002, LB 1310, § 13; Laws 2002, Second Spec. Sess., LB 1, § 6; Laws 2003, LB 410, § 4; Laws 2004, LB 439, § 15; Laws 2004, LB 1092, § 2; Laws 2009, First Spec. Sess., LB3, § 61; Laws 2011, LB380, § 1; Laws 2017, LB331, § 45; Laws 2017, LB339, § 275.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-188.02 Repealed. Laws 2011, LB 380, § 6.

81-188.03 University Building Renewal Assessment Fund; created; use; investment.

(1) The University Building Renewal Assessment Fund is created. The fund shall be under the control of the Governor for allocation to building renewal projects and to building renovation projects of the University of Nebraska. No amounts accruing to the University Building Renewal Assessment Fund shall be transferred to any other fund and no amounts accruing to the fund shall be expended in any manner for purposes other than as provided in this section or as appropriated by the Legislature to meet the cost of administering the Deferred Building Renewal Act.

(2) Revenue credited to the fund shall include amounts as provided by the Legislature and such other revenue as may be incident to the administration of the fund.

(3) Amounts appropriated from the fund shall be expended to conduct renewal work as defined in section 81-173, to conduct renovation work, and to complete other improvements incident to such renewal or renovation work as deemed necessary or appropriate by the task force. Expenditures from the fund for capital improvements shall be limited to exclude expenditures for capital improvement projects relating to facilities, structures, or buildings from which revenue is derived and pledged for the retirement of revenue bonds issued under sections 85-403 to 85-411.

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

(5) For purposes of this section, renovation work means work to replace the interior or exterior systems of an existing building to accommodate changes in use of building space or changes in programmatic need for building space.

Source: Laws 1998, LB 1100, § 10; Laws 2002, LB 1310, § 15; Laws 2003, LB 410, § 6; Laws 2004, LB 1092, § 4; Laws 2011, LB380, § 2.

Cross References

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

81-188.04 Repealed. Laws 2011, LB 380, § 6.

81-188.05 State College Building Renewal Assessment Fund; created; use; investment.

(1) The State College Building Renewal Assessment Fund is created. The fund shall be under the control of the Governor for allocation to building renewal projects and building renovation projects of the Nebraska state colleges. No amounts accruing to the State College Building Renewal Assessment Fund shall be transferred to any other fund and no amounts accruing to the fund shall be expended in any manner for purposes other than as provided in this section or as appropriated by the Legislature to meet the cost of administering the Deferred Building Renewal Act.

(2) Revenue credited to the fund shall include amounts as provided by the Legislature and such other revenue as may be incident to administration of the fund.

(3) Amounts appropriated from the fund shall be expended to conduct renewal work as defined in section 81-173, to conduct renovation work, and to complete other improvements incident to such renewal or renovation work as deemed necessary or appropriate by the task force. Expenditures from the fund for capital improvements shall be limited to exclude expenditures for capital improvement projects relating to facilities, structures, or buildings from which revenue is derived and pledged for the retirement of revenue bonds issued under sections 85-403 to 85-411.

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

(5) For purposes of this section, renovation work means work to replace the interior or exterior systems of an existing building to accommodate changes in use of building space or changes in programmatic need for building space.

Source: Laws 1998, LB 1100, § 12; Laws 2002, LB 1310, § 17; Laws 2003, LB 410, § 8; Laws 2004, LB 1092, § 6; Laws 2011, LB380, § 3.

Cross References

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

81-188.06 Repealed. Laws 2011, LB 380, § 6.

81-189 Repealed. Laws 1984, LB 838, § 4.

81-190 Act, how cited.

Sections 81-173 to 81-190 shall be known and may be cited as the Deferred Building Renewal Act.

Source: Laws 1977, LB 309, § 18; Laws 1998, LB 1100, § 20; Laws 1999, LB 369, § 1; Laws 2011, LB228, § 2.

81-191 Repealed. Laws 1984, LB 838, § 4.

81-191.01 Repealed. Laws 2011, LB 228, § 5.

(g) TERMINATION OF AGENCIES, BOARDS, AND COMMISSIONS

- 81-192 Repealed. Laws 1986, LB 745, § 1.
- 81-193 Repealed. Laws 1978, LB 569, § 14.
- 81-194 Repealed. Laws 1980, LB 94, § 19.
- 81-195 Repealed. Laws 1980, LB 939, § 8.
- 81-196 Repealed. Laws 1986, LB 745, § 1.
- 81-197 Repealed. Laws 1984, LB 470, § 7.
- 81-198 Repealed. Laws 1986, LB 745, § 1.
- 81-198.01 Repealed. Laws 1986, LB 745, § 1.
- 81-198.02 Repealed. Laws 1986, LB 745, § 1.
- 81-198.03 Repealed. Laws 1986, LB 745, § 1.
- 81-198.04 Repealed. Laws 1986, LB 745, § 1.
- 81-198.05 Repealed. Laws 1986, LB 745, § 1.
- 81-198.06 Repealed. Laws 1986, LB 745, § 1.
- 81-199 Repealed. Laws 1986, LB 745, § 1.
- 81-1,100 Repealed. Laws 1986, LB 745, § 1.
- 81-1,101 Repealed. Laws 1986, LB 745, § 1.
- 81-1,102 Repealed. Laws 1986, LB 745, § 1.
- 81-1,103 Repealed. Laws 1986, LB 745, § 1.
- 81-1,104 Repealed. Laws 1986, LB 745, § 1.
- 81-1,105 Repealed. Laws 1986, LB 745, § 1.
- 81-1,106 Repealed. Laws 1986, LB 745, § 1.
- 81-1,107 Repealed. Laws 1986, LB 745, § 1.
- 81-1,108 Repealed. Laws 1986, LB 745, § 1.

(h) GIFTS TO THE STATE

81-1,109 State Acceptance of Gifts Act, how cited.

Sections 81-1,109 to 81-1,115 shall be known and may be cited as the State Acceptance of Gifts Act.

Source: Laws 2024, LB998, § 1.
Operative date July 1, 2025.

81-1,110 Purpose of act.

The purpose of the State Acceptance of Gifts Act is to provide a procedure for accepting proposed gifts to the state so that the state does not assume responsibility for excessive costs or unnecessary obligations relating to such gifts.

Source: Laws 2024, LB998, § 2.
Operative date July 1, 2025.

81-1,111 Terms, defined.

For purposes of the State Acceptance of Gifts Act:

(1) Donor means (a) an individual, trustee, personal representative, or other legal representative of an individual or an organization, (b) any organization, corporation, foundation, or other entity, and (c) a nonfederal governmental agency;

(2) Gift means a voluntary transfer by any means, including a grant, bequest, or devise, of real property or tangible or intangible personal property, including money, by a donor to a state agency without full compensation;

(3) Real property means any estate or interest in land, including all buildings, fixtures, and improvements thereon and all rights-of-way, easements, rents, issues, profits, income, tenements, hereditaments, privileges, and appurtenances thereunto belonging, used, or enjoyed with such land, or any part thereof, except leases for a term not exceeding one year; and

(4) State agency means any agency, board, or commission of this state, excluding (a) the University of Nebraska, (b) the Nebraska state colleges, and (c) any agency, board, or commission of this state with statutory authority to accept gifts, to the extent of the authority granted.

Source: Laws 2024, LB998, § 3.
Operative date July 1, 2025.

81-1,112 Gift; allocation; use; approval, required; terms or conditions.

(1) Any gift made available to the State of Nebraska for any purpose or purposes, together with the income from such gift, shall be allocated to the state agency designated by the donor or, if no state agency is designated by the donor, shall be used in accordance with Article VII, section 9, of the Constitution of Nebraska.

(2) Acceptance of a gift shall be subject to approval by the receiving state agency and any additional requirements provided in the State Acceptance of Gifts Act. A gift accepted subject to terms or conditions shall be held subject to those terms or conditions.

Source: Laws 2024, LB998, § 4.
Operative date July 1, 2025.

81-1,113 Gift or acquisition of real property; state building division; Task Force for Building Renewal; reviews required; report; approval; when required.

(1) Any gift of real property with a value in excess of two hundred fifty thousand dollars which is proposed to be made to a state agency and any acquisition of real property which will be made by a state agency using gifts of money, if the combined total of such gifts of money exceeds two hundred fifty thousand dollars, shall be reviewed by the state building division and the Task Force for Building Renewal pursuant to sections 81-176, 81-1108.15, and

81-1114. Such review shall include any potential matching of state funds, any plans, specifications, and other construction or repair documents, and any potential maintenance requirements. Subsequent to such review, the state building division and the task force shall submit a report to the Governor, the Committee on Building Maintenance, and the Legislative Fiscal Analyst. The report shall include a summary of the review of the plans, specifications, and other construction or repair documents and potential maintenance requirements, shall outline the terms and conditions of the proposed gift or acquisition, and shall include a recommendation. The report submitted to the committee and the Legislative Fiscal Analyst shall be submitted electronically.

(2) Any gift of real property or acquisition of real property that is subject to review under subsection (1) of this section shall be approved by the Governor and the Legislature prior to acceptance or acquisition. If the Legislature is not in session, the Executive Board of the Legislative Council, after recommendation by the Committee on Building Maintenance, may approve such gift or acquisition along with the Governor.

(3) No construction, repair, maintenance, or other work related to the proposed gift or acquisition shall be initiated prior to receiving the review and approval required by this section.

(4) If an acquisition of real property has been approved pursuant to this section, gifts of tangible or intangible personal property or money funding the acquisition, in whole or in part, do not require approval pursuant to sections 81-1,114 and 81-1,115.

Source: Laws 1995, LB 530, § 13; Laws 1999, LB 369, § 3; Laws 2006, LB 1038, § 2; Laws 2008, LB1116, § 8; Laws 2011, LB264, § 4; Laws 2012, LB761, § 2; Laws 2012, LB782, § 183; R.S.1943, (2014), § 81-1108.33; Laws 2024, LB998, § 5.
Operative date July 1, 2025.

Cross References

Committee on Building Maintenance, see section 81-185.

Coordinating Commission for Postsecondary Education, see Article VII, section 14, Constitution of Nebraska and section 85-1403.

Coordinating Commission for Postsecondary Education Act, see section 85-1401.

81-1,114 Gift of personal property; approval by Governor; required, when.

Any gift of tangible or intangible personal property with a fair market value of more than ten thousand dollars, except money, shall be approved by the Governor prior to acceptance, except that such approval shall not be required for gifts of tangible or intangible personal property described in subsection (4) of section 81-1,113.

Source: Laws 2024, LB998, § 6.
Operative date July 1, 2025.

81-1,115 Gift of money; approval of Governor; required, when; expenditures.

(1) Any gift of money in excess of ten thousand dollars shall be approved by the Governor prior to acceptance, except that such approval shall not be required for:

(a) Gifts of money described in subsection (4) of section 81-113; or

(b) Gifts of money that are being made for the purpose of providing matching funds required by state or federal law.

(2) At the discretion of the budget administrator of the budget division of the Department of Administrative Services and the Accounting Administrator of the Department of Administrative Services, expenditures of funds from any gift of money may be made through any existing cash fund, revolving fund, or trust fund. If an appropriate fund does not exist, the Accounting Administrator may create a fund as provided in section 81-1111.04.

Source: Laws 2024, LB998, § 7.
Operative date July 1, 2025.

ARTICLE 2
DEPARTMENT OF AGRICULTURE

Cross References

Department of Agriculture, powers and duties with respect to:

- Agriculture, generally, see Chapter 2.
- Livestock, generally, see Chapter 54.
- Weights and measures, generally, see Chapter 89.
- License Suspension Act**, see section 43-3301.

(a) GENERAL POWERS

- | | |
|------------|--|
| Section | |
| 81-201. | Department of Agriculture; general powers. |
| 81-201.01. | Repealed. Laws 1991, LB 358, § 62. |
| 81-201.02. | Repealed. Laws 1991, LB 358, § 62. |
| 81-201.03. | Office services; authorized; powers. |
| 81-201.04. | Office services; billings and charges; Management Services Expense Revolving Fund; created; receipts; disbursements; investment. |
| 81-201.05. | Weed Book Cash Fund; created; use; investment. |
| 81-202. | Department of Agriculture; State Veterinarian; office created; appointment; salary; qualifications; exercise of powers. |
| 81-202.01. | Repealed. Laws 2020, LB344, § 82. |
| 81-202.02. | Repealed. Laws 2020, LB344, § 82. |

(b) FOOD CODES

- | | |
|------------|------------------------------------|
| 81-203. | Repealed. Laws 1965, c. 546, § 18. |
| 81-204. | Repealed. Laws 1965, c. 546, § 18. |
| 81-205. | Repealed. Laws 1965, c. 546, § 18. |
| 81-206. | Repealed. Laws 1965, c. 546, § 18. |
| 81-207. | Repealed. Laws 1965, c. 546, § 18. |
| 81-208. | Repealed. Laws 1965, c. 546, § 18. |
| 81-209. | Repealed. Laws 1965, c. 546, § 18. |
| 81-210. | Repealed. Laws 1965, c. 546, § 18. |
| 81-211. | Repealed. Laws 1965, c. 546, § 18. |
| 81-212. | Repealed. Laws 1965, c. 546, § 18. |
| 81-213. | Repealed. Laws 1965, c. 546, § 18. |
| 81-214. | Repealed. Laws 1965, c. 546, § 18. |
| 81-215. | Repealed. Laws 1965, c. 546, § 18. |
| 81-216. | Repealed. Laws 1965, c. 546, § 18. |
| 81-216.01. | Transferred to section 81-2,239. |
| 81-216.02. | Transferred to section 81-2,240. |
| 81-216.03. | Transferred to section 81-2,248. |
| 81-216.04. | Transferred to section 81-2,253. |
| 81-216.05. | Transferred to section 81-2,247. |
| 81-216.06. | Transferred to section 81-2,250. |
| 81-216.07. | Transferred to section 81-2,246. |
| 81-216.08. | Transferred to section 81-2,243. |
| 81-216.09. | Transferred to section 81-2,244. |
| 81-216.10. | Transferred to section 81-2,251. |
| 81-216.11. | Transferred to section 81-2,241. |
| 81-216.12. | Transferred to section 81-2,252. |

STATE ADMINISTRATIVE DEPARTMENTS

Section	
81-216.13.	Transferred to section 81-2,249.
81-216.14.	Repealed. Laws 1991, LB 358, § 62.
81-216.15.	Transferred to section 81-2,259.
81-216.16.	Transferred to section 81-2,261.
81-216.17.	Transferred to section 81-2,258.
81-216.18.	Transferred to section 81-2,260.
81-216.19.	Transferred to section 81-2,257.
81-216.20.	Transferred to section 81-2,262.
81-216.21.	Transferred to section 81-2,270.
81-216.22.	Transferred to section 81-2,276.
81-216.23.	Transferred to section 81-2,277.
81-216.24.	Transferred to section 81-2,278.
81-216.25.	Transferred to section 81-2,279.
81-216.26.	Transferred to section 81-2,280.
81-216.27.	Transferred to section 81-2,281.
81-216.28.	Transferred to section 81-2,282.
81-216.29.	Transferred to section 81-2,283.
81-216.30.	Transferred to section 81-2,284.
81-216.31.	Transferred to section 81-2,285.
81-216.32.	Transferred to section 81-2,286.
81-216.33.	Transferred to section 81-2,287.
81-216.34.	Transferred to section 81-2,288.
81-216.35.	Transferred to section 81-2,289.
81-216.36.	Transferred to section 81-2,290.
81-216.37.	Transferred to section 81-2,291.
81-216.38.	Transferred to section 81-2,292.
81-216.39.	Transferred to section 81-2,242.
81-217.	Repealed. Laws 1981, LB 487, § 62.
81-217.01.	Repealed. Laws 1981, LB 487, § 62.
81-217.02.	Repealed. Laws 1981, LB 487, § 62.
81-217.03.	Repealed. Laws 1981, LB 487, § 62.
81-217.04.	Repealed. Laws 1981, LB 487, § 62.
81-217.05.	Repealed. Laws 1981, LB 487, § 62.
81-217.06.	Repealed. Laws 1981, LB 487, § 62.
81-217.07.	Repealed. Laws 1981, LB 487, § 62.
81-217.08.	Repealed. Laws 1981, LB 487, § 62.
81-217.09.	Repealed. Laws 1981, LB 487, § 62.
81-217.10.	Repealed. Laws 1981, LB 487, § 62.
81-217.11.	Repealed. Laws 1981, LB 487, § 62.
81-217.12.	Repealed. Laws 1981, LB 487, § 62.
81-217.13.	Repealed. Laws 1981, LB 487, § 62.
81-217.14.	Repealed. Laws 1981, LB 487, § 62.
81-217.15.	Repealed. Laws 1981, LB 487, § 62.
81-217.16.	Repealed. Laws 1981, LB 487, § 62.
81-217.17.	Repealed. Laws 1981, LB 487, § 62.
81-217.18.	Repealed. Laws 1981, LB 487, § 62.
81-217.19.	Repealed. Laws 1981, LB 487, § 62.
81-217.20.	Repealed. Laws 1981, LB 487, § 62.
81-217.21.	Repealed. Laws 1981, LB 487, § 62.
81-217.22.	Repealed. Laws 1981, LB 487, § 62.
81-217.23.	Repealed. Laws 1981, LB 487, § 62.
81-217.24.	Repealed. Laws 1981, LB 487, § 62.
81-217.25.	Repealed. Laws 1981, LB 487, § 62.
81-217.26.	Repealed. Laws 1981, LB 487, § 62.
81-217.27.	Repealed. Laws 1981, LB 487, § 62.
81-217.28.	Repealed. Laws 1981, LB 487, § 62.
81-217.29.	Transferred to section 25-21,189.
81-217.30.	Repealed. Laws 1987, LB 201, § 7.
81-217.31.	Transferred to section 28-1483.
81-217.32.	Repealed. Laws 1987, LB 201, § 7.

DEPARTMENT OF AGRICULTURE

Section

(c) FROZEN DESSERTS

81-218.	Repealed. Laws 1980, LB 632, § 47.
81-218.01.	Repealed. Laws 1980, LB 632, § 47.
81-218.02.	Repealed. Laws 1980, LB 632, § 47.
81-218.03.	Repealed. Laws 1980, LB 632, § 47.
81-218.04.	Repealed. Laws 1980, LB 632, § 47.
81-218.05.	Repealed. Laws 1980, LB 632, § 47.
81-218.06.	Repealed. Laws 1980, LB 632, § 47.
81-218.07.	Repealed. Laws 1980, LB 632, § 47.
81-218.08.	Repealed. Laws 1980, LB 632, § 47.
81-218.09.	Repealed. Laws 1980, LB 632, § 47.
81-218.10.	Repealed. Laws 1980, LB 632, § 47.
81-218.11.	Repealed. Laws 1980, LB 632, § 47.
81-219.	Repealed. Laws 1980, LB 632, § 47.
81-220.	Repealed. Laws 1980, LB 632, § 47.
81-221.	Repealed. Laws 1980, LB 632, § 47.
81-222.	Repealed. Laws 1980, LB 632, § 47.
81-223.	Repealed. Laws 1980, LB 632, § 47.
81-224.	Repealed. Laws 1980, LB 632, § 47.
81-225.	Repealed. Laws 1980, LB 632, § 47.
81-226.	Repealed. Laws 1980, LB 632, § 47.
81-227.	Repealed. Laws 1980, LB 632, § 47.
81-228.	Repealed. Laws 1980, LB 632, § 47.

(d) CONTROL OF DAIRY INDUSTRY

81-229.	Repealed. Laws 1996, LB 966, § 4.
81-230.	Repealed. Laws 1980, LB 632, § 47.
81-230.01.	Repealed. Laws 1980, LB 632, § 47.
81-231.	Repealed. Laws 1980, LB 632, § 47.
81-232.	Repealed. Laws 1980, LB 632, § 47.
81-233.	Repealed. Laws 1980, LB 632, § 47.
81-234.	Repealed. Laws 1980, LB 632, § 47.
81-235.	Repealed. Laws 1980, LB 632, § 47.
81-236.	Repealed. Laws 1980, LB 632, § 47.
81-237.	Repealed. Laws 1980, LB 632, § 47.
81-238.	Repealed. Laws 1980, LB 632, § 47.
81-239.	Repealed. Laws 1980, LB 632, § 47.
81-240.	Repealed. Laws 1980, LB 632, § 47.
81-241.	Repealed. Laws 1980, LB 632, § 47.
81-242.	Repealed. Laws 1980, LB 632, § 47.
81-243.	Repealed. Laws 1980, LB 632, § 47.
81-244.	Repealed. Laws 1980, LB 632, § 47.
81-245.	Repealed. Laws 1980, LB 632, § 47.
81-246.	Repealed. Laws 1980, LB 632, § 47.
81-247.	Repealed. Laws 1980, LB 632, § 47.
81-248.	Repealed. Laws 1980, LB 632, § 47.
81-249.	Repealed. Laws 1980, LB 632, § 47.
81-250.	Repealed. Laws 1980, LB 632, § 47.
81-251.	Repealed. Laws 1980, LB 632, § 47.
81-252.	Repealed. Laws 1980, LB 632, § 47.
81-253.	Repealed. Laws 1980, LB 632, § 47.
81-254.	Repealed. Laws 1980, LB 632, § 47.
81-255.	Repealed. Laws 1980, LB 632, § 47.
81-256.	Repealed. Laws 1980, LB 632, § 47.
81-257.	Repealed. Laws 1980, LB 632, § 47.
81-258.	Repealed. Laws 1986, LB 900, § 38.
81-259.	Repealed. Laws 1986, LB 900, § 38.
81-260.	Repealed. Laws 1986, LB 900, § 38.
81-261.	Repealed. Laws 1986, LB 900, § 38.
81-262.	Repealed. Laws 1996, LB 966, § 4.
81-263.	Repealed. Laws 1986, LB 900, § 38.

STATE ADMINISTRATIVE DEPARTMENTS

Section	
81-263.01.	Repealed. Laws 1961, c. 285, § 1.
81-263.02.	Repealed. Laws 1961, c. 285, § 1.
81-263.03.	Repealed. Laws 1961, c. 285, § 1.
81-263.04.	Repealed. Laws 1961, c. 285, § 1.
81-263.05.	Repealed. Laws 1961, c. 285, § 1.
81-263.06.	Repealed. Laws 1961, c. 285, § 1.
81-263.07.	Repealed. Laws 1961, c. 285, § 1.
81-263.08.	Repealed. Laws 1961, c. 285, § 1.
81-263.09.	Repealed. Laws 1961, c. 285, § 1.
81-263.10.	Repealed. Laws 1961, c. 285, § 1.
81-263.11.	Repealed. Laws 1967, c. 580, § 33.
81-263.12.	Repealed. Laws 1967, c. 580, § 33.
81-263.13.	Repealed. Laws 1967, c. 580, § 33.
81-263.14.	Repealed. Laws 1967, c. 580, § 33.
81-263.15.	Repealed. Laws 1967, c. 580, § 33.
81-263.16.	Repealed. Laws 1967, c. 580, § 33.
81-263.17.	Repealed. Laws 1967, c. 580, § 33.
81-263.18.	Repealed. Laws 1967, c. 580, § 33.
81-263.19.	Repealed. Laws 1967, c. 580, § 33.
81-263.20.	Repealed. Laws 1967, c. 580, § 33.
81-263.21.	Repealed. Laws 1967, c. 580, § 33.
81-263.22.	Repealed. Laws 1967, c. 580, § 33.
81-263.23.	Repealed. Laws 1967, c. 580, § 33.
81-263.24.	Repealed. Laws 1967, c. 580, § 33.
81-263.25.	Repealed. Laws 1967, c. 580, § 33.
81-263.26.	Repealed. Laws 1967, c. 580, § 33.
81-263.27.	Repealed. Laws 1967, c. 580, § 33.
81-263.28.	Repealed. Laws 1967, c. 580, § 33.
81-263.29.	Repealed. Laws 1967, c. 580, § 33.
81-263.30.	Repealed. Laws 1967, c. 580, § 33.
81-263.31.	Repealed. Laws 1967, c. 580, § 33.
81-263.32.	Repealed. Laws 1967, c. 580, § 33.
81-263.33.	Repealed. Laws 1967, c. 580, § 33.
81-263.34.	Repealed. Laws 1967, c. 580, § 33.
81-263.35.	Repealed. Laws 1967, c. 580, § 33.
81-263.36.	Repealed. Laws 1967, c. 580, § 33.
81-263.37.	Repealed. Laws 1975, LB 324, § 1.
81-263.38.	Repealed. Laws 1975, LB 324, § 1.
81-263.39.	Repealed. Laws 1975, LB 324, § 1.
81-263.40.	Repealed. Laws 1975, LB 324, § 1.
81-263.41.	Repealed. Laws 1975, LB 324, § 1.
81-263.42.	Repealed. Laws 1975, LB 324, § 1.
81-263.43.	Repealed. Laws 1975, LB 324, § 1.
81-263.44.	Repealed. Laws 1975, LB 324, § 1.
81-263.45.	Repealed. Laws 1975, LB 324, § 1.
81-263.46.	Repealed. Laws 1975, LB 324, § 1.
81-263.47.	Repealed. Laws 1975, LB 324, § 1.
81-263.48.	Repealed. Laws 1975, LB 324, § 1.
81-263.49.	Repealed. Laws 1975, LB 324, § 1.
81-263.50.	Repealed. Laws 1980, LB 632, § 47.
81-263.51.	Repealed. Laws 1980, LB 632, § 47.
81-263.52.	Repealed. Laws 1980, LB 632, § 47.
81-263.53.	Repealed. Laws 1980, LB 632, § 47.
81-263.54.	Repealed. Laws 1980, LB 632, § 47.
81-263.55.	Repealed. Laws 1980, LB 632, § 47.
81-263.56.	Repealed. Laws 1980, LB 632, § 47.
81-263.57.	Repealed. Laws 1980, LB 632, § 47.
81-263.58.	Repealed. Laws 1980, LB 632, § 47.
81-263.59.	Repealed. Laws 1980, LB 632, § 47.
81-263.60.	Repealed. Laws 1980, LB 632, § 47.
81-263.61.	Repealed. Laws 1980, LB 632, § 47.

DEPARTMENT OF AGRICULTURE

Section	
81-263.62.	Repealed. Laws 1980, LB 632, § 47.
81-263.63.	Repealed. Laws 1980, LB 632, § 47.
81-263.64.	Repealed. Laws 1980, LB 632, § 47.
81-263.65.	Repealed. Laws 1980, LB 632, § 47.
81-263.66.	Repealed. Laws 1980, LB 632, § 47.
81-263.67.	Repealed. Laws 1980, LB 632, § 47.
81-263.68.	Repealed. Laws 1980, LB 632, § 47.
81-263.69.	Repealed. Laws 1980, LB 632, § 47.
81-263.70.	Repealed. Laws 1980, LB 632, § 47.
81-263.71.	Repealed. Laws 1980, LB 632, § 47.
81-263.72.	Repealed. Laws 1980, LB 632, § 47.
81-263.73.	Repealed. Laws 1980, LB 632, § 47.
81-263.74.	Repealed. Laws 1980, LB 632, § 47.
81-263.75.	Repealed. Laws 1980, LB 632, § 47.
81-263.76.	Repealed. Laws 1980, LB 632, § 47.
81-263.77.	Repealed. Laws 1980, LB 632, § 47.
81-263.78.	Repealed. Laws 1980, LB 632, § 47.
81-263.79.	Repealed. Laws 1980, LB 632, § 47.
81-263.80.	Repealed. Laws 1980, LB 632, § 47.
81-263.81.	Repealed. Laws 1975, LB 324, § 1.
81-263.82.	Repealed. Laws 1975, LB 324, § 1.
81-263.83.	Repealed. Laws 1975, LB 324, § 1.
81-263.84.	Repealed. Laws 1975, LB 324, § 1.
81-263.85.	Repealed. Laws 1975, LB 324, § 1.
81-263.86.	Repealed. Laws 1975, LB 324, § 1.
81-263.87.	Repealed. Laws 1980, LB 632, § 47.
81-263.88.	Transferred to section 2-3913.
81-263.89.	Transferred to section 2-3914.
81-263.90.	Transferred to section 2-3915.
81-263.91.	Transferred to section 2-3916.
81-263.92.	Repealed. Laws 1980, LB 632, § 47.
81-263.93.	Repealed. Laws 1980, LB 632, § 47.
81-263.94.	Transferred to section 2-3918.
81-263.95.	Transferred to section 2-3919.
81-263.96.	Transferred to section 2-3920.
81-263.97.	Transferred to section 2-3921.
81-263.98.	Transferred to section 2-3922.
81-263.99.	Transferred to section 2-3923.
81-263.100.	Transferred to section 2-3924.
81-263.101.	Transferred to section 2-3925.
81-263.102.	Repealed. Laws 1980, LB 632, § 47.
81-263.103.	Repealed. Laws 1980, LB 632, § 47.
81-263.104.	Repealed. Laws 1980, LB 632, § 47.
81-263.105.	Repealed. Laws 1980, LB 632, § 47.
81-263.106.	Transferred to section 2-3931.
81-263.107.	Transferred to section 2-3932.
81-263.108.	Transferred to section 2-3933.
81-263.109.	Transferred to section 2-3934.
81-263.110.	Transferred to section 2-3935.
81-263.111.	Transferred to section 2-3936.
81-263.112.	Repealed. Laws 1980, LB 632, § 47.
81-263.113.	Repealed. Laws 1980, LB 632, § 47.
81-263.114.	Transferred to section 2-3937.
81-263.115.	Repealed. Laws 1980, LB 632, § 47.
81-263.116.	Transferred to section 2-3938.
81-263.117.	Transferred to section 2-3947.
81-263.118.	Transferred to section 2-3939.
81-263.119.	Transferred to section 2-3942.
81-263.120.	Transferred to section 2-3943.
81-263.121.	Transferred to section 2-3944.
81-263.122.	Transferred to section 2-3945.

STATE ADMINISTRATIVE DEPARTMENTS

Section

81-263.123. Repealed. Laws 1980, LB 632, § 47.

(e) CONDENSED MILK

81-264. Repealed. Laws 1980, LB 632, § 47.

81-265. Repealed. Laws 1980, LB 632, § 47.

81-266. Repealed. Laws 1980, LB 632, § 47.

81-267. Repealed. Laws 1980, LB 632, § 47.

(f) EGGS

81-268. Repealed. Laws 1955, c. 332, § 15.

81-269. Repealed. Laws 1955, c. 332, § 15.

81-270. Repealed. Laws 1955, c. 332, § 15.

81-271. Repealed. Laws 1955, c. 332, § 15.

81-272. Repealed. Laws 1955, c. 332, § 15.

81-273. Repealed. Laws 1955, c. 332, § 15.

81-274. Repealed. Laws 1949, c. 279, § 6.

81-275. Repealed. Laws 1955, c. 332, § 15.

81-275.01. Repealed. Laws 1961, c. 424, § 20.

81-275.02. Repealed. Laws 1961, c. 424, § 20.

81-275.03. Repealed. Laws 1961, c. 424, § 20.

81-275.04. Repealed. Laws 1961, c. 424, § 20.

81-275.05. Repealed. Laws 1961, c. 424, § 20.

81-275.06. Repealed. Laws 1961, c. 424, § 20.

81-275.07. Repealed. Laws 1961, c. 424, § 20.

81-275.08. Repealed. Laws 1961, c. 424, § 20.

81-275.09. Repealed. Laws 1961, c. 424, § 20.

81-275.10. Repealed. Laws 1961, c. 424, § 20.

81-275.11. Repealed. Laws 1961, c. 424, § 20.

81-275.12. Repealed. Laws 1961, c. 424, § 20.

81-275.13. Repealed. Laws 1961, c. 424, § 20.

81-275.14. Repealed. Laws 1961, c. 424, § 20.

81-275.15. Repealed. Laws 1977, LB 268, § 27.

81-275.16. Repealed. Laws 1977, LB 268, § 27.

81-275.17. Repealed. Laws 1977, LB 268, § 27.

81-275.18. Repealed. Laws 1977, LB 268, § 27.

81-275.19. Repealed. Laws 1977, LB 268, § 27.

81-275.20. Repealed. Laws 1977, LB 268, § 27.

81-275.21. Repealed. Laws 1977, LB 268, § 27.

81-275.22. Repealed. Laws 1977, LB 268, § 27.

81-275.23. Repealed. Laws 1977, LB 268, § 27.

81-275.24. Repealed. Laws 1977, LB 268, § 27.

81-275.25. Repealed. Laws 1977, LB 268, § 27.

81-275.26. Repealed. Laws 1977, LB 268, § 27.

81-275.27. Repealed. Laws 1977, LB 268, § 27.

81-275.28. Repealed. Laws 1977, LB 268, § 27.

81-275.29. Repealed. Laws 1977, LB 268, § 27.

81-275.30. Repealed. Laws 1977, LB 268, § 27.

81-275.31. Repealed. Laws 1977, LB 268, § 27.

81-275.32. Repealed. Laws 1977, LB 268, § 27.

81-275.33. Repealed. Laws 1977, LB 268, § 27.

81-275.34. Repealed. Laws 1977, LB 268, § 27.

81-275.35. Repealed. Laws 1977, LB 268, § 27.

(g) PRODUCE COMMISSION MERCHANTS

81-276. Repealed. Laws 1980, LB 633, § 10.

81-277. Repealed. Laws 1980, LB 633, § 10.

81-278. Repealed. Laws 1980, LB 633, § 10.

81-279. Repealed. Laws 1980, LB 633, § 10.

81-280. Repealed. Laws 1980, LB 633, § 10.

(h) CIDER AND VINEGAR

81-281. Repealed. Laws 1965, c. 546, § 18.

DEPARTMENT OF AGRICULTURE

Section

- 81-282. Repealed. Laws 1965, c. 546, § 18.
- 81-283. Repealed. Laws 1965, c. 546, § 18.
- 81-284. Repealed. Laws 1965, c. 546, § 18.
- 81-285. Repealed. Laws 1965, c. 546, § 18.
- 81-286. Repealed. Laws 1965, c. 546, § 18.

(i) OLEOMARGARINE AND BUTTERINE

- 81-287. Repealed. Laws 1980, LB 632, § 47.
- 81-288. Repealed. Laws 1980, LB 632, § 47.
- 81-289. Repealed. Laws 1980, LB 632, § 47.
- 81-290. Repealed. Laws 1980, LB 632, § 47.
- 81-291. Repealed. Laws 1980, LB 632, § 47.
- 81-292. Repealed. Laws 1980, LB 632, § 47.
- 81-293. Repealed. Laws 1980, LB 632, § 47.
- 81-294. Repealed. Laws 1972, LB 1410, § 3.
- 81-295. Repealed. Laws 1972, LB 1410, § 3.
- 81-296. Repealed. Laws 1972, LB 1410, § 3.
- 81-297. Repealed. Laws 1972, LB 1410, § 3.
- 81-298. Repealed. Laws 1972, LB 1410, § 3.
- 81-299. Repealed. Laws 1972, LB 1410, § 3.
- 81-2,100. Repealed. Laws 1972, LB 1410, § 3.
- 81-2,101. Repealed. Laws 1972, LB 1410, § 3.
- 81-2,102. Repealed. Laws 1972, LB 1410, § 3.
- 81-2,103. Repealed. Laws 1972, LB 1410, § 3.
- 81-2,104. Repealed. Laws 1972, LB 1410, § 3.
- 81-2,105. Repealed. Laws 1972, LB 1410, § 3.
- 81-2,106. Repealed. Laws 1972, LB 1410, § 3.
- 81-2,107. Repealed. Laws 1972, LB 1410, § 3.
- 81-2,108. Repealed. Laws 1972, LB 1410, § 3.
- 81-2,109. Repealed. Laws 1972, LB 1410, § 3.
- 81-2,110. Repealed. Laws 1972, LB 1410, § 3.

(j) FOOD; PREMISES USED FOR MANUFACTURE
OR PREPARATION; SANITATION

- 81-2,111. Repealed. Laws 1981, LB 487, § 62.
- 81-2,111.01. Repealed. Laws 1981, LB 487, § 62.
- 81-2,112. Repealed. Laws 1981, LB 487, § 62.
- 81-2,113. Repealed. Laws 1981, LB 487, § 62.
- 81-2,114. Repealed. Laws 1981, LB 487, § 62.
- 81-2,115. Repealed. Laws 1981, LB 487, § 62.
- 81-2,116. Repealed. Laws 1981, LB 487, § 62.
- 81-2,117. Repealed. Laws 1981, LB 487, § 62.
- 81-2,118. Repealed. Laws 1981, LB 487, § 62.
- 81-2,119. Repealed. Laws 1981, LB 487, § 62.
- 81-2,120. Repealed. Laws 1981, LB 487, § 62.
- 81-2,121. Repealed. Laws 1981, LB 487, § 62.

(k) COLD STORAGE WAREHOUSES

- 81-2,122. Repealed. Laws 1981, LB 487, § 62.
- 81-2,123. Repealed. Laws 1981, LB 487, § 62.
- 81-2,124. Repealed. Laws 1981, LB 487, § 62.
- 81-2,125. Repealed. Laws 1947, c. 319, § 3.
- 81-2,126. Repealed. Laws 1947, c. 319, § 3.
- 81-2,127. Repealed. Laws 1981, LB 487, § 62.
- 81-2,128. Repealed. Laws 1947, c. 319, § 3.
- 81-2,129. Repealed. Laws 1981, LB 487, § 62.
- 81-2,130. Repealed. Laws 1947, c. 319, § 3.
- 81-2,131. Repealed. Laws 1947, c. 319, § 3.
- 81-2,132. Repealed. Laws 1981, LB 487, § 62.
- 81-2,133. Repealed. Laws 1981, LB 487, § 62.
- 81-2,134. Repealed. Laws 1981, LB 487, § 62.

STATE ADMINISTRATIVE DEPARTMENTS

Section

(l) FROZEN FOOD LOCKER PLANTS

- 81-2,134.01. Repealed. Laws 1981, LB 487, § 62.
- 81-2,134.02. Repealed. Laws 1957, c. 371, § 6.
- 81-2,134.03. Repealed. Laws 1981, LB 487, § 62.
- 81-2,134.04. Repealed. Laws 1981, LB 487, § 62.
- 81-2,134.05. Repealed. Laws 1981, LB 487, § 62.
- 81-2,134.06. Repealed. Laws 1981, LB 487, § 62.
- 81-2,134.07. Repealed. Laws 1981, LB 487, § 62.
- 81-2,134.08. Repealed. Laws 1981, LB 487, § 62.
- 81-2,134.09. Repealed. Laws 1981, LB 487, § 62.
- 81-2,134.10. Repealed. Laws 1981, LB 487, § 62.
- 81-2,134.11. Repealed. Laws 1981, LB 487, § 62.

(m) SEEDS

- 81-2,135. Repealed. Laws 1945, c. 237, § 14.
- 81-2,135.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,136. Repealed. Laws 1945, c. 237, § 14.
- 81-2,136.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,136.02. Repealed. Laws 1969, c. 759, § 11.
- 81-2,137. Repealed. Laws 1945, c. 237, § 14.
- 81-2,137.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,138. Repealed. Laws 1945, c. 237, § 14.
- 81-2,138.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,139. Repealed. Laws 1945, c. 237, § 14.
- 81-2,139.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,140. Repealed. Laws 1945, c. 237, § 14.
- 81-2,140.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,141. Repealed. Laws 1945, c. 237, § 14.
- 81-2,141.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,141.02. Repealed. Laws 1969, c. 759, § 11.
- 81-2,141.03. Repealed. Laws 1969, c. 759, § 11.
- 81-2,142. Repealed. Laws 1945, c. 237, § 14.
- 81-2,142.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,143. Repealed. Laws 1945, c. 237, § 14.
- 81-2,143.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,144. Repealed. Laws 1945, c. 237, § 14.
- 81-2,144.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,145. Repealed. Laws 1945, c. 237, § 14.
- 81-2,145.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,146. Repealed. Laws 1945, c. 237, § 14.
- 81-2,146.01. Repealed. Laws 1969, c. 759, § 11.
- 81-2,147. Law, how cited.
- 81-2,147.01. Terms, defined.
- 81-2,147.02. Container; labeling requirements.
- 81-2,147.03. Sale; unlawful acts.
- 81-2,147.04. Records; samples; subject to inspection.
- 81-2,147.05. Exempt seed or grain.
- 81-2,147.06. Director; powers and duties.
- 81-2,147.07. Seeds not in compliance with law; remedies; procedure.
- 81-2,147.08. Restraining order or injunction; application by director; issued without bond.
- 81-2,147.09. Violations; penalty; hearing; enforcement.
- 81-2,147.10. Sale of labeled seeds; permit required; fees; delinquency fee; renewal; exceptions; refusal or cancellation of permit; hearing.
- 81-2,147.11. Nebraska Seed Administrative Cash Fund; created; use; investment.
- 81-2,147.12. Preemption of local law.
- 81-2,148. Repealed. Laws 1945, c. 237, § 14.
- 81-2,149. State-certified seeds; plant parts; approval of standards; certification, defined.
- 81-2,150. State-certified seeds; dealers; observance of rules of University of Nebraska Institute of Agriculture and Natural Resources required.

DEPARTMENT OF AGRICULTURE

- Section
81-2,151. State-certified seeds; certification agencies; nonprofit basis.
81-2,152. State-certified seeds; certification agencies; legal obligations; University of Nebraska Institute of Agriculture and Natural Resources not liable.
81-2,153. State-certified seeds; growers; violations; dishonest practices; certification may be withheld.
81-2,154. State-certified seeds; violations; penalty.
81-2,155. Hybrid seed corn; practices forbidden.
81-2,156. Hybrid seed corn; cross, defined.
81-2,157. Hybrid seed corn; violations; penalty; enforcement action; Director of Agriculture; duties.

(n) COMMERCIAL FERTILIZER AND SOIL CONDITIONER

- 81-2,158. Repealed. Laws 1955, c. 334, § 23.
81-2,159. Repealed. Laws 1955, c. 334, § 23.
81-2,160. Repealed. Laws 1955, c. 334, § 23.
81-2,161. Repealed. Laws 1955, c. 334, § 23.
81-2,161.01. Repealed. Laws 1955, c. 334, § 23.
81-2,161.02. Repealed. Laws 1955, c. 334, § 23.
81-2,162. Repealed. Laws 1955, c. 334, § 23.
81-2,162.01. Act; administration.
81-2,162.02. Terms, defined.
81-2,162.03. Soil conditioner; registration; expiration; application; contents; custom-blended products exempt; information required.
81-2,162.04. Soil conditioner; label; contents; bulk; statement; common name; pesticide; how labeled.
81-2,162.05. Commercial fertilizer; label affixed to package; contents; common name; custom-blended products; requirements.
81-2,162.06. Commercial fertilizer and soil conditioner; inspection fee; amount; tonnage report; additional administrative fee; confidential information.
81-2,162.07. Enforcement of act; inspections; testing; methods of analysis; results; distribution.
81-2,162.08. Commercial fertilizer; superphosphate; requirements.
81-2,162.09. Repealed. Laws 1975, LB 333, § 25.
81-2,162.10. Repealed. Laws 1975, LB 333, § 25.
81-2,162.11. Commercial fertilizer and soil conditioner; sales information; director make available; contents.
81-2,162.12. Commercial fertilizers and soil conditioners; rules and regulations.
81-2,162.13. Commercial fertilizer or soil conditioner; registration or license; cancellation; reasons; hearing.
81-2,162.14. Commercial fertilizer or soil conditioner; stop-sale, stop-use, or removal order; effect; release, when.
81-2,162.15. Commercial fertilizer or soil conditioner; noncompliance; condemnation; court order; opportunity to comply.
81-2,162.16. Commercial fertilizer or soil conditioner; rules and regulations; violation; notice; hearing; certification to county attorney or Attorney General.
81-2,162.17. Commercial fertilizer or soil conditioner; act; violations; penalty.
81-2,162.18. Commercial fertilizer or soil conditioner; unlawful practices; director; waiver, when.
81-2,162.19. Commercial fertilizer or soil conditioner; Attorney General; county attorney; duties.
81-2,162.20. Commercial fertilizer or soil conditioner; injunction; director; application; no bond required.
81-2,162.21. Commercial fertilizer or soil conditioner; sales or exchanges; restriction or avoidance; exception.
81-2,162.22. Act, how cited.
81-2,162.23. Manufacture or distribution of commercial fertilizers or soil conditioners; license required; exception; application; fee; posting of license; records; contents.
81-2,162.24. Repealed. Laws 1980, LB 889, § 9.
81-2,162.25. Misbranded commercial fertilizer or soil conditioner; distribution unlawful; how determined.

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-2,162.26. Adulterated commercial fertilizer or soil conditioner; distribution unlawful; how determined.
- 81-2,162.27. Fertilizers and Soil Conditioners Administrative Fund; created; use; transfers; investment.
- 81-2,162.28. Preemption of local law.

(o) PUBLICITY

- 81-2,163. State agricultural resources, industries, and development; department; publications; powers.
- 81-2,164. Repealed. Laws 2018, LB135, § 4.
- 81-2,164.01. Repealed. Laws 2018, LB135, § 4.
- 81-2,164.02. Repealed. Laws 2018, LB135, § 4.
- 81-2,164.03. Agricultural Products Marketing Information Cash Fund; created; use; investment.

(p) BEEKEEPING

- 81-2,165. Beekeeping; inspections; rules and regulations; duties of department and director.
- 81-2,165.01. Act, how cited.
- 81-2,165.02. Beekeeping; legislative intent; responsibility for education.
- 81-2,166. Terms, defined.
- 81-2,167. Beekeeping; department; inspection; purpose; violations.
- 81-2,168. Beekeeping; inspection; notice to owner; University of Nebraska; duties.
- 81-2,169. Beekeeping; infected bees or apiaries; nuisance; destruction.
- 81-2,170. Beekeeping; contagion or infection; duty of owner to report to department; quarantine; when; notice; effect.
- 81-2,171. Beekeeping; abandoned apiary; seized by department; notice.
- 81-2,171.01. Repealed. Laws 1976, LB 722, § 4.
- 81-2,172. Repealed. Laws 2004, LB 835, § 9.
- 81-2,173. Beekeeping; inspection certificate; procedure.
- 81-2,174. Beekeeping; inspection certificate; fees; State Apiary Cash Fund; created; use; investment.
- 81-2,175. Repealed. Laws 1986, LB 1001, § 13.
- 81-2,176. Beekeeping; inspection certificate; unlawful use; penalty.
- 81-2,177. Repealed. Laws 1979, LB 548, § 4.
- 81-2,177.01. Repealed. Laws 2004, LB 835, § 9.
- 81-2,178. Repealed. Laws 1967, c. 583, § 7.
- 81-2,179. Beekeeping; director; enforcement powers; county attorney or Attorney General; duties; violations; penalty.
- 81-2,180. Beekeeping; liability of beekeeper for acts of agent.
- 81-2,181. Honey; Department of Agriculture; adopt standard; label restrictions; violation; remedy or penalty.

(q) SOFT DRINKS

- 81-2,182. Repealed. Laws 1981, LB 487, § 62.
- 81-2,183. Repealed. Laws 1981, LB 487, § 62.
- 81-2,184. Repealed. Laws 1981, LB 487, § 62.
- 81-2,185. Repealed. Laws 1981, LB 487, § 62.

(r) ANTIFREEZE

- 81-2,186. Repealed. Laws 1981, LB 497, § 1.
- 81-2,187. Repealed. Laws 1981, LB 497, § 1.
- 81-2,188. Repealed. Laws 1981, LB 497, § 1.
- 81-2,189. Repealed. Laws 1981, LB 497, § 1.
- 81-2,190. Repealed. Laws 1981, LB 497, § 1.
- 81-2,191. Repealed. Laws 1981, LB 497, § 1.
- 81-2,192. Repealed. Laws 1981, LB 497, § 1.
- 81-2,193. Repealed. Laws 1981, LB 497, § 1.
- 81-2,194. Repealed. Laws 1981, LB 497, § 1.
- 81-2,195. Repealed. Laws 1981, LB 497, § 1.
- 81-2,196. Repealed. Laws 1981, LB 497, § 1.
- 81-2,197. Repealed. Laws 1981, LB 497, § 1.

DEPARTMENT OF AGRICULTURE

Section

(s) MOBILE HOME COURTS

- 81-2,198. Repealed. Laws 1959, c. 303, § 11.
- 81-2,199. Repealed. Laws 1959, c. 303, § 11.
- 81-2,200. Repealed. Laws 1959, c. 303, § 11.
- 81-2,201. Repealed. Laws 1959, c. 303, § 11.
- 81-2,202. Repealed. Laws 1959, c. 303, § 11.
- 81-2,203. Repealed. Laws 1959, c. 303, § 11.
- 81-2,204. Repealed. Laws 1959, c. 303, § 11.
- 81-2,205. Repealed. Laws 1959, c. 303, § 11.
- 81-2,206. Repealed. Laws 1959, c. 303, § 11.
- 81-2,207. Repealed. Laws 1959, c. 303, § 11.
- 81-2,208. Repealed. Laws 1959, c. 303, § 11.
- 81-2,209. Repealed. Laws 1959, c. 303, § 11.
- 81-2,210. Repealed. Laws 1959, c. 303, § 11.

(t) MEATS

- 81-2,211. Repealed. Laws 1969, c. 793, § 1.
- 81-2,212. Repealed. Laws 1969, c. 793, § 1.
- 81-2,213. Repealed. Laws 1969, c. 793, § 1.
- 81-2,214. Repealed. Laws 1969, c. 793, § 1.
- 81-2,215. Repealed. Laws 1969, c. 793, § 1.
- 81-2,216. Repealed. Laws 1969, c. 793, § 1.

(u) GRADE A MILK

- 81-2,217. Repealed. Laws 1980, LB 632, § 47.
- 81-2,218. Repealed. Laws 1980, LB 632, § 47.
- 81-2,219. Repealed. Laws 1980, LB 632, § 47.
- 81-2,220. Repealed. Laws 1980, LB 632, § 47.
- 81-2,221. Repealed. Laws 1980, LB 632, § 47.
- 81-2,222. Repealed. Laws 1980, LB 632, § 47.
- 81-2,223. Repealed. Laws 1980, LB 632, § 47.
- 81-2,224. Repealed. Laws 1980, LB 632, § 47.
- 81-2,225. Repealed. Laws 1980, LB 632, § 47.
- 81-2,226. Repealed. Laws 1980, LB 632, § 47.
- 81-2,227. Repealed. Laws 1980, LB 632, § 47.
- 81-2,228. Repealed. Laws 1980, LB 632, § 47.
- 81-2,229. Repealed. Laws 1980, LB 632, § 47.
- 81-2,230. Repealed. Laws 1980, LB 632, § 47.
- 81-2,231. Repealed. Laws 1980, LB 632, § 47.
- 81-2,232. Repealed. Laws 1980, LB 632, § 47.

(v) ORGANIC FOOD

- 81-2,233. Repealed. Laws 2016, LB921, § 1.
- 81-2,234. Repealed. Laws 2016, LB921, § 1.
- 81-2,235. Repealed. Laws 2016, LB921, § 1.

(w) ANIMAL DAMAGE CONTROL

- 81-2,236. Director; contract and cooperate with federal government; expenditure of funds.
- 81-2,237. Animal Damage Control Cash Fund; created; investment.
- 81-2,238. Director; cooperation with state agencies; receipt of funds.

(x) NEBRASKA PURE FOOD ACT

- 81-2,239. Nebraska Pure Food Act; provisions included; how cited.
- 81-2,240. Definitions, where found.
- 81-2,241. Advertising, defined.
- 81-2,242. Bed and breakfast establishment, defined.
- 81-2,242.01. Caterer, defined.
- 81-2,242.02. Commissary, defined.
- 81-2,242.03. Repealed. Laws 2024, LB262, § 51.
- 81-2,242.04. Commercial food establishment, defined.

STATE ADMINISTRATIVE DEPARTMENTS

Section	
81-2,243.	Department, defined.
81-2,243.01.	Repealed. Laws 2020, LB835, § 10.
81-2,244.	Director, defined.
81-2,244.01.	Food Code, defined.
81-2,245.	Repealed. Laws 2024, LB262, § 51.
81-2,245.01.	Food establishment, defined.
81-2,245.02.	Food handling activity, defined.
81-2,246.	Repealed. Laws 1997, LB 199, § 63.
81-2,246.01.	Repealed. Laws 2016, LB798, § 14.
81-2,247.	Guidance document, defined.
81-2,248.	Itinerant food vendor, defined.
81-2,249.	Repealed. Laws 1997, LB 199, § 63.
81-2,250.	Limited retail food establishment, defined.
81-2,251.	Labeling, defined.
81-2,251.01.	Repealed. Laws 2024, LB262, § 51.
81-2,251.02.	Repealed. Laws 2024, LB262, § 51.
81-2,251.03.	Limited food service establishment, defined.
81-2,251.04.	Mobile food unit, defined.
81-2,251.05.	Person in charge, defined.
81-2,251.06.	Pushcart, defined.
81-2,252.	Regulatory authority, defined.
81-2,253.	Repealed. Laws 1997, LB 199, § 63.
81-2,253.01.	Salvage operation, defined.
81-2,253.02.	Secondary food handling activity, defined.
81-2,254.	Single event food vendor, defined.
81-2,254.01.	Repealed. Laws 2016, LB798, § 14.
81-2,255.	Repealed. Laws 1997, LB 199, § 63.
81-2,256.	Repealed. Laws 1997, LB 199, § 63.
81-2,257.	Priority items; priority foundation items; designation.
81-2,257.01.	Food Code; adoption.
81-2,258.	Repealed. Laws 2016, LB798, § 14.
81-2,259.	Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food; adoption.
81-2,260.	Repealed. Laws 1997, LB 199, § 63.
81-2,261.	Repealed. Laws 1997, LB 199, § 63.
81-2,262.	Code and practice; where filed.
81-2,263.	Inconsistencies; sections control.
81-2,264.	Repealed. Laws 1997, LB 199, § 63.
81-2,265.	Repealed. Laws 1997, LB 199, § 63.
81-2,266.	Repealed. Laws 1997, LB 199, § 63.
81-2,267.	Food establishment, food processing plant, or salvage operation; construction, conversion, or remodeling; plans and specifications; requirements.
81-2,268.	Food establishment, food processing plant, or salvage operation facilities and equipment; design and fabrication requirements.
81-2,269.	Repealed. Laws 1997, LB 199, § 63.
81-2,270.	Food establishment, food processing plant, or salvage operation; permits; application; contents; fees; late fee; exemptions.
81-2,270.01.	Eggs.
81-2,271.	Food establishment, food processing plant, or salvage operation; permit; posting; change of ownership or location; duties; mobile food unit or pushcart; copy of permit.
81-2,272.	Food establishment, food processing plant, or salvage operation; inspection; denial of permit; hearing.
81-2,272.01.	Time/temperature control for safety food; temperature; equipment.
81-2,272.02.	Repealed. Laws 2012, LB 771, § 10.
81-2,272.03.	Repealed. Laws 2007, LB 74, § 12.
81-2,272.04.	Repealed. Laws 2007, LB 74, § 12.
81-2,272.05.	Repealed. Laws 2007, LB 74, § 12.
81-2,272.06.	Repealed. Laws 2007, LB 74, § 12.
81-2,272.07.	Repealed. Laws 2003, LB 250, § 29.

DEPARTMENT OF AGRICULTURE

- Section
- 81-2,272.08. Repealed. Laws 2003, LB 250, § 29.
 - 81-2,272.09. Repealed. Laws 2003, LB 250, § 29.
 - 81-2,272.10. Food employees; hand washing; food contact; restrictions.
 - 81-2,272.11. Repealed. Laws 2003, LB 250, § 29.
 - 81-2,272.12. Repealed. Laws 2003, LB 250, § 29.
 - 81-2,272.13. Repealed. Laws 2003, LB 250, § 29.
 - 81-2,272.14. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.15. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.16. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.17. Repealed. Laws 2012, LB 771, § 10.
 - 81-2,272.18. Repealed. Laws 2003, LB 250, § 29.
 - 81-2,272.19. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.20. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.21. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.22. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.23. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.24. Time/temperature control for safety food; date marking; sale, consumption, or discard requirements.
 - 81-2,272.25. Repealed. Laws 2016, LB798, § 14.
 - 81-2,272.26. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.27. Repealed. Laws 2016, LB798, § 14.
 - 81-2,272.28. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.29. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.30. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.31. Repealed. Laws 2024, LB262, § 51.
 - 81-2,272.32. Food employee; fingernail requirements.
 - 81-2,272.33. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.34. Repealed. Laws 2016, LB798, § 14.
 - 81-2,272.35. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,272.36. Repealed. Laws 2012, LB 771, § 10.
 - 81-2,272.37. Repealed. Laws 2007, LB 74, § 12.
 - 81-2,273. Permitholder; duties; disciplinary action; effect; hearing; reinstatement of permit.
 - 81-2,274. Notice or order; service; contents; hearings; procedure.
 - 81-2,275. Food establishment, food processing plant, or salvage operation; unlawful operation.
 - 81-2,276. Food establishment, food processing plant, or salvage operation regulation.
 - 81-2,277. Food processing plants and salvage operations; compliance required.
 - 81-2,278. Mobile food establishment operators; guidance document.
 - 81-2,278.01. Mobile food establishment; political subdivision; local licensing reciprocity; report.
 - 81-2,279. Mobile Food Establishment Ordinance Registry; department; powers and duties; city of the first class or city of the second class; requirements.
 - 81-2,280. Producer of food at private home; requirements; registration; contents.
 - 81-2,281. Department; enforce act; powers; contract for conduct of certain regulatory functions; exemption from inspection fee; inspections; how conducted; by whom.
 - 81-2,282. Adulteration of food; prohibited; adulteration, defined.
 - 81-2,283. Misbranded food; prohibited; misbranded, defined.
 - 81-2,284. Deceptive packaging of food; prohibited; deceptively packed or packaged, defined.
 - 81-2,285. False advertisement regarding food; prohibited; false advertisement, defined.
 - 81-2,286. Regulatory authority; determination of violations; use of federal regulations; when.
 - 81-2,287. Regulatory authority; enforcement; issue stop-sale, stop-use, removal orders; procedure.
 - 81-2,288. Department; adopt rules and regulations; contracts with federal agencies authorized; exemptions from act.
 - 81-2,288.01. Regulatory authority; inspection reporting requirements.

§ 81-201

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-2,288.02. Regulatory authority; inspection intervals.
- 81-2,289. Restraining orders and injunctions; department; county attorney; duties.
- 81-2,290. Violations; penalty; county attorney; duties.
- 81-2,291. Pure Food Cash Fund; created; use; investment.
- 81-2,292. Bed and breakfast establishments; exempt from act.

(y) LABORATORY TESTING SERVICES

- 81-2,293. Laboratory testing services; system of billing; Agricultural Laboratory Testing Services Cash Fund; created; use; investment.

(z) ZONING

- 81-2,294. Conditional use permit or special exception application; department; develop assessment matrix; criteria; committee; advise department; use.

(a) GENERAL POWERS

81-201 Department of Agriculture; general powers.

The Department of Agriculture shall have power (1) to encourage and promote, in every practicable manner, the interest of agriculture; (2) to promote methods of conducting the industry of agriculture with a view to increasing the production and facilitating the distribution thereof at the least cost; (3) to collect and publish statistics relating to the production and marketing of agricultural products, so far as such statistical information may be of value to the agricultural and allied interests of the state, and to cooperate with the federal government in the matter of collecting and publishing such statistical information; (4) to publish and distribute the Weeds of the Great Plains book and supplemental inserts thereto, for sale and distribution to the public. All money collected from the sale of the publications shall be remitted to the State Treasurer and credited as provided in section 81-201.05; (5) to inquire into the causes of contagious, infectious, and communicable diseases among domestic animals and the means for the prevention and cure of the same; (6) to execute and enforce all laws relating to matters within its jurisdiction and to adopt necessary rules and regulations for the administration and enforcement of such laws; (7) to employ special investigators who shall be appointed deputy state sheriffs by the Governor and who shall, upon qualifying for such office, possess all the powers which attach to such office, except that their powers and duties shall be restricted to the enforcement of the laws of the State of Nebraska within the jurisdiction of the Department of Agriculture; (8) to perform laboratory testing services as provided in section 81-2,293; and (9) to enforce the Foreign-owned Real Estate National Security Act.

Source: Laws 1919, c. 190, tit. III, art. I, § 1, p. 453; C.S.1922, § 7294; C.S.1929, § 81-501; R.S.1943, § 81-201; Laws 1959, c. 424, § 3, p. 1424; Laws 1963, c. 509, § 1, p. 1622; Laws 1965, c. 459, § 22, p. 1462; Laws 1973, LB 201, § 2; Laws 1975, LB 320, § 1; Laws 1984, LB 976, § 2; Laws 1985, LB 460, § 6; Laws 2004, LB 869, § 8; Laws 2005, LB 51, § 1; Laws 2024, LB1301, § 21.

Operative date January 1, 2025.

Cross References

Animal Health and Disease Control Act, see section 54-2901.

Foreign-owned Real Estate National Security Act, see section 76-3701.

Nebraska State Board of Agriculture is a corporation possessing just obligations by the ordinary processes of the courts. Creating no immunity from the enforcement of its honest debts and

Mills v. Nebraska State Board of Agriculture, 132 Neb. 244, 271 N.W. 684 (1937).

81-201.01 Repealed. Laws 1991, LB 358, § 62.

81-201.02 Repealed. Laws 1991, LB 358, § 62.

81-201.03 Office services; authorized; powers.

The Department of Agriculture may provide (1) data and word processing services, (2) accounting and auditing services, (3) personnel services, (4) records management services, (5) printing, sorting, and mailing services, (6) statistical services, (7) such services necessary to carry out any duties or responsibilities placed upon the department by the Legislature, and (8) other related services in cooperation with, on behalf of, or for any board, commission, or political subdivision of the state or any other agency of the state or federal government.

Source: Laws 1983, LB 579, § 1; Laws 1991, LB 358, § 6.

81-201.04 Office services; billings and charges; Management Services Expense Revolving Fund; created; receipts; disbursements; investment.

In conjunction with providing services authorized pursuant to section 81-201.03, the Department of Agriculture shall develop a system of equitable billings and charges for such services. Such system of charges shall reflect, as nearly as may be practical, the actual share of costs incurred on behalf of or for such services to any board, commission, or political subdivision of the state or any other agency of the state or federal government. Any board, commission, or political subdivision of the state or any other agency of the state or federal government which uses such services shall pay for the services out of appropriated or available funds.

There is hereby created the Management Services Expense Revolving Fund. All gifts, grants, and fees or charges collected for such services from any source, including federal, state, public, or private sources, and any appropriation by the Legislature for such purpose shall be credited to such fund. Expenditures shall be made from the fund for the payment of expenses. Such payments shall be made by the Director of Agriculture. 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 1983, LB 579, § 2; Laws 1991, LB 358, § 7; Laws 1994, LB 1066, § 97.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-201.05 Weed Book Cash Fund; created; use; investment.

(1) The Weed Book Cash Fund is created. On July 1, 2005, July 1, 2006, July 1, 2007, July 1, 2008, and July 1, 2009, if there are sufficient funds available, twenty-five thousand dollars shall be transferred from the Weed Book Cash Fund to the Noxious Weed Cash Fund. Transfers may be made from the Weed Book Cash Fund to the General Fund at the direction of the Legislature. Any money in the Weed Book 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) The sale price of each Weeds of the Great Plains book sold by the Department of Agriculture shall be credited as follows:

(a) Seventy-five percent to the Weed Book Cash Fund to aid in defraying the cost of publishing, preparing, and distributing such books and any supplemental inserts to such books; and

(b) Twenty-five percent to the Noxious Weed Cash Fund.

Source: Laws 1984, LB 976, § 1; Laws 1995, LB 7, § 97; Laws 2004, LB 869, § 9; Laws 2009, First Spec. Sess., LB3, § 62.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-202 Department of Agriculture; State Veterinarian; office created; appointment; salary; qualifications; exercise of powers.

Within the Department of Agriculture there shall be the position of State Veterinarian appointed by and subordinate only to the Director of Agriculture. The powers and duties of the department provided by law for the protection of the health of livestock as defined in section 54-2921 shall be exercised and discharged through the department under the direction of the State Veterinarian. The State Veterinarian shall hold office at the will of the director. The State Veterinarian shall receive such salary as fixed by the director and approved by the Governor. The State Veterinarian shall have authority to employ assistants and fix their compensation, subject to the approval of the director. The State Veterinarian shall be a graduate of a college of veterinary medicine accredited by the American Veterinary Medical Association, shall be licensed and accredited as a veterinarian, and shall have demonstrated administrative ability.

Source: Laws 1933, c. 149, § 4, p. 572; C.S.Supp., 1941, § 81-107; R.S. 1943, § 81-202; Laws 1961, c. 419, § 2, p. 1282; Laws 1965, c. 334, § 9, p. 958; Laws 1993, LB 267, § 26; Laws 2020, LB344, § 79.

Cross References

For livestock, general provisions, see Chapter 54.

For pathogenic microorganisms, see sections 71-1801 to 71-1805.

Veterinary Medicine and Surgery Practice Act, see section 38-3301.

81-202.01 Repealed. Laws 2020, LB344, § 82.

81-202.02 Repealed. Laws 2020, LB344, § 82.

(b) FOOD CODES

81-203 Repealed. Laws 1965, c. 546, § 18.

81-204 Repealed. Laws 1965, c. 546, § 18.

81-205 Repealed. Laws 1965, c. 546, § 18.

81-206 Repealed. Laws 1965, c. 546, § 18.

81-207 Repealed. Laws 1965, c. 546, § 18.

- 81-208 Repealed. Laws 1965, c. 546, § 18.
- 81-209 Repealed. Laws 1965, c. 546, § 18.
- 81-210 Repealed. Laws 1965, c. 546, § 18.
- 81-211 Repealed. Laws 1965, c. 546, § 18.
- 81-212 Repealed. Laws 1965, c. 546, § 18.
- 81-213 Repealed. Laws 1965, c. 546, § 18.
- 81-214 Repealed. Laws 1965, c. 546, § 18.
- 81-215 Repealed. Laws 1965, c. 546, § 18.
- 81-216 Repealed. Laws 1965, c. 546, § 18.
- 81-216.01 Transferred to section 81-2,239.
- 81-216.02 Transferred to section 81-2,240.
- 81-216.03 Transferred to section 81-2,248.
- 81-216.04 Transferred to section 81-2,253.
- 81-216.05 Transferred to section 81-2,247.
- 81-216.06 Transferred to section 81-2,250.
- 81-216.07 Transferred to section 81-2,246.
- 81-216.08 Transferred to section 81-2,243.
- 81-216.09 Transferred to section 81-2,244.
- 81-216.10 Transferred to section 81-2,251.
- 81-216.11 Transferred to section 81-2,241.
- 81-216.12 Transferred to section 81-2,252.
- 81-216.13 Transferred to section 81-2,249.
- 81-216.14 Repealed. Laws 1991, LB 358, § 62.
- 81-216.15 Transferred to section 81-2,259.
- 81-216.16 Transferred to section 81-2,261.
- 81-216.17 Transferred to section 81-2,258.
- 81-216.18 Transferred to section 81-2,260.
- 81-216.19 Transferred to section 81-2,257.
- 81-216.20 Transferred to section 81-2,262.
- 81-216.21 Transferred to section 81-2,270.
- 81-216.22 Transferred to section 81-2,276.

- 81-216.23 Transferred to section 81-2,277.
- 81-216.24 Transferred to section 81-2,278.
- 81-216.25 Transferred to section 81-2,279.
- 81-216.26 Transferred to section 81-2,280.
- 81-216.27 Transferred to section 81-2,281.
- 81-216.28 Transferred to section 81-2,282.
- 81-216.29 Transferred to section 81-2,283.
- 81-216.30 Transferred to section 81-2,284.
- 81-216.31 Transferred to section 81-2,285.
- 81-216.32 Transferred to section 81-2,286.
- 81-216.33 Transferred to section 81-2,287.
- 81-216.34 Transferred to section 81-2,288.
- 81-216.35 Transferred to section 81-2,289.
- 81-216.36 Transferred to section 81-2,290.
- 81-216.37 Transferred to section 81-2,291.
- 81-216.38 Transferred to section 81-2,292.
- 81-216.39 Transferred to section 81-2,242.
- 81-217 Repealed. Laws 1981, LB 487, § 62.
- 81-217.01 Repealed. Laws 1981, LB 487, § 62.
- 81-217.02 Repealed. Laws 1981, LB 487, § 62.
- 81-217.03 Repealed. Laws 1981, LB 487, § 62.
- 81-217.04 Repealed. Laws 1981, LB 487, § 62.
- 81-217.05 Repealed. Laws 1981, LB 487, § 62.
- 81-217.06 Repealed. Laws 1981, LB 487, § 62.
- 81-217.07 Repealed. Laws 1981, LB 487, § 62.
- 81-217.08 Repealed. Laws 1981, LB 487, § 62.
- 81-217.09 Repealed. Laws 1981, LB 487, § 62.
- 81-217.10 Repealed. Laws 1981, LB 487, § 62.
- 81-217.11 Repealed. Laws 1981, LB 487, § 62.
- 81-217.12 Repealed. Laws 1981, LB 487, § 62.
- 81-217.13 Repealed. Laws 1981, LB 487, § 62.

- 81-217.14 Repealed. Laws 1981, LB 487, § 62.
- 81-217.15 Repealed. Laws 1981, LB 487, § 62.
- 81-217.16 Repealed. Laws 1981, LB 487, § 62.
- 81-217.17 Repealed. Laws 1981, LB 487, § 62.
- 81-217.18 Repealed. Laws 1981, LB 487, § 62.
- 81-217.19 Repealed. Laws 1981, LB 487, § 62.
- 81-217.20 Repealed. Laws 1981, LB 487, § 62.
- 81-217.21 Repealed. Laws 1981, LB 487, § 62.
- 81-217.22 Repealed. Laws 1981, LB 487, § 62.
- 81-217.23 Repealed. Laws 1981, LB 487, § 62.
- 81-217.24 Repealed. Laws 1981, LB 487, § 62.
- 81-217.25 Repealed. Laws 1981, LB 487, § 62.
- 81-217.26 Repealed. Laws 1981, LB 487, § 62.
- 81-217.27 Repealed. Laws 1981, LB 487, § 62.
- 81-217.28 Repealed. Laws 1981, LB 487, § 62.
- 81-217.29 Transferred to section 25-21,189.
- 81-217.30 Repealed. Laws 1987, LB 201, § 7.
- 81-217.31 Transferred to section 28-1483.
- 81-217.32 Repealed. Laws 1987, LB 201, § 7.

(c) FROZEN DESSERTS

- 81-218 Repealed. Laws 1980, LB 632, § 47.
- 81-218.01 Repealed. Laws 1980, LB 632, § 47.
- 81-218.02 Repealed. Laws 1980, LB 632, § 47.
- 81-218.03 Repealed. Laws 1980, LB 632, § 47.
- 81-218.04 Repealed. Laws 1980, LB 632, § 47.
- 81-218.05 Repealed. Laws 1980, LB 632, § 47.
- 81-218.06 Repealed. Laws 1980, LB 632, § 47.
- 81-218.07 Repealed. Laws 1980, LB 632, § 47.
- 81-218.08 Repealed. Laws 1980, LB 632, § 47.
- 81-218.09 Repealed. Laws 1980, LB 632, § 47.
- 81-218.10 Repealed. Laws 1980, LB 632, § 47.

81-218.11 Repealed. Laws 1980, LB 632, § 47.

81-219 Repealed. Laws 1980, LB 632, § 47.

81-220 Repealed. Laws 1980, LB 632, § 47.

81-221 Repealed. Laws 1980, LB 632, § 47.

81-222 Repealed. Laws 1980, LB 632, § 47.

81-223 Repealed. Laws 1980, LB 632, § 47.

81-224 Repealed. Laws 1980, LB 632, § 47.

81-225 Repealed. Laws 1980, LB 632, § 47.

81-226 Repealed. Laws 1980, LB 632, § 47.

81-227 Repealed. Laws 1980, LB 632, § 47.

81-228 Repealed. Laws 1980, LB 632, § 47.

(d) CONTROL OF DAIRY INDUSTRY

81-229 Repealed. Laws 1996, LB 966, § 4.

81-230 Repealed. Laws 1980, LB 632, § 47.

81-230.01 Repealed. Laws 1980, LB 632, § 47.

81-231 Repealed. Laws 1980, LB 632, § 47.

81-232 Repealed. Laws 1980, LB 632, § 47.

81-233 Repealed. Laws 1980, LB 632, § 47.

81-234 Repealed. Laws 1980, LB 632, § 47.

81-235 Repealed. Laws 1980, LB 632, § 47.

81-236 Repealed. Laws 1980, LB 632, § 47.

81-237 Repealed. Laws 1980, LB 632, § 47.

81-238 Repealed. Laws 1980, LB 632, § 47.

81-239 Repealed. Laws 1980, LB 632, § 47.

81-240 Repealed. Laws 1980, LB 632, § 47.

81-241 Repealed. Laws 1980, LB 632, § 47.

81-242 Repealed. Laws 1980, LB 632, § 47.

81-243 Repealed. Laws 1980, LB 632, § 47.

81-244 Repealed. Laws 1980, LB 632, § 47.

81-245 Repealed. Laws 1980, LB 632, § 47.

81-246 Repealed. Laws 1980, LB 632, § 47.

- 81-247 Repealed. Laws 1980, LB 632, § 47.
- 81-248 Repealed. Laws 1980, LB 632, § 47.
- 81-249 Repealed. Laws 1980, LB 632, § 47.
- 81-250 Repealed. Laws 1980, LB 632, § 47.
- 81-251 Repealed. Laws 1980, LB 632, § 47.
- 81-252 Repealed. Laws 1980, LB 632, § 47.
- 81-253 Repealed. Laws 1980, LB 632, § 47.
- 81-254 Repealed. Laws 1980, LB 632, § 47.
- 81-255 Repealed. Laws 1980, LB 632, § 47.
- 81-256 Repealed. Laws 1980, LB 632, § 47.
- 81-257 Repealed. Laws 1980, LB 632, § 47.
- 81-258 Repealed. Laws 1986, LB 900, § 38.
- 81-259 Repealed. Laws 1986, LB 900, § 38.
- 81-260 Repealed. Laws 1986, LB 900, § 38.
- 81-261 Repealed. Laws 1986, LB 900, § 38.
- 81-262 Repealed. Laws 1996, LB 966, § 4.
- 81-263 Repealed. Laws 1986, LB 900, § 38.
- 81-263.01 Repealed. Laws 1961, c. 285, § 1.
- 81-263.02 Repealed. Laws 1961, c. 285, § 1.
- 81-263.03 Repealed. Laws 1961, c. 285, § 1.
- 81-263.04 Repealed. Laws 1961, c. 285, § 1.
- 81-263.05 Repealed. Laws 1961, c. 285, § 1.
- 81-263.06 Repealed. Laws 1961, c. 285, § 1.
- 81-263.07 Repealed. Laws 1961, c. 285, § 1.
- 81-263.08 Repealed. Laws 1961, c. 285, § 1.
- 81-263.09 Repealed. Laws 1961, c. 285, § 1.
- 81-263.10 Repealed. Laws 1961, c. 285, § 1.
- 81-263.11 Repealed. Laws 1967, c. 580, § 33.
- 81-263.12 Repealed. Laws 1967, c. 580, § 33.
- 81-263.13 Repealed. Laws 1967, c. 580, § 33.
- 81-263.14 Repealed. Laws 1967, c. 580, § 33.

- 81-263.15 Repealed. Laws 1967, c. 580, § 33.
- 81-263.16 Repealed. Laws 1967, c. 580, § 33.
- 81-263.17 Repealed. Laws 1967, c. 580, § 33.
- 81-263.18 Repealed. Laws 1967, c. 580, § 33.
- 81-263.19 Repealed. Laws 1967, c. 580, § 33.
- 81-263.20 Repealed. Laws 1967, c. 580, § 33.
- 81-263.21 Repealed. Laws 1967, c. 580, § 33.
- 81-263.22 Repealed. Laws 1967, c. 580, § 33.
- 81-263.23 Repealed. Laws 1967, c. 580, § 33.
- 81-263.24 Repealed. Laws 1967, c. 580, § 33.
- 81-263.25 Repealed. Laws 1967, c. 580, § 33.
- 81-263.26 Repealed. Laws 1967, c. 580, § 33.
- 81-263.27 Repealed. Laws 1967, c. 580, § 33.
- 81-263.28 Repealed. Laws 1967, c. 580, § 33.
- 81-263.29 Repealed. Laws 1967, c. 580, § 33.
- 81-263.30 Repealed. Laws 1967, c. 580, § 33.
- 81-263.31 Repealed. Laws 1967, c. 580, § 33.
- 81-263.32 Repealed. Laws 1967, c. 580, § 33.
- 81-263.33 Repealed. Laws 1967, c. 580, § 33.
- 81-263.34 Repealed. Laws 1967, c. 580, § 33.
- 81-263.35 Repealed. Laws 1967, c. 580, § 33.
- 81-263.36 Repealed. Laws 1967, c. 580, § 33.
- 81-263.37 Repealed. Laws 1975, LB 324, § 1.
- 81-263.38 Repealed. Laws 1975, LB 324, § 1.
- 81-263.39 Repealed. Laws 1975, LB 324, § 1.
- 81-263.40 Repealed. Laws 1975, LB 324, § 1.
- 81-263.41 Repealed. Laws 1975, LB 324, § 1.
- 81-263.42 Repealed. Laws 1975, LB 324, § 1.
- 81-263.43 Repealed. Laws 1975, LB 324, § 1.
- 81-263.44 Repealed. Laws 1975, LB 324, § 1.
- 81-263.45 Repealed. Laws 1975, LB 324, § 1.

- 81-263.46 Repealed. Laws 1975, LB 324, § 1.
- 81-263.47 Repealed. Laws 1975, LB 324, § 1.
- 81-263.48 Repealed. Laws 1975, LB 324, § 1.
- 81-263.49 Repealed. Laws 1975, LB 324, § 1.
- 81-263.50 Repealed. Laws 1980, LB 632, § 47.
- 81-263.51 Repealed. Laws 1980, LB 632, § 47.
- 81-263.52 Repealed. Laws 1980, LB 632, § 47.
- 81-263.53 Repealed. Laws 1980, LB 632, § 47.
- 81-263.54 Repealed. Laws 1980, LB 632, § 47.
- 81-263.55 Repealed. Laws 1980, LB 632, § 47.
- 81-263.56 Repealed. Laws 1980, LB 632, § 47.
- 81-263.57 Repealed. Laws 1980, LB 632, § 47.
- 81-263.58 Repealed. Laws 1980, LB 632, § 47.
- 81-263.59 Repealed. Laws 1980, LB 632, § 47.
- 81-263.60 Repealed. Laws 1980, LB 632, § 47.
- 81-263.61 Repealed. Laws 1980, LB 632, § 47.
- 81-263.62 Repealed. Laws 1980, LB 632, § 47.
- 81-263.63 Repealed. Laws 1980, LB 632, § 47.
- 81-263.64 Repealed. Laws 1980, LB 632, § 47.
- 81-263.65 Repealed. Laws 1980, LB 632, § 47.
- 81-263.66 Repealed. Laws 1980, LB 632, § 47.
- 81-263.67 Repealed. Laws 1980, LB 632, § 47.
- 81-263.68 Repealed. Laws 1980, LB 632, § 47.
- 81-263.69 Repealed. Laws 1980, LB 632, § 47.
- 81-263.70 Repealed. Laws 1980, LB 632, § 47.
- 81-263.71 Repealed. Laws 1980, LB 632, § 47.
- 81-263.72 Repealed. Laws 1980, LB 632, § 47.
- 81-263.73 Repealed. Laws 1980, LB 632, § 47.
- 81-263.74 Repealed. Laws 1980, LB 632, § 47.
- 81-263.75 Repealed. Laws 1980, LB 632, § 47.
- 81-263.76 Repealed. Laws 1980, LB 632, § 47.

- 81-263.77 Repealed. Laws 1980, LB 632, § 47.
- 81-263.78 Repealed. Laws 1980, LB 632, § 47.
- 81-263.79 Repealed. Laws 1980, LB 632, § 47.
- 81-263.80 Repealed. Laws 1980, LB 632, § 47.
- 81-263.81 Repealed. Laws 1975, LB 324, § 1.
- 81-263.82 Repealed. Laws 1975, LB 324, § 1.
- 81-263.83 Repealed. Laws 1975, LB 324, § 1.
- 81-263.84 Repealed. Laws 1975, LB 324, § 1.
- 81-263.85 Repealed. Laws 1975, LB 324, § 1.
- 81-263.86 Repealed. Laws 1975, LB 324, § 1.
- 81-263.87 Repealed. Laws 1980, LB 632, § 47.
- 81-263.88 Transferred to section 2-3913.
- 81-263.89 Transferred to section 2-3914.
- 81-263.90 Transferred to section 2-3915.
- 81-263.91 Transferred to section 2-3916.
- 81-263.92 Repealed. Laws 1980, LB 632, § 47.
- 81-263.93 Repealed. Laws 1980, LB 632, § 47.
- 81-263.94 Transferred to section 2-3918.
- 81-263.95 Transferred to section 2-3919.
- 81-263.96 Transferred to section 2-3920.
- 81-263.97 Transferred to section 2-3921.
- 81-263.98 Transferred to section 2-3922.
- 81-263.99 Transferred to section 2-3923.
- 81-263.100 Transferred to section 2-3924.
- 81-263.101 Transferred to section 2-3925.
- 81-263.102 Repealed. Laws 1980, LB 632, § 47.
- 81-263.103 Repealed. Laws 1980, LB 632, § 47.
- 81-263.104 Repealed. Laws 1980, LB 632, § 47.
- 81-263.105 Repealed. Laws 1980, LB 632, § 47.
- 81-263.106 Transferred to section 2-3931.
- 81-263.107 Transferred to section 2-3932.

- 81-263.108 Transferred to section 2-3933.
- 81-263.109 Transferred to section 2-3934.
- 81-263.110 Transferred to section 2-3935.
- 81-263.111 Transferred to section 2-3936.
- 81-263.112 Repealed. Laws 1980, LB 632, § 47.
- 81-263.113 Repealed. Laws 1980, LB 632, § 47.
- 81-263.114 Transferred to section 2-3937.
- 81-263.115 Repealed. Laws 1980, LB 632, § 47.
- 81-263.116 Transferred to section 2-3938.
- 81-263.117 Transferred to section 2-3947.
- 81-263.118 Transferred to section 2-3939.
- 81-263.119 Transferred to section 2-3942.
- 81-263.120 Transferred to section 2-3943.
- 81-263.121 Transferred to section 2-3944.
- 81-263.122 Transferred to section 2-3945.
- 81-263.123 Repealed. Laws 1980, LB 632, § 47.

(e) CONDENSED MILK

- 81-264 Repealed. Laws 1980, LB 632, § 47.
- 81-265 Repealed. Laws 1980, LB 632, § 47.
- 81-266 Repealed. Laws 1980, LB 632, § 47.
- 81-267 Repealed. Laws 1980, LB 632, § 47.

(f) EGGS

- 81-268 Repealed. Laws 1955, c. 332, § 15.
- 81-269 Repealed. Laws 1955, c. 332, § 15.
- 81-270 Repealed. Laws 1955, c. 332, § 15.
- 81-271 Repealed. Laws 1955, c. 332, § 15.
- 81-272 Repealed. Laws 1955, c. 332, § 15.
- 81-273 Repealed. Laws 1955, c. 332, § 15.
- 81-274 Repealed. Laws 1949, c. 279, § 6.
- 81-275 Repealed. Laws 1955, c. 332, § 15.

- 81-275.01 Repealed. Laws 1961, c. 424, § 20.
- 81-275.02 Repealed. Laws 1961, c. 424, § 20.
- 81-275.03 Repealed. Laws 1961, c. 424, § 20.
- 81-275.04 Repealed. Laws 1961, c. 424, § 20.
- 81-275.05 Repealed. Laws 1961, c. 424, § 20.
- 81-275.06 Repealed. Laws 1961, c. 424, § 20.
- 81-275.07 Repealed. Laws 1961, c. 424, § 20.
- 81-275.08 Repealed. Laws 1961, c. 424, § 20.
- 81-275.09 Repealed. Laws 1961, c. 424, § 20.
- 81-275.10 Repealed. Laws 1961, c. 424, § 20.
- 81-275.11 Repealed. Laws 1961, c. 424, § 20.
- 81-275.12 Repealed. Laws 1961, c. 424, § 20.
- 81-275.13 Repealed. Laws 1961, c. 424, § 20.
- 81-275.14 Repealed. Laws 1961, c. 424, § 20.
- 81-275.15 Repealed. Laws 1977, LB 268, § 27.
- 81-275.16 Repealed. Laws 1977, LB 268, § 27.
- 81-275.17 Repealed. Laws 1977, LB 268, § 27.
- 81-275.18 Repealed. Laws 1977, LB 268, § 27.
- 81-275.19 Repealed. Laws 1977, LB 268, § 27.
- 81-275.20 Repealed. Laws 1977, LB 268, § 27.
- 81-275.21 Repealed. Laws 1977, LB 268, § 27.
- 81-275.22 Repealed. Laws 1977, LB 268, § 27.
- 81-275.23 Repealed. Laws 1977, LB 268, § 27.
- 81-275.24 Repealed. Laws 1977, LB 268, § 27.
- 81-275.25 Repealed. Laws 1977, LB 268, § 27.
- 81-275.26 Repealed. Laws 1977, LB 268, § 27.
- 81-275.27 Repealed. Laws 1977, LB 268, § 27.
- 81-275.28 Repealed. Laws 1977, LB 268, § 27.
- 81-275.29 Repealed. Laws 1977, LB 268, § 27.
- 81-275.30 Repealed. Laws 1977, LB 268, § 27.
- 81-275.31 Repealed. Laws 1977, LB 268, § 27.

81-275.32 Repealed. Laws 1977, LB 268, § 27.

81-275.33 Repealed. Laws 1977, LB 268, § 27.

81-275.34 Repealed. Laws 1977, LB 268, § 27.

81-275.35 Repealed. Laws 1977, LB 268, § 27.

(g) PRODUCE COMMISSION MERCHANTS

81-276 Repealed. Laws 1980, LB 633, § 10.

81-277 Repealed. Laws 1980, LB 633, § 10.

81-278 Repealed. Laws 1980, LB 633, § 10.

81-279 Repealed. Laws 1980, LB 633, § 10.

81-280 Repealed. Laws 1980, LB 633, § 10.

(h) CIDER AND VINEGAR

81-281 Repealed. Laws 1965, c. 546, § 18.

81-282 Repealed. Laws 1965, c. 546, § 18.

81-283 Repealed. Laws 1965, c. 546, § 18.

81-284 Repealed. Laws 1965, c. 546, § 18.

81-285 Repealed. Laws 1965, c. 546, § 18.

81-286 Repealed. Laws 1965, c. 546, § 18.

(i) OLEOMARGARINE AND BUTTERINE

81-287 Repealed. Laws 1980, LB 632, § 47.

81-288 Repealed. Laws 1980, LB 632, § 47.

81-289 Repealed. Laws 1980, LB 632, § 47.

81-290 Repealed. Laws 1980, LB 632, § 47.

81-291 Repealed. Laws 1980, LB 632, § 47.

81-292 Repealed. Laws 1980, LB 632, § 47.

81-293 Repealed. Laws 1980, LB 632, § 47.

81-294 Repealed. Laws 1972, LB 1410, § 3.

81-295 Repealed. Laws 1972, LB 1410, § 3.

81-296 Repealed. Laws 1972, LB 1410, § 3.

81-297 Repealed. Laws 1972, LB 1410, § 3.

81-298 Repealed. Laws 1972, LB 1410, § 3.

- 81-299 Repealed. Laws 1972, LB 1410, § 3.
- 81-2,100 Repealed. Laws 1972, LB 1410, § 3.
- 81-2,101 Repealed. Laws 1972, LB 1410, § 3.
- 81-2,102 Repealed. Laws 1972, LB 1410, § 3.
- 81-2,103 Repealed. Laws 1972, LB 1410, § 3.
- 81-2,104 Repealed. Laws 1972, LB 1410, § 3.
- 81-2,105 Repealed. Laws 1972, LB 1410, § 3.
- 81-2,106 Repealed. Laws 1972, LB 1410, § 3.
- 81-2,107 Repealed. Laws 1972, LB 1410, § 3.
- 81-2,108 Repealed. Laws 1972, LB 1410, § 3.
- 81-2,109 Repealed. Laws 1972, LB 1410, § 3.
- 81-2,110 Repealed. Laws 1972, LB 1410, § 3.

(j) FOOD; PREMISES USED FOR MANUFACTURE
OR PREPARATION; SANITATION

- 81-2,111 Repealed. Laws 1981, LB 487, § 62.
- 81-2,111.01 Repealed. Laws 1981, LB 487, § 62.
- 81-2,112 Repealed. Laws 1981, LB 487, § 62.
- 81-2,113 Repealed. Laws 1981, LB 487, § 62.
- 81-2,114 Repealed. Laws 1981, LB 487, § 62.
- 81-2,115 Repealed. Laws 1981, LB 487, § 62.
- 81-2,116 Repealed. Laws 1981, LB 487, § 62.
- 81-2,117 Repealed. Laws 1981, LB 487, § 62.
- 81-2,118 Repealed. Laws 1981, LB 487, § 62.
- 81-2,119 Repealed. Laws 1981, LB 487, § 62.
- 81-2,120 Repealed. Laws 1981, LB 487, § 62.
- 81-2,121 Repealed. Laws 1981, LB 487, § 62.

(k) COLD STORAGE WAREHOUSES

- 81-2,122 Repealed. Laws 1981, LB 487, § 62.
- 81-2,123 Repealed. Laws 1981, LB 487, § 62.
- 81-2,124 Repealed. Laws 1981, LB 487, § 62.
- 81-2,125 Repealed. Laws 1947, c. 319, § 3.

81-2,126 Repealed. Laws 1947, c. 319, § 3.
81-2,127 Repealed. Laws 1981, LB 487, § 62.
81-2,128 Repealed. Laws 1947, c. 319, § 3.
81-2,129 Repealed. Laws 1981, LB 487, § 62.
81-2,130 Repealed. Laws 1947, c. 319, § 3.
81-2,131 Repealed. Laws 1947, c. 319, § 3.
81-2,132 Repealed. Laws 1981, LB 487, § 62.
81-2,133 Repealed. Laws 1981, LB 487, § 62.
81-2,134 Repealed. Laws 1981, LB 487, § 62.

(l) FROZEN FOOD LOCKER PLANTS

81-2,134.01 Repealed. Laws 1981, LB 487, § 62.
81-2,134.02 Repealed. Laws 1957, c. 371, § 6.
81-2,134.03 Repealed. Laws 1981, LB 487, § 62.
81-2,134.04 Repealed. Laws 1981, LB 487, § 62.
81-2,134.05 Repealed. Laws 1981, LB 487, § 62.
81-2,134.06 Repealed. Laws 1981, LB 487, § 62.
81-2,134.07 Repealed. Laws 1981, LB 487, § 62.
81-2,134.08 Repealed. Laws 1981, LB 487, § 62.
81-2,134.09 Repealed. Laws 1981, LB 487, § 62.
81-2,134.10 Repealed. Laws 1981, LB 487, § 62.
81-2,134.11 Repealed. Laws 1981, LB 487, § 62.

(m) SEEDS

81-2,135 Repealed. Laws 1945, c. 237, § 14.
81-2,135.01 Repealed. Laws 1969, c. 759, § 11.
81-2,136 Repealed. Laws 1945, c. 237, § 14.
81-2,136.01 Repealed. Laws 1969, c. 759, § 11.
81-2,136.02 Repealed. Laws 1969, c. 759, § 11.
81-2,137 Repealed. Laws 1945, c. 237, § 14.
81-2,137.01 Repealed. Laws 1969, c. 759, § 11.
81-2,138 Repealed. Laws 1945, c. 237, § 14.

81-2,138.01 Repealed. Laws 1969, c. 759, § 11.

81-2,139 Repealed. Laws 1945, c. 237, § 14.

81-2,139.01 Repealed. Laws 1969, c. 759, § 11.

81-2,140 Repealed. Laws 1945, c. 237, § 14.

81-2,140.01 Repealed. Laws 1969, c. 759, § 11.

81-2,141 Repealed. Laws 1945, c. 237, § 14.

81-2,141.01 Repealed. Laws 1969, c. 759, § 11.

81-2,141.02 Repealed. Laws 1969, c. 759, § 11.

81-2,141.03 Repealed. Laws 1969, c. 759, § 11.

81-2,142 Repealed. Laws 1945, c. 237, § 14.

81-2,142.01 Repealed. Laws 1969, c. 759, § 11.

81-2,143 Repealed. Laws 1945, c. 237, § 14.

81-2,143.01 Repealed. Laws 1969, c. 759, § 11.

81-2,144 Repealed. Laws 1945, c. 237, § 14.

81-2,144.01 Repealed. Laws 1969, c. 759, § 11.

81-2,145 Repealed. Laws 1945, c. 237, § 14.

81-2,145.01 Repealed. Laws 1969, c. 759, § 11.

81-2,146 Repealed. Laws 1945, c. 237, § 14.

81-2,146.01 Repealed. Laws 1969, c. 759, § 11.

81-2,147 Law, how cited.

Sections 81-2,147 to 81-2,147.12 shall be known and cited as the Nebraska Seed Law.

Source: Laws 1969, c. 759, § 1, p. 2860; Laws 1985, LB 460, § 11; Laws 2009, LB263, § 2.

81-2,147.01 Terms, defined.

As used in the Nebraska Seed Law:

(1) Advertisement means all representations, other than those on the label, disseminated in any manner or by any means relating to seed, including farm grain represented as suitable for sowing, within the scope of the Nebraska Seed Law;

(2) Agricultural seed includes the seeds of grass, forage, cereal, oil and fiber crops, and lawn and mixtures of such seeds and any other kinds of seed commonly recognized within this state as agricultural seeds and may include the seed of any plant that is being used as an agricultural crop when the Director of Agriculture establishes in rules and regulations that such seed is being used as agricultural seed;

(3) Blend means seeds consisting of more than one variety of a kind, each in excess of five percent by weight of the whole;

(4) Brand means a word, name, symbol, number, or design to identify seed of one person to distinguish it from seed of another person;

(5) Certifying agency means (a) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to assure genetic purity and identity of the seed certified or (b) an agency of a foreign country which is determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by certifying agencies under subdivision (a) of this subdivision;

(6) Conditioning means drying, cleaning, scarifying, or other operations which could change the purity or germination of the seed and require the seed lot or any definite amount of seed to be retested to determine the label information;

(7) Director means the Director of Agriculture or his or her designated employee or representative or authorized agent;

(8) Dormant seed means viable seeds, other than hard seeds, which fail to germinate when provided the specified germination conditions for the kind of seed in question;

(9) Flower seed includes seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and commonly known and sold under the name of flower or wildflower seeds in this state;

(10) Germination means the emergence and development from the seed embryo of those essential structures which for the kind of seed in question are indicative of the ability to produce a normal plant under favorable conditions;

(11) Hard seed means seeds which remain hard at the end of the prescribed test period because they have not absorbed water due to an impermeable seed coat;

(12) Hybrid means the first generation seed of a cross produced by controlling the pollination and by combining (a) two or more inbred lines, (b) one inbred or a single cross with an open-pollinated variety, or (c) two varieties or species except open-pollinated varieties of corn (*Zea mays*). The second generation and subsequent generations from such crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names;

(13) Inert matter means all matter not seed which includes broken seeds, sterile florets, chaff, fungus bodies, and stones as established by rules and regulations;

(14) Kind means one or more related species or subspecies which singly or collectively are known by one common name, such as corn, oats, alfalfa, and timothy;

(15) Labeling includes all labels and other written, printed, stamped, or graphic representations, in any form whatsoever, accompanying or pertaining to any seed, whether in bulk or in containers, and includes representations on invoices;

(16) Lot means a definite quantity of seed in containers or bulk identified by a lot number or other mark, every portion of which is uniform within recognized tolerances for the factors that appear in the labeling;

(17) Mixture, mix, or mixed means seeds consisting of more than one kind, each present in excess of five percent by weight of the whole;

(18) Mulch means a protective covering of any suitable material placed with seed which acts to retain sufficient moisture to support seed germination and sustain early seedling growth and aids in preventing the evaporation of soil moisture, controlling weeds, and preventing erosion;

(19) Native plant species means any grass, sedge, rush, or forb indigenous to North America prior to European settlement;

(20) Nonnative plant species means any grass, sedge, rush, or forb not indigenous to North America prior to European settlement;

(21) Origin means a foreign country or designated portion thereof, a state, the District of Columbia, Puerto Rico, or a possession of the United States, where the seed was grown;

(22) Other crop seed means seed of plants grown as crops, other than the kind or variety included in the pure seed, as established by rules and regulations;

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

(24) Primary noxious weed seeds means the seeds of any plant designated by the director as a noxious weed pursuant to the Noxious Weed Control Act. Pursuant to subdivision (1)(c) of section 81-2,147.06, the director may add to or subtract from this primary noxious weed seeds list;

(25) Prohibited noxious weed seeds means the seeds of plants which are highly destructive and difficult to control in this state by ordinary good cultural practice, the use of herbicides, or both and includes field bindweed (*Convolvulus arvensis*), hoary cress (*Cardaria draba*), Russian knapweed (*Centaurea repens*), johnsongrass (*Sorghum halepense*), Scotch thistle (*Onopordum acanthium*), morning glory (*Ipomoea purpurea*) when found in field crop seeds, skeletonleaf bursage (*Ambrosia discolor*), woollyleaf bursage (*Ambrosia tomentosa*), serrated tussock (*Nassella trichotoma*), and puncturevine (*Tribulus terrestris*). Pursuant to subdivision (1)(c) of section 81-2,147.06, the director may add to or subtract from this prohibited noxious weed seeds list;

(26) Pure live seed means the product of the percent of germination plus percent of hard or dormant seed multiplied by the percent of pure seed divided by one hundred. The result shall be expressed as a whole number;

(27) Pure seed means seed exclusive of inert matter and all other seeds not of the seed being considered as established by rules and regulations;

(28) Record means any and all information which relates to the origin, treatment, germination, purity, kind, and variety of each lot or definite amount of seed handled in this state. Such information includes seed samples and records of declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, and examinations;

(29) Restricted noxious weed seeds means the seeds of plants which are objectionable in fields, lawns, and gardens of this state but can be controlled by

ordinary good cultural practice, the use of herbicides, or both and includes dodder (*Cuscuta* spp.), wild mustard (*Brassica* spp.), dock (*Rumex* spp.), quackgrass (*Elytrigia repens*), pennycress (*Thlaspi arvense*), purple loosetrife (*Lythrum salicaria*), and horsenettle (*Solanum carolinense*). Pursuant to subdivision (1)(c) of section 81-2,147.06, the director may add to or subtract from this restricted noxious weed seeds list;

(30) Sale in any of its variant forms means sale, to barter, exchange, offer for sale, expose for sale, move, or transport, in any of their variant forms, or otherwise supplying. Sale does not mean the donation, exchange, or other transfer of seeds to or from a seed library or among members of, or participants in, a seed library;

(31) Screenings means the results of the process which removes, in any way, weed seed, inert matter, and other materials from any agricultural, vegetable, or flower seed in any kind of cleaning process;

(32) Seed library means a nonprofit, governmental, or cooperative organization, association, or activity for the purpose of facilitating the donation, exchange, preservation, and dissemination of seeds of open pollinated, public domain plant varieties by or among its members or members of the public when the use, exchange, transfer, or possession of seeds acquired by or from the seed library is free of any charge or consideration;

(33) Seizure means a legal process carried out by court order against a definite amount or lot of seed;

(34) Stop-sale order means an administrative order provided by law restraining the sale, use, disposition, and movement of a definite amount or lot of seed;

(35) Tetrazolium (TZ) test means a type of test in which chemicals are used to produce differential staining of strong, weak, and dead tissues, which is indicative of the potential viability of seeds;

(36) Treated means that the seed has been given an application of a substance or subjected to a process or coating for which a claim is made or which is designed to reduce, control, or repel disease organisms, insects, or other pests which attack seeds or seedlings growing therefrom;

(37) Variety means a subdivision of a kind which is distinct, uniform, and stable. For purposes of this subdivision: (a) Distinct means that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; (b) uniform means that variations in essential and distinctive characteristics are describable; and (c) stable means that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties;

(38) Vegetable seed includes the seeds of those crops which are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state; and

(39) Weed seed includes the seeds of any plant generally recognized as a weed within this state as established in rules and regulations and includes the primary noxious weed seeds, prohibited noxious weed seeds, and restricted noxious weed seeds.

Source: Laws 1969, c. 759, § 2, p. 2860; Laws 1980, LB 633, § 3; Laws 1985, LB 460, § 12; Laws 1990, LB 37, § 1; Laws 1992, LB 366, § 25; Laws 1993, LB 121, § 524; Laws 1997, LB 263, § 2; Laws 2012, LB770, § 1; Laws 2015, LB175, § 9; Laws 2022, LB91, § 1.

Noxious Weed Control Act, see section 2-945.01.

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 native plant species, 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, when extreme dormancy is encountered in such species, 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; 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)”;

(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 or show viability from a tetrazolium (TZ) test less than the viability 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; Laws 2022, LB91, § 2.

81-2,147.03 Sale; unlawful acts.

(1) It shall be unlawful for any person to sell any agricultural, vegetable, or flower seed within this state:

(a)(i) Of a native plant species unless a test required by section 81-2,147.02 to determine the percentage of germination or a test to determine the percentage of viability as indicated by a tetrazolium (TZ) test has been completed within a twelve-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale. Seeds packaged in hermetically sealed containers under the conditions established in rules and regulations may be sold for a period of thirty-six months after the last day of the month that the seeds were tested prior to packaging. If the seeds in hermetically sealed containers are sold more than thirty-six months after the last day of the month in which they were tested prior to packaging, they shall have been retested for germination or retested for viability as indicated by a tetrazolium (TZ) test within a nine-month period, exclusive of the calendar month in which the retest was completed, immediately prior to their sale; and

(ii) Of a nonnative plant species unless a test required by section 81-2,147.02 to determine the percentage of germination completed within a nine-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, except that for those seeds as established in rules and regulations, the test to determine the percentage of germination shall have been completed within a twelve-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale. Seeds packaged in hermetically sealed containers under the conditions established in rules and regulations may be sold for a period of thirty-six months after the last day of the month that the seeds were tested prior to packaging. If the seeds in hermetically sealed containers are sold more than thirty-six months after the last day of the month in which they were tested prior to packaging, they shall have been retested for germination within a nine-month period, exclusive of the calendar month in which the retest was completed, immediately prior to their sale;

(b) Not labeled in accordance with the provisions of the Nebraska Seed Law or having a false and misleading labeling. In case agricultural seed is sold in bulk or sold from bulk, the information required under section 81-2,147.02 may be supplied by a printed or written statement to be furnished to any purchaser of such seed;

(c) Pertaining to which there has been a false or misleading advertisement, statement, invoice, or declaration;

(d) Consisting of or containing primary noxious weed seeds;

(e) Consisting of or containing prohibited noxious weed seeds, subject to recognized tolerances;

(f) Consisting of or containing restricted noxious weed seeds per pound in excess of the number declared on the label attached to the container of the seed or associated with the seed, subject to recognized tolerances. The recognized tolerances shall not exceed one-half of one percent by weight;

(g) Containing more than two percent by weight of all weed seed other than primary noxious weed seed, prohibited noxious weed seed, and restricted noxious weed seed. This subdivision does not apply to agricultural, vegetable, or flower seeds specifically allowed in the rules and regulations to contain four percent or less by weight of weed seed;

(h) If any labeling, advertising, or other representation subject to the Nebraska Seed Law represents the seed to be certified or registered seed unless (i) it has been determined by a certifying agency that such seed was produced, conditioned, and packaged and conforms to standards of purity as to kind or kind and variety in compliance with rules and regulations of such agency pertaining to such seed and (ii) the seed bears an official label issued for such seed by a certifying agency stating that the seed is certified or registered; and

(i) For reproductive purposes which is not certified by an official certifying agency when it is a variety for which an application has been made or accepted or a certificate of plant variety protection is issued under the federal Plant Variety Protection Act specifying sale only as a class of certified seed, except that seed from a certified lot may be labeled as to variety name when used in a mixture by or with the approval of the owner of the variety.

(2) It shall be unlawful for any person within this state:

(a) To detach, alter, deface, or destroy any label provided for in the Nebraska Seed Law or established in the rules and regulations adopted and promulgated under such law or to alter or substitute seed in a manner that may defeat the purpose of such law;

(b) To disseminate any false or misleading advertisements concerning agricultural, vegetable, or flower seeds in any manner or by any means;

(c) To hinder or obstruct in any way any authorized person in the performance of his or her duties under the Nebraska Seed Law;

(d) To fail to comply with a stop-sale order or to move or otherwise handle or dispose of any lot of seed held under a stop-sale order or tags attached thereto, except with written permission of the enforcing officer and for the purpose specified thereby;

(e) To sell screenings if they contain any seed of primary, prohibited, or restricted noxious weeds unless they have been conditioned to destroy the viability of such seed;

(f) To use the word trace as a substitute for any statement which is required;

(g) To use the word type in any labeling in connection with the name of any agricultural seed variety;

(h) To plant seed which the person knows contains a prohibited noxious weed seed in excess of the recognized tolerances utilized in subdivision (1)(e) of this section or contains primary noxious weed seed; or

(i) To alter or falsify any seed label, seed test, laboratory report, record, or other document in a manner which creates a false or misleading impression as to kind, variety, history, quality, or origin of the seed.

(3) All seed sold shall be labeled on the basis of tests performed by a seed laboratory using Rules for Testing Seeds adopted by the Association of Official Seed Analysts as of January 1, 2012.

Source: Laws 1969, c. 759, § 4, p. 2869; Laws 1973, LB 263, § 1; Laws 1980, LB 633, § 5; Laws 1985, LB 460, § 15; Laws 1990, LB 37, § 3; Laws 1997, LB 263, § 4; Laws 2012, LB770, § 2; Laws 2022, LB91, § 3.

81-2,147.04 Records; samples; subject to inspection.

Each person whose name appears on the label as handling agricultural, vegetable, or flower seeds subject to the Nebraska Seed Law shall keep for a period of three years complete records of each lot of agricultural, vegetable, or flower seed handled and keep for one year a file sample of each lot of seed after final disposition of the lot. All such records and samples pertaining to the shipment or shipments involved shall be accessible for inspection by the director during customary business hours.

Source: Laws 1969, c. 759, § 5, p. 2871; Laws 1985, LB 460, § 16; Laws 1990, LB 37, § 4.

81-2,147.05 Exempt seed or grain.

(1) Sections 81-2,147.02 and 81-2,147.03 shall not apply:

(a) To seed or grain not intended for sowing purposes;

(b) To seed in storage in, or being transported or consigned to, a cleaning or conditioning establishment for cleaning or conditioning, except that the invoice or labeling accompanying any shipment of such seed shall bear the statement Seed for Conditioning, and any labeling or other representation which may be made with respect to the uncleaned unconditioned seed shall be subject to the Nebraska Seed Law;

(c) To any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier if such carrier is not engaged in producing, conditioning, or marketing agricultural, vegetable, or flower seeds subject to the Nebraska Seed Law; or

(d) To seed libraries.

(2) No person shall be subject to the penalties of the Nebraska Seed Law for having sold agricultural, vegetable, or flower seed which was incorrectly labeled or represented as to kind, variety, or origin, if required, which seeds cannot be identified by examination thereof, unless he or she has failed to obtain an invoice, genuine grower's declaration, or other labeling information and to take such other precautions as may be reasonable to insure the identity to be as stated.

Source: Laws 1969, c. 759, § 6, p. 2871; Laws 1985, LB 460, § 17; Laws 1990, LB 37, § 5; Laws 2015, LB175, § 10.

81-2,147.06 Director; powers and duties.

(1) The duty of enforcing the Nebraska Seed Law and carrying out such law and requirements shall be vested in the director. It shall be the duty of the director:

(a) To sample, inspect, make analysis of, and test agricultural, vegetable, and flower seed sold within this state for sowing purposes at such time and place and to such extent as he or she may deem necessary to determine whether such agricultural, vegetable, or flower seed is in compliance with the Nebraska Seed Law and to notify promptly the persons who sold the seed of any violation;

(b) To adopt and promulgate rules and regulations in compliance with the Administrative Procedure Act as are specifically authorized in the Nebraska Seed Law governing the method of sampling, inspecting, analyzing, testing, and examining agricultural, vegetable, and flower seed and the tolerances to be followed in the administration of the law, which shall be in general accord with officially prescribed practice in interstate commerce, and such other rules and regulations as may be necessary to secure the efficient enforcement and full intent of such law;

(c) To adopt and promulgate rules and regulations in compliance with the Administrative Procedure Act adding to or subtracting from the primary noxious weed seeds list, the prohibited noxious weed seeds list, and the restricted noxious weed seeds list, as defined in section 81-2,147.01, whenever the director finds that a noxious weed seed should or should not be within one of these lists;

(d) To adopt and promulgate rules and regulations in compliance with the Administrative Procedure Act establishing reasonable standards of germination for agricultural, vegetable, and flower seed; and

(e) To adopt and promulgate rules and regulations in compliance with the Administrative Procedure Act to establish, add to, or subtract from the nonnative plant species for which a tetrazolium (TZ) test may be employed as the official test to indicate the potential viability of the seed.

(2) For the purpose of carrying out the law, the director may:

(a) Enter upon any public or private premises during regular business hours in order to have access to seeds and the records connected with such seeds subject to the law and the rules and regulations adopted and promulgated under such law and enter any truck or other conveyor by land, water, or air at any time when the conveyor is accessible for the same purpose;

(b) Issue and enforce a written or printed stop-sale order to the owner or custodian of any lot of agricultural, vegetable, or flower seed which the director finds is in violation of any of the provisions of the law or rules and regulations adopted and promulgated under such law, which order shall prohibit further sale, conditioning, and movement of such seed, except on approval of the enforcing officer, until such officer has evidence that the law has been complied with and he or she has issued a release from the stop-sale order of such seed. With respect to seed which has been denied sale, conditioning, or movement as provided in this subdivision, the owner or custodian of such seed shall have the right to appeal from such order in accordance with the Administrative Procedure Act, praying for a judgment as to the justification of such order and for the discharge of such seed from the order prohibiting the sale, conditioning, or movement in accordance with the findings of the court. This subdivision shall

not be construed as limiting the right of the director to proceed as authorized by other sections of the law;

(c) Establish and maintain or make provision for seed-testing facilities, employ qualified persons, and incur such expenses as may be necessary to comply with the law or rules and regulations adopted and promulgated under the law;

(d) Make or provide for making purity, weed seed, tetrazolium (TZ), germination, and other tests of seed as established in rules and regulations and recommended by rule of the Association of Official Seed Analysts for persons on request, adopt and promulgate rules and regulations in compliance with the Administrative Procedure Act governing such testing, and fix and collect charges for the tests made, which charges shall not exceed the cost of such tests. All fees shall be remitted to the state treasury and by the State Treasurer placed in the Nebraska Seed Administrative Cash Fund;

(e) Cooperate with the United States Department of Agriculture and other agencies in seed law enforcement; and

(f) Cooperate and enter into agreements with any person necessary to carry out the purpose of the law.

Source: Laws 1969, c. 759, § 7, p. 2872; Laws 1985, LB 460, § 19; Laws 1988, LB 352, § 166; Laws 1990, LB 37, § 6; Laws 1997, LB 263, § 5; Laws 2022, LB91, § 4.

Cross References

Administrative Procedure Act, see section 84-920.

81-2,147.07 Seeds not in compliance with law; remedies; procedure.

(1) Any lot of agricultural, vegetable, or flower seed not in compliance with the Nebraska Seed Law shall be subject to seizure on complaint of the director to a court of competent jurisdiction in the locality in which the seed is located. In the event the court finds the seed to be in violation of such law and orders the condemnation thereof, it shall be denatured, conditioned, destroyed, relabeled, or otherwise disposed of in compliance with the laws of this state, except that in no instance shall the court order such disposition of the seed without first having given the claimant an opportunity to apply to the court for the release of the seed or permission to condition or relabel it to bring it into compliance with such law.

(2) It shall be the duty of the county attorney of the county in which the seed is located or the Attorney General when notified by the Department of Agriculture of such need for seizure to institute appropriate proceedings without delay.

Source: Laws 1969, c. 759, § 8, p. 2874; Laws 1985, LB 460, § 20; Laws 1990, LB 37, § 7.

81-2,147.08 Restraining order or injunction; application by director; issued without bond.

The director may apply for a restraining order, a temporary or permanent injunction, or a mandatory injunction against any person who has violated, is violating, or is threatening to violate any of the provisions of the Nebraska Seed Law or any rules or regulations adopted and promulgated under such law. The district court of the county in which the violations have occurred, are occurring, or are about to occur shall have jurisdiction to grant such relief upon good

cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

Source: Laws 1969, c. 759, § 9, p. 2874; Laws 1985, LB 460, § 21; Laws 1990, LB 37, § 8.

81-2,147.09 Violations; penalty; hearing; enforcement.

Any person violating the Nebraska Seed Law shall be guilty of a Class IV misdemeanor.

It shall be the duty of the county attorney of the county in which any violation has occurred, is occurring, or is about to occur or the Attorney General when notified by the Department of Agriculture of a violation or a threatened violation to institute appropriate proceedings, either criminal or injunctive, or both, without delay. Before the director reports a violation, an opportunity shall be given to the person against whom proceedings will be brought to present such person's views to the director at a hearing held pursuant to the Administrative Procedure Act.

If after such hearing or without such hearing, in case the defendant or his or her agent or attorney fails or refuses to appear, the director is of the opinion that the evidence warrants prosecution, he or she shall proceed as provided in this section. The county attorney or the Attorney General, as the case may be, shall institute proceedings at once against any person charged with a violation of the Nebraska Seed Law, if in the judgment of the director the information submitted warrants such action.

After judgment by the court in any case arising under such law, the director shall publish any information pertinent to the issuance of the judgment by the court in such media as he or she may designate from time to time.

Source: Laws 1969, c. 759, § 10, p. 2874; Laws 1977, LB 39, § 280; Laws 1985, LB 460, § 22; Laws 1990, LB 37, § 9.

Cross References

Administrative Procedure Act, see section 84-920.

81-2,147.10 Sale of labeled seeds; permit required; fees; delinquency fee; renewal; exceptions; refusal or cancellation of permit; hearing.

(1) No person who labels for sale in Nebraska agricultural, vegetable, or flower seeds shall sell such seeds in Nebraska unless he or she holds a valid seed permit. Application for the permit shall be made to the Department of Agriculture on forms prescribed and furnished by the department. Application forms shall be submitted to the department accompanied by an annual registration fee based on the number of pounds of agricultural, vegetable, or flower seed the applicant labeled and sold during the preceding calendar year. Registrations shall be renewed on or before January 1 of each year. If a person fails to renew the registration by January 31 of each year, such person shall also be required to pay a delinquency fee of twenty percent per month of the amount of the fee due, not to exceed one hundred percent of the annual registration fee. The purpose of the additional delinquency fee is to cover the administrative costs associated with collecting fees. All money collected as a delinquency fee shall be remitted to the State Treasurer for credit to the Nebraska Seed Administrative Cash Fund.

The annual registration fee shall be:

<p>Fee:</p> <p>Twenty-five dollars</p> <p>Fifty dollars</p> <p>One hundred dollars</p> <p>Two hundred fifty dollars</p> <p>Three hundred fifty dollars</p> <p>Seven hundred fifty dollars</p>	<p>Applicant sold:</p> <p>Less than ten thousand pounds of agricultural seed (other than lawn and turf seed);</p> <p>Ten thousand or more pounds of agricultural seed (other than lawn and turf seed) and less than two hundred fifty thousand pounds of any kind of seed;</p> <p>Two hundred fifty thousand or more pounds and less than five hundred thousand pounds of seeds;</p> <p>Five hundred thousand or more pounds and less than one million pounds of seeds;</p> <p>One million or more pounds and less than five million pounds of seeds;</p> <p>Five million or more pounds of seeds.</p>
---	--

(2) Subsection (1) of this section shall not apply if the agricultural, vegetable, or flower seeds being labeled and sold are of the breeder or foundation seed classes of varieties developed by publicly financed research agencies intended for the purpose of increasing the quantity of seed available.

(3) The director shall refuse to issue a permit when the application for such permit is not in compliance with the Nebraska Seed Law or any rules and regulations adopted and promulgated pursuant to such law and may cancel any permit when it is subsequently found to be in violation of any provision of such law, rule, or regulation or when the director has satisfactory evidence that the person has used fraudulent or deceptive practices in an attempted evasion of the law, rule, or regulation, except that no permit shall be refused or canceled until the person shall have been given an opportunity to be heard before the director.

Source: Laws 1985, LB 460, § 13; Laws 1990, LB 37, § 10; Laws 1997, LB 263, § 6; Laws 1997, LB 752, § 217; Laws 2016, LB909, § 12.

81-2,147.11 Nebraska Seed Administrative Cash Fund; created; use; investment.

There is hereby created a fund to be known as the Nebraska Seed Administrative Cash Fund. All money received pursuant to the Nebraska Seed Law shall be remitted to the State Treasurer for credit to such fund. All money credited to the fund shall be used by the Department of Agriculture to aid in defraying the cost of administering such law, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Seed Administrative 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 1985, LB 460, § 18; Laws 1995, LB 7, § 98; Laws 2009, First Spec. Sess., LB3, § 63.

Cross References

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

81-2,147.12 Preemption of local law.

The Nebraska Seed Law and any rules and regulations adopted and promulgated thereunder shall supersede and preempt any ordinance, rule, regulation, or resolution enacted by any political subdivision of the state regarding the regulation of seeds. No political subdivision shall prohibit or in any other manner regulate any matter relating to the registration, labeling, or sale of seeds based upon the type, nature, or genetic makeup of such seeds. No political subdivision shall prohibit or in any other manner regulate any matter relating to the registration, labeling, sale, storage, transportation, distribution, notification of use, planting, or cultivation of seeds that is in addition to or in conflict with the Nebraska Seed Law and any rules and regulations adopted and promulgated thereunder. Nothing in this section shall be construed to preempt or otherwise limit the authority of any city or county to adopt and enforce zoning regulations.

Source: Laws 2009, LB263, § 1.

81-2,148 Repealed. Laws 1945, c. 237, § 14.

81-2,149 State-certified seeds; plant parts; approval of standards; certification, defined.

Every person, firm, association, or corporation who or which issues, uses, or circulates any certificate, advertisement, tag, seal, poster, letterhead, marking, circular, or written or printed representation or description of or pertaining to seeds or plant parts intended for propagation or sale or sold or offered for sale in which the words Nebraska State Certified, State Certified, Nebraska Certified, or similar words or phrases are used or employed or in which are used or employed, signs, symbols, maps, diagrams, pictures, words, or phrases expressly or impliedly stating or representing that such seeds or plant parts comply with or conform to the standards or requirements recommended or approved by the University of Nebraska Institute of Agriculture and Natural Resources or by any department, office, agency, or institution of the State of Nebraska shall be subject to the provisions of sections 81-2,149 to 81-2,154. Every issuance, use, or circulation of any certificate or any other instrument as described in this section shall be deemed to be certification as that term is employed in such sections.

Source: Laws 1931, c. 151, § 1, p. 409; C.S.Supp.,1941, § 81-1816; R.S.1943, § 81-2,149; Laws 1991, LB 663, § 53.

81-2,150 State-certified seeds; dealers; observance of rules of University of Nebraska Institute of Agriculture and Natural Resources required.

Every person, firm, association, or corporation subject to the provisions of sections 81-2,149 to 81-2,154 shall observe, perform, and comply with all rules, regulations, and requirements fixed, established, or specified by the University of Nebraska Institute of Agriculture and Natural Resources as to what crops grown or to be grown in Nebraska shall be eligible for certification, either by the institute directly or by agents or agencies authorized by it for the purpose, and as to standards, requirements, and forms of and for certification under such sections, except that not more than one such agent or agency for certification shall be designated for any one specified crop. No certification,

within the provisions of such sections, shall be made or authorized except by or through the institute.

Source: Laws 1931, c. 151, § 2, p. 409; C.S.Supp.,1941, § 81-1817; R.S.1943, § 81-2,150; Laws 1991, LB 663, § 54.

81-2,151 State-certified seeds; certification agencies; nonprofit basis.

Certification work, whether conducted by the University of Nebraska Institute of Agriculture and Natural Resources or by any agency designated by it, shall be on a self-supporting basis and not for financial profit. The institute may designate as the agency for the certification of seed potatoes a nonstock, nonprofit cooperative association engaged in the marketing of such potatoes under exclusive marketing agreements with its growers.

Source: Laws 1931, c. 151, § 3, p. 409; C.S.Supp.,1941, § 81-1818; R.S.1943, § 81-2,151; Laws 1991, LB 663, § 55.

81-2,152 State-certified seeds; certification agencies; legal obligations; University of Nebraska Institute of Agriculture and Natural Resources not liable.

The University of Nebraska Institute of Agriculture and Natural Resources shall not be financially responsible for debts incurred by, damages inflicted by, or contracts broken by certifying agencies in conducting certification work.

Source: Laws 1931, c. 151, § 4, p. 410; C.S.Supp.,1941, § 81-1819; R.S.1943, § 81-2,152; Laws 1991, LB 663, § 56.

81-2,153 State-certified seeds; growers; violations; dishonest practices; certification may be withheld.

The University of Nebraska Institute of Agriculture and Natural Resources or its designated agency or agencies may withhold certification, for a period not to exceed two years, from any grower of seeds or plant parts who is engaged in or attempting to engage in any dishonest practices for the purpose of evading the provisions of sections 81-2,149 to 81-2,154, including standards, rules, and regulations laid down by the institute to cover certification.

Source: Laws 1931, c. 151, § 5, p. 410; C.S.Supp.,1941, § 81-1820; R.S.1943, § 81-2,153; Laws 1991, LB 663, § 57.

81-2,154 State-certified seeds; violations; penalty.

It shall be unlawful for any person, firm, association, or corporation to issue, make, use, or circulate any certification as defined in section 81-2,149 without the authority and approval of the University of Nebraska Institute of Agriculture and Natural Resources or its duly authorized agency. Every person, firm, association, or corporation who violates any of the provisions of sections 81-2,149 to 81-2,154 pertaining to certification shall be guilty of a Class IV misdemeanor.

Source: Laws 1931, c. 151, § 6, p. 410; C.S.Supp.,1941, § 81-1821; R.S.1943, § 81-2,154; Laws 1977, LB 39, § 281; Laws 1991, LB 663, § 58.

81-2,155 Hybrid seed corn; practices forbidden.

It shall be unlawful for any person, firm, corporation or its agents or representatives to sell, offer or expose for sale, or falsely mark or tag, within the

State of Nebraska, any seed corn as hybrid unless it is seed of the first generation of a cross involving two, three, or four different inbred lines of corn or their combinations.

Source: Laws 1937, c. 4, § 1, p. 56; C.S.Supp.,1941, § 81-1823; R.S.1943, § 81-2,155; Laws 2017, LB276, § 1.

81-2,156 Hybrid seed corn; cross, defined.

The cross mentioned in section 81-2,155 shall be produced by cross fertilization performed by a method of proper isolation in time or distance and controlled either by hand, by detasseling at the proper times, or by utilizing male sterility systems.

Source: Laws 1937, c. 4, § 2, p. 56; C.S.Supp.,1941, § 81-1824; R.S.1943, § 81-2,156; Laws 2017, LB276, § 2.

81-2,157 Hybrid seed corn; violations; penalty; enforcement action; Director of Agriculture; duties.

(1) Any person who violates any of the provisions of sections 81-2,155 and 81-2,156 shall be guilty of a Class III misdemeanor.

(2) In addition to the criminal penalty provided under subsection (1) of this section, a restraining order or a temporary, permanent, or mandatory injunction may be imposed against any person to restrain the commission or continuance of any act in violation of any of the provisions of sections 81-2,155 and 81-2,156. The district court of the county where such act is occurring or about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(3) Whenever the Director of Agriculture has a reasonable belief that the commission or continuance of any act is in violation of sections 81-2,155 and 81-2,156, the director shall report such belief to the Attorney General or the county attorney of the county in which such act is occurring or about to occur. Upon satisfactory information provided by the director, the Attorney General or the appropriate county attorney may cause appropriate proceedings pursuant to this section to be initiated without delay.

Source: Laws 1937, c. 4, § 3, p. 56; C.S.Supp.,1941, § 81-1825; R.S.1943, § 81-2,157; Laws 1977, LB 39, § 282; Laws 2017, LB276, § 3.

(n) COMMERCIAL FERTILIZER AND SOIL CONDITIONER

81-2,158 Repealed. Laws 1955, c. 334, § 23.

81-2,159 Repealed. Laws 1955, c. 334, § 23.

81-2,160 Repealed. Laws 1955, c. 334, § 23.

81-2,161 Repealed. Laws 1955, c. 334, § 23.

81-2,161.01 Repealed. Laws 1955, c. 334, § 23.

81-2,161.02 Repealed. Laws 1955, c. 334, § 23.

81-2,162 Repealed. Laws 1955, c. 334, § 23.

81-2,162.01 Act; administration.

The Nebraska Commercial Fertilizer and Soil Conditioner Act shall be administered by the Director of Agriculture.

Source: Laws 1955, c. 334, § 1, p. 1037; Laws 1975, LB 333, § 1; Laws 1987, LB 201, § 3.

“Product” under sections 81-2,162.01 to 81-2,162.07, R.R.S. 1943, means the product which is sold in the normal course of business to the ultimate consumer, and consists of the finished product. “Manufacture” means manufacture of the finished

product. “Distributes” means distribution of the finished product, and not a mere ingredient. PPG Industries Canada LTD v. Kreuzscher, 204 Neb. 220, 281 N.W.2d 762 (1979).

81-2,162.02 Terms, defined.

For purposes of the Nebraska Commercial Fertilizer and Soil Conditioner Act, unless the context otherwise requires:

- (1) Director means the Director of Agriculture or his or her duly authorized agent;
- (2) Department means the Department of Agriculture;
- (3) Commercial fertilizer means any formula or product distributed for further distribution or ultimate use as a plant nutrient, intended to promote plant growth, containing one or more plant nutrients recognized by the Association of American Plant Food Control Officials in its official publication. The term commercial fertilizer shall not be deemed to include unmanipulated animal and vegetable manures but shall be deemed to include both finished products and fertilizer ingredients capable of being used in the formulation of a finished product;
- (4) Bulk means nonpackaged;
- (5) Custom-blended product means any individually compounded commercial fertilizer or soil conditioner mixed, blended, offered for sale, or sold in Nebraska to a person’s specifications, when such person is the ultimate consumer, if the ingredients used in such product which are subject to the registration requirements of section 81-2,162.03 have been so registered;
- (6) Distribute means to offer for sale, sell, barter, or otherwise supply commercial fertilizers or soil conditioners;
- (7) Fineness means the percentage of weight of the material which will pass United States standard sieves of specified sizes;
- (8) Grade means the percentage of total nitrogen, available phosphate, and soluble potash;
- (9) Label means a display of written, printed, or other graphic matter upon the container in which a commercial fertilizer or soil conditioner is distributed, or a statement accompanying such product;
- (10) Labeling means the label and all other written, printed, or graphic matter accompanying the commercial fertilizer or soil conditioner at any time or to which reference is made on the label;
- (11) Official sample means any sample of commercial fertilizer or soil conditioner taken by the director or his or her agent;
- (12) Product means both commercial fertilizers and soil conditioners;
- (13) Ton means a net weight of two thousand pounds avoirdupois;
- (14) Percent or percentage means the percentage by weight;

(15) Person includes individual, cooperative, partnership, limited liability company, association, firm, and corporation;

(16) Sell or sale includes exchange;

(17) Soil conditioner means any formula or product distributed, except unmanipulated animal and vegetable manures, which, when added to the soil, is intended to (a) change the physical condition of the soil or (b) produce a favorable growth, yield, or quality of crops or other soil characteristics but shall not mean a commercial fertilizer, a pesticide as defined in the Pesticide Act, or an agricultural liming material as defined in the Agricultural Liming Materials Act; and

(18) Specialty product means a product for nonfarm use.

Source: Laws 1955, c. 334, § 2, p. 1037; Laws 1959, c. 429, § 1, p. 1434; Laws 1975, LB 333, § 2; Laws 1977, LB 91, § 2; Laws 1978, LB 692, § 1; Laws 1980, LB 889, § 1; Laws 1992, LB 366, § 26; Laws 1993, LB 121, § 525; Laws 2015, LB93, § 1.

Cross References

Agricultural Liming Materials Act, see section 2-4301.

Pesticide Act, see section 2-2622.

"Product" under sections 81-2,162.01 to 81-2,162.07, R.R.S. 1943, means the product which is sold in the normal course of business to the ultimate consumer, and consists of the finished product. "Manufacture" means manufacture of the finished

product. "Distributes" means distribution of the finished product, and not a mere ingredient. PPG Industries Canada LTD v. Kreuzscher, 204 Neb. 220, 281 N.W.2d 762 (1979).

81-2,162.03 Soil conditioner; registration; expiration; application; contents; custom-blended products exempt; information required.

(1) Each soil conditioner shall be registered before being distributed in this state. The distributor who first causes the distribution of the product into or within this state shall be responsible for compliance with the product registration requirements of this section. The application for registration shall be submitted to the director on forms furnished by the director and shall be accompanied by two copies of the labeling for such product. Upon approval by the director, a copy of the registration shall be furnished to the applicant. All registrations shall expire on December 31 of each year. The application shall include the following information:

(a) The name and principal address of the person registering the product;

(b) The name and principal address of the person guaranteeing the product, if different than the registrant;

(c) The name and principal address of the person manufacturing the product, if different than the registrant;

(d) The name and principal address of the person whose name appears on the label, if different than the registrant;

(e) The name of the product, including any term, design, trademark, or chemical designation used in connection with the product; and

(f) The percentage of every ingredient present in each soil conditioner.

(2) Custom-blended products shall be exempt from the requirements of this section, except that such products shall bear a tag or invoice stating the name and principal address of the manufacturer, the name and address of the purchaser, and the net weight or measure and the composition of the product by weight or percentage of ingredients used, and a duplicate copy of such

information shall be kept by the manufacturer for use by the department for sampling and inspection purposes. All ingredients shall be subject to the inspection fee requirements of section 81-2,162.06 except those ingredients brought to the manufacturer by the ultimate user for custom blending.

(3) A product shall not be required to be registered under this section when the director knows, or has reason to know, that such product is currently registered pursuant to this section. The director shall consider two or more products to be the same product only if the characteristics of the products described under subdivisions (b) through (f) of subsection (1) of this section are the same.

Source: Laws 1955, c. 334, § 3, p. 1038; Laws 1969, c. 791, § 1, p. 2995; Laws 1975, LB 333, § 4; Laws 1980, LB 889, § 2; Laws 1992, LB 366, § 27.

“Product” under sections 81-2,162.01 to 81-2,162.07, R.R.S. 1943, means the product which is sold in the normal course of business to the ultimate consumer, and consists of the finished product. “Manufacture” means manufacture of the finished

product. “Distributes” means distribution of the finished product, and not a mere ingredient. PPG Industries Canada LTD v. Kreuscher, 204 Neb. 220, 281 N.W.2d 762 (1979).

81-2,162.04 Soil conditioner; label; contents; bulk; statement; common name; pesticide; how labeled.

(1) Any packaged soil conditioner distributed in this state, except custom-blended products, shall have placed on or affixed to the package a label stating clearly and conspicuously (a) the net weight or measure of the product, (b) the information required by subdivisions (1)(c) and (d) of section 81-2,162.03, (c) the total percentage of all active ingredients in the soil conditioner, (d) the identification and percentage of each individual active ingredient, (e) the total percentage of the inactive ingredients, (f) the identification and percentage of each individual inactive ingredient which comprises more than two percent of the entire soil conditioner, and (g) under a category entitled other inactive ingredients, the total percentage of the remaining inactive ingredients which individually do not comprise two percent or more of the soil conditioner.

(2) If any soil conditioner is distributed in bulk, a written or printed statement of the weight and the information required by subdivisions (1)(c) and (d) of section 81-2,162.03 and by subdivisions (1)(c) through (g) of this section shall accompany delivery and be supplied to the purchaser.

(3) Whenever a soil conditioner is so comprised as to be recognized by a name commonly understood by ordinary individuals, such name shall be prominently and conspicuously displayed on the label.

(4) Notwithstanding any other provision of the Nebraska Commercial Fertilizer and Soil Conditioner Act, any soil conditioner which is also a pesticide, labeled in conformance with the Pesticide Act, shall be deemed to be labeled in conformance with the Nebraska Commercial Fertilizer and Soil Conditioner Act.

Source: Laws 1978, LB 692, § 3; Laws 1987, LB 24, § 1; Laws 1987, LB 201, § 4; Laws 1993, LB 588, § 37; Laws 2015, LB93, § 2.

Cross References

Pesticide Act, see section 2-2622.

“Product” under sections 81-2,162.01 to 81-2,162.07, R.R.S. 1943, means the product which is sold in the normal course of business to the ultimate consumer, and consists of the finished product. “Manufacture” means manufacture of the finished

product. “Distributes” means distribution of the finished product, and not a mere ingredient. PPG Industries Canada LTD v. Kreuscher, 204 Neb. 220, 281 N.W.2d 762 (1979).

81-2,162.05 Commercial fertilizer; label affixed to package; contents; common name; custom-blended products; requirements.

(1) Any packaged commercial fertilizer distributed in this state, except custom-blended products, shall have placed on or affixed to the package a label stating clearly and conspicuously:

- (a) The net weight or measure of the product;
- (b) The name and principal address of the manufacturer or distributor;
- (c) The name of the product, including any term, design, trademark, or chemical designation used in connection with the product;
- (d) The guaranteed analysis showing the minimum percentage of plant nutrients claimed in the following order and form:

Total Nitrogen	percent
Ammoniacal Nitrogen	
(Specialty products only)	percent
Nitrate Nitrogen	
(Specialty products only)	percent
Water Insoluble Nitrogen	
(Specialty products only)	percent
Available Phosphate (P2O5)	percent
Soluble Potash (K2O)	percent

Unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to both total available phosphate and the degree of fineness. Plant nutrients, other than nitrogen, phosphorus, and potassium, shall be guaranteed when present in significant quantities as determined by the director, which guarantees shall be expressed in elemental form. The director may also request that the sources of such nutrients be included on the label. Other beneficial substances, determinable by chemical methods, may be guaranteed only by permission of the director by and with the advice of the University of Nebraska Institute of Agriculture and Natural Resources;

- (e) The sources from which the nitrogen, available phosphate (P2O5), and potash (K2O) are derived; and
- (f) The grade stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis, except as follows:
 - (i) Specialty products may be guaranteed in fractional units of less than one percent of the total nitrogen, available phosphate, and soluble potash; and
 - (ii) The director may allow types of fertilizer materials, bone meal, or manures to be guaranteed in fractional units.

(2) If distributed in bulk, a written or printed statement of the information required by subdivisions (a), (b), (c), and (d) of subsection (1) of this section shall accompany delivery and be supplied to the purchaser.

(3) Whenever a commercial fertilizer is so comprised as to be recognized by a name commonly understood by ordinary individuals, such name shall be prominently and conspicuously displayed on the label.

(4) Custom-blended products shall bear a tag or invoice stating the name and principal address of the manufacturer, the name and address of the purchaser,

and the net weight or measure and the composition of the product by weight or percentage of ingredients used. A duplicate copy of such information shall be kept by the manufacturer for use by the department for sampling and inspection purposes.

Source: Laws 1955, c. 334, § 5, p. 1040; Laws 1975, LB 333, § 5; Laws 1978, LB 692, § 2; Laws 1980, LB 889, § 3; Laws 1992, LB 366, § 28; Laws 2015, LB93, § 3.

“Product” under sections 81-2,162.01 to 81-2,162.07, R.R.S. 1943, means the product which is sold in the normal course of business to the ultimate consumer, and consists of the finished product. “Manufacture” means manufacture of the finished

product. “Distributes” means distribution of the finished product, and not a mere ingredient. PPG Industries Canada LTD v. Kreuzscher, 204 Neb. 220, 281 N.W.2d 762 (1979).

81-2,162.06 Commercial fertilizer and soil conditioner; inspection fee; amount; tonnage report; additional administrative fee; confidential information.

(1) There shall be paid to the director, for all commercial fertilizers and soil conditioners distributed in this state to the ultimate user, except custom-blended products, an inspection fee at the rate fixed by the director but not exceeding fifteen cents per ton. The fee shall be paid by the person distributing the product to the ultimate user.

(2) The director may increase or decrease the inspection fee each July 1, but such fee shall not exceed the maximum rate established in subsection (1) of this section. The director shall determine the fee based on the estimated annual revenue and fiscal year-end fund balance determined as follows:

(a) The estimated annual revenue shall not be greater than one hundred seven percent of the program cash fund appropriations allocated for the Nebraska Commercial Fertilizer and Soil Conditioner Act; and

(b) The estimated fiscal year-end cash fund balance shall not be greater than seventeen percent of the program cash fund appropriations allocated for the Nebraska Commercial Fertilizer and Soil Conditioner Act.

(3) Payment of the inspection fee shall be evidenced by a statement made with documents showing that fees corresponding to the tonnage were received by the director.

(4) Every person who distributes commercial fertilizer or soil conditioners to the ultimate user in this state shall file, not later than the last day of January and July of each year, a semiannual tonnage report on forms provided by the department setting forth the number of net tons of commercial fertilizer and soil conditioners distributed in this state during the preceding six-month period, which report shall cover the periods from July 1 to December 31 and January 1 to June 30, and such other information as the director shall deem necessary. All persons required to be licensed pursuant to the Nebraska Commercial Fertilizer and Soil Conditioner Act shall file such report regardless of whether any inspection fee is due. Upon filing the report, such person shall pay the inspection fee at the rate prescribed pursuant to subsection (1) of this section. The minimum inspection fee required pursuant to this section shall be five dollars, and no inspection fee shall be paid more than once for any one product.

(5) If a person fails to report and pay the fee required by subsection (4) of this section by January 31 and July 31, the fee shall be considered delinquent and the person owing the fee shall pay an additional administrative fee of twenty-

five percent of the delinquent amount for each month it remains unpaid, not to exceed one hundred percent of the original amount due. The department may waive the additional administrative fee based upon the existence and extent of any mitigating circumstances that have resulted in the late payment of such fee. The purpose of the additional administrative fee is to cover the administrative costs associated with collecting fees and all money collected as an additional administrative fee shall be remitted to the State Treasurer for credit to the Fertilizers and Soil Conditioners Administrative Fund. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided in this subsection shall constitute sufficient cause for the cancellation of all product registrations, licenses, or both on file for such person.

(6) No information furnished to the department under this section shall be disclosed in such a way as to reveal the operation of any person.

Source: Laws 1955, c. 334, § 6, p. 1041; Laws 1965, c. 8, § 47, p. 117; Laws 1969, c. 791, § 2, p. 2996; Laws 1975, LB 333, § 6; Laws 1977, LB 91, § 3; Laws 1980, LB 889, § 4; Laws 1989, LB 38, § 7; Laws 1992, LB 366, § 29; Laws 2015, LB93, § 4; Laws 2021, LB90, § 2.

“Product” under sections 81-2,162.01 to 81-2,162.07, R.R.S. 1943, means the product which is sold in the normal course of business to the ultimate consumer, and consists of the finished product. “Manufacture” means manufacture of the finished

product. “Distributes” means distribution of the finished product, and not a mere ingredient. PPG Industries Canada LTD v. Kreuzscher, 204 Neb. 220, 281 N.W.2d 762 (1979).

81-2,162.07 Enforcement of act; inspections; testing; methods of analysis; results; distribution.

(1) To enforce the Nebraska Commercial Fertilizer and Soil Conditioner Act or the rules and regulations adopted pursuant to the act, the director may:

(a) For purposes of inspection, enter any location, vehicle, or both in which commercial fertilizers and soil conditioners are manufactured, processed, packed, transported, or held for distribution during normal business hours, except that in the event such locations and vehicles are not open to the public, the director shall present his or her credentials and obtain consent before making entry thereto unless a search warrant has previously been obtained. Credentials shall not be required for each entry made during the period covered by the inspection. The person in charge of the location or vehicle shall be notified of the completion of the inspection. If the owner of such location or vehicle or his or her agent refuses to admit the director to inspect pursuant to this section, the director may obtain a search warrant from a court of competent jurisdiction directing such owner or agent to submit the location, vehicle, or both as described in such search warrant to inspection;

(b) Inspect any location or vehicle described in this subsection, all pertinent equipment, finished and unfinished materials, containers and labeling, all records, books, papers, and documents relating to the distribution and production of commercial fertilizers and soil conditioners, and other information necessary for the enforcement of the act;

(c) Obtain samples of commercial fertilizers and soil conditioners. The owner, operator, or agent in charge shall be given a receipt describing the samples obtained; and

(d) Make analyses of and test samples obtained pursuant to subdivision (c) of this subsection to determine whether such commercial fertilizers and soil conditioners are in compliance with the act.

For purposes of this subsection, location shall include a factory, warehouse, or establishment.

(2) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International or in accordance with other generally recognized methods.

(3) The director, in determining for administrative purposes whether any product is deficient in plant nutrients, shall be guided solely by the official sample as defined in subdivision (11) of section 81-2,162.02 and obtained and analyzed as provided for in subsection (2) of this section.

(4) The results of official analysis of any official sample shall be forwarded by the director to the person named on the label when the official sample is not in compliance with the act or the rules and regulations adopted pursuant to the act. Upon request made within ninety days of the analysis, the director shall furnish to the person named on the label a portion of the official sample. Following expiration of the ninety-day period, the director may dispose of such sample.

Source: Laws 1955, c. 334, § 7, p. 1041; Laws 1969, c. 791, § 3, p. 2997; Laws 1975, LB 333, § 8; Laws 1980, LB 889, § 5; Laws 1992, LB 366, § 30; Laws 1993, LB 267, § 27; Laws 2015, LB93, § 5.

“Product” under sections 81-2,162.01 to 81-2,162.07, R.R.S. 1943, means the product which is sold in the normal course of business to the ultimate consumer, and consists of the finished product. “Manufacture” means manufacture of the finished

product. “Distributes” means distribution of the finished product, and not a mere ingredient. PPG Industries Canada LTD v. Kreuzscher, 204 Neb. 220, 281 N.W.2d 762 (1979).

81-2,162.08 Commercial fertilizer; superphosphate; requirements.

No superphosphate containing less than eighteen percent available phosphate nor any commercial fertilizer in which the sum of the guarantees for the nitrogen, available phosphate, and soluble potash totals less than twenty percent shall be distributed in this state except for fertilizers containing twenty-five percent or more of their nitrogen in water-insoluble form of plant or animal origin, in which case the total nitrogen, available phosphate, and soluble potash shall not total less than eighteen percent. This section shall not apply to specialty fertilizers.

Source: Laws 1955, c. 334, § 8, p. 1042; Laws 1975, LB 333, § 9; Laws 2015, LB93, § 6.

81-2,162.09 Repealed. Laws 1975, LB 333, § 25.

81-2,162.10 Repealed. Laws 1975, LB 333, § 25.

81-2,162.11 Commercial fertilizer and soil conditioner; sales information; director make available; contents.

The director shall annually make available, in such form as he or she may deem proper, information concerning the sales of commercial fertilizers and soil conditioners and a report of the results of the analysis based on official samples of commercial fertilizers and soil conditioners distributed within the state as compared with the analyses guaranteed under the provisions of the Nebraska Commercial Fertilizer and Soil Conditioner Act.

Source: Laws 1955, c. 334, § 11, p. 1043; Laws 1975, LB 333, § 12; Laws, 1992, LB 366, § 31; Laws 2015, LB93, § 7.

81-2,162.12 Commercial fertilizers and soil conditioners; rules and regulations.

For the enforcement of the Nebraska Commercial Fertilizer and Soil Conditioner Act, the director is authorized to prescribe rules and regulations, after public hearing following due public notice, relating to the distribution of commercial fertilizers and soil conditioners as he or she may find necessary to carry into effect the full intent and meaning of the act.

Source: Laws 1955, c. 334, § 12, p. 1044; Laws 1975, LB 333, § 13; Laws 1992, LB 366, § 32.

81-2,162.13 Commercial fertilizer or soil conditioner; registration or license; cancellation; reasons; hearing.

The director is authorized and empowered to cancel the registration or license of any person manufacturing or distributing any commercial fertilizer or soil conditioner or to refuse to register any soil conditioner upon satisfactory evidence that the registrant, licensee, or guarantor has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of the Nebraska Commercial Fertilizer and Soil Conditioner Act or any rules and regulations promulgated thereunder. No license or registration shall be revoked or refused until the registrant, licensee, or guarantor has been given the opportunity to appear for a hearing before the director.

Source: Laws 1955, c. 334, § 13, p. 1044; Laws 1975, LB 333, § 14; Laws 1980, LB 889, § 6; Laws 1992, LB 366, § 33.

81-2,162.14 Commercial fertilizer or soil conditioner; stop-sale, stop-use, or removal order; effect; release, when.

The director may issue and enforce a written or printed stop-sale, stop-use, or removal order to the owner or custodian of any lot of commercial fertilizer or soil conditioner and may require the owner or custodian to hold any lot at a designated place when the director has reason to believe the product is being offered or exposed for sale in violation of any of the provisions of the Nebraska Commercial Fertilizer and Soil Conditioner Act until the law has been complied with and such product is released in writing by the director or the violation has been otherwise legally disposed of by written authority. The director shall release the product so withdrawn when the requirements of the act have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

Source: Laws 1955, c. 334, § 14, p. 1044; Laws 1975, LB 333, § 15; Laws 1988, LB 871, § 28.

81-2,162.15 Commercial fertilizer or soil conditioner; noncompliance; condemnation; court order; opportunity to comply.

Any lot of commercial fertilizer or soil conditioner not in compliance with the provisions of the Nebraska Commercial Fertilizer and Soil Conditioner Act shall be subject to seizure on complaint of the director to a court of competent jurisdiction in the area in which such product is located. In the event the court finds such product to be in violation of the provisions of such act and orders the condemnation of such product, it shall be disposed of in any manner consistent with the quality of the product and the laws of the state. In no instance shall the

disposition of such product be ordered by the court without first giving the claimant an opportunity to apply to the court for release of such product or for permission to process or relabel such product to bring it into compliance with the provisions of the act.

Source: Laws 1955, c. 334, § 15, p. 1044; Laws 1975, LB 333, § 16; Laws 1992, LB 366, § 34.

81-2,162.16 Commercial fertilizer or soil conditioner; rules and regulations; violation; notice; hearing; certification to county attorney or Attorney General.

If it shall appear from the examination of any commercial fertilizer or soil conditioner that any of the provisions of the Nebraska Commercial Fertilizer and Soil Conditioner Act or the rules and regulations issued thereunder have been violated, the director shall cause notice of the violations to be given to the person from whom the sample was taken. Any person so notified shall be given opportunity to be heard under such rules and regulations as may be prescribed by the director. If it appears after such hearing, either in the presence or absence of the person so notified, that any of the provisions of the act or rules and regulations issued thereunder have been violated, the director may certify the facts to the county attorney of the county in which the violation occurred or to the Attorney General, as the case may be.

Source: Laws 1955, c. 334, § 16, p. 1045; Laws 1975, LB 333, § 17; Laws 1992, LB 366, § 35.

81-2,162.17 Commercial fertilizer or soil conditioner; act; violations; penalty.

Any person violating any provisions of the Nebraska Commercial Fertilizer and Soil Conditioner Act or the rules and regulations issued thereunder, or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the director in the performance of his or her duty pursuant to the act, shall be guilty of a Class II misdemeanor.

Source: Laws 1955, c. 334, § 17, p. 1045; Laws 1975, LB 333, § 18; Laws 1977, LB 39, § 283; Laws 1992, LB 366, § 36.

81-2,162.18 Commercial fertilizer or soil conditioner; unlawful practices; director; waiver, when.

Nothing in the Nebraska Commercial Fertilizer and Soil Conditioner Act shall be construed as requiring the director to report for prosecution or for the institution of seizure proceedings for minor violations of such act when he or she believes that the public interest will be best served by a suitable notice of warning in writing.

Source: Laws 1955, c. 334, § 18, p. 1045; Laws 1975, LB 333, § 19; Laws 1992, LB 366, § 37.

81-2,162.19 Commercial fertilizer or soil conditioner; Attorney General; county attorney; duties.

It shall be the duty of each county attorney or the Attorney General, as the case may be, to whom any violation is reported to cause appropriate proceed-

ings to be instituted and prosecuted in a court of competent jurisdiction without delay.

Source: Laws 1955, c. 334, § 19, p. 1046.

81-2,162.20 Commercial fertilizer or soil conditioner; injunction; director; application; no bond required.

The director is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of the Nebraska Commercial Fertilizer and Soil Conditioner Act, or any rules or regulations promulgated under the act, notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.

Source: Laws 1955, c. 334, § 20, p. 1046; Laws 1975, LB 333, § 20; Laws 1992, LB 366, § 38.

81-2,162.21 Commercial fertilizer or soil conditioner; sales or exchanges; restriction or avoidance; exception.

Nothing in the Nebraska Commercial Fertilizer and Soil Conditioner Act shall be construed to restrict or avoid sales or exchanges of commercial fertilizers or soil conditioners to each other by importers, manufacturers, or manipulators who mix commercial fertilizers or soil conditioners for sale or as preventing the free and unrestricted shipments of commercial fertilizers and soil conditioners to manufacturers or manipulators who have met the provisions of the act.

Source: Laws 1955, c. 334, § 21, p. 1046; Laws 1975, LB 333, § 21; Laws 1992, LB 366, § 39.

81-2,162.22 Act, how cited.

Sections 81-2,162.01 to 81-2,162.28 shall be known and may be cited as the Nebraska Commercial Fertilizer and Soil Conditioner Act.

Source: Laws 1955, c. 334, § 22, p. 1046; Laws 1975, LB 333, § 23; Laws 1987, LB 201, § 5; Laws 2009, LB263, § 4.

81-2,162.23 Manufacture or distribution of commercial fertilizers or soil conditioners; license required; exception; application; fee; posting of license; records; contents.

(1) No person shall manufacture or distribute commercial fertilizers or soil conditioners in this state unless such person holds a valid license for each manufacturing and distribution facility in this state. Any out-of-state manufacturer or distributor who has no distribution facility within this state shall obtain a license for his or her principal out-of-state office if he or she markets or distributes commercial fertilizer or soil conditioners in the State of Nebraska.

(2) An applicant for a license shall make application to the department on forms furnished by the department. Application forms shall be submitted to the department accompanied by an annual license fee of fifteen dollars. Licenses shall be renewed on or before January 1 of each year.

(3) A copy of the valid license shall be posted in a conspicuous place in each manufacturing or distribution facility.

(4) Persons distributing custom-blended products shall maintain records of purchase orders received for custom-blended products from the date such orders are received until such products are distributed, which records shall be sufficient to show the product ordered, date of such order, purchaser, and quantity of product ordered.

(5) The provisions of this section shall not apply to any retail store which sells or offers for sale less than a five-ton volume of commercial fertilizer or soil conditioners annually.

Source: Laws 1975, LB 333, § 3; Laws 1977, LB 91, § 4; Laws 1980, LB 889, § 7; Laws 1983, LB 617, § 26; Laws 1992, LB 366, § 40; Laws 1997, LB 752, § 218; Laws 2015, LB93, § 8.

81-2,162.24 Repealed. Laws 1980, LB 889, § 9.

81-2,162.25 Misbranded commercial fertilizer or soil conditioner; distribution unlawful; how determined.

No person shall distribute misbranded commercial fertilizers or soil conditioners. A commercial fertilizer or soil conditioner shall be deemed to be misbranded if:

- (1) Its labeling is false or misleading in any particular;
- (2) It is distributed under the name of another commercial fertilizer or soil conditioner;
- (3) It is not labeled as required by the Nebraska Commercial Fertilizer and Soil Conditioner Act or the regulations promulgated under the act;
- (4) It purports to be or is represented as a commercial fertilizer or soil conditioner or as containing an ingredient, for which a definition of identity or standard of quality has been prescribed by regulation of the department, unless it conforms to such definition and standard; or
- (5) Any word, statement, or other information required by the act or the regulations promulgated under the act to appear on the label is not prominently displayed with such conspicuousness, as compared with other words, statements, designs, or devices, on the label, and in such terms as to render it likely to be read and understood by an individual under customary conditions of purchase and use.

Source: Laws 1975, LB 333, § 10; Laws 1992, LB 366, § 41.

81-2,162.26 Adulterated commercial fertilizer or soil conditioner; distribution unlawful; how determined.

No person shall distribute adulterated commercial fertilizers or soil conditioners. A commercial fertilizer or soil conditioner shall be deemed to be adulterated if:

- (1) It contains any toxic materials, other than pesticides registered pursuant to law, in quantities injurious to plant or animal health;
- (2) Any valuable constituent has been in whole or in part omitted or subtracted therefrom or any less valuable substance substituted therefor;
- (3) Its composition or quality falls below or differs from that which it is purported or is represented to possess by its label;

(4) Warning statements or directions for use, as prescribed by the director to be shown on the label, are not displayed thereon; or

(5) It contains amounts of crop seed, weed seed, or other foreign materials in excess of tolerances as may be established by rules and regulations of the department.

Source: Laws 1975, LB 333, § 11; Laws 1980, LB 889, § 8.

81-2,162.27 Fertilizers and Soil Conditioners Administrative Fund; created; use; transfers; investment.

(1) All money received under the Nebraska Commercial Fertilizer and Soil Conditioner Act and the Agricultural Liming Materials Act shall be remitted to the State Treasurer for credit to the Fertilizers and Soil Conditioners Administrative Fund, which fund is hereby created. Money so received shall be used by the department for defraying the expenses of administering the Nebraska Commercial Fertilizer and Soil Conditioner Act and the Agricultural Liming Materials Act. The fund may also be used to defray costs incurred by the department directly related to administrative and budgetary support of the Healthy Soils Task Force pursuant to sections 2-401 to 2-404, except that no more than ten thousand dollars may be expended by the department from the fund for such purpose. Transfers may be made from the fund to the General Fund at the direction of the Legislature. The State Treasurer shall transfer two hundred seventy-five thousand dollars from the Fertilizers and Soil Conditioners Administrative Fund to the General Fund on or before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(2) Any unexpended balance in the Fertilizers and Soil Conditioners Administrative Fund at the close of any biennium shall, when reappropriated, be available for the uses and purposes of the fund for the succeeding biennium. 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 1975, LB 333, § 22; Laws 1986, LB 258, § 32; Laws 1995, LB 7, § 99; Laws 2001, LB 329, § 14; Laws 2003, LB 157, § 4; Laws 2015, LB93, § 9; Laws 2018, LB945, § 18; Laws 2019, LB243, § 5; Laws 2019, LB657, § 23; Laws 2024, LB262, § 27.
Operative date January 1, 2025.

Cross References

Agricultural Liming Materials Act, see section 2-4301.

Nebraska Capital Expansion Act, see section 72-1269.

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

81-2,162.28 Preemption of local law.

The Nebraska Commercial Fertilizer and Soil Conditioner Act and any rules and regulations adopted and promulgated thereunder shall supersede and preempt any ordinance, rule, regulation, or resolution enacted by any political subdivision of the state regarding the regulation of fertilizer and soil conditioners. No political subdivision shall prohibit or in any other manner regulate any matter relating to the registration, labeling, or sale of fertilizer and soil conditioners. No political subdivision shall prohibit or in any other manner regulate any matter relating to the storage, transportation, distribution, notifi-

cation of use, or use that is in addition to or in conflict with the Nebraska Commercial Fertilizer and Soil Conditioner Act and any rules and regulations adopted and promulgated thereunder. Nothing in this section shall be construed to preempt or otherwise limit the authority of any city or county to adopt and enforce zoning regulations or any natural resources district to enforce the Nebraska Ground Water Management and Protection Act.

Source: Laws 2009, LB263, § 3.

Cross References

Nebraska Ground Water Management and Protection Act, see section 46-701.

(o) PUBLICITY

81-2,163 State agricultural resources, industries, and development; department; publications; powers.

(1) The Department of Agriculture may provide information in reference to the state's agricultural resources, industries, and development and may assemble data relating to such resources, industries, and development. The department may publish the facts ascertained and may charge for departmental publications an amount not to exceed the cost of collecting, publishing, and distributing such information for the purposes of sections 81-201, 81-2,163, and 81-2,164.03.

(2) The Department of Agriculture may cooperate with the federal government, farm industry groups or associations, and any other person in assembling and disseminating information relating to agricultural products produced throughout the state.

Source: Laws 1919, c. 190, tit. III, art. XXI, § 1, p. 545; C.S.1922, § 7640; C.S.1929, § 81-2501; R.S.1943, § 81-2,163; Laws 1986, LB 795, § 1; Laws 2018, LB135, § 1.

81-2,164 Repealed. Laws 2018, LB135, § 4.

81-2,164.01 Repealed. Laws 2018, LB135, § 4.

81-2,164.02 Repealed. Laws 2018, LB135, § 4.

81-2,164.03 Agricultural Products Marketing Information Cash Fund; created; use; investment.

The Director of Agriculture is hereby authorized to receive voluntary gifts and contributions from the federal government, private agencies, farm industry associations, individuals, and any other person, or to collect fees or charges for services or publications from any source, including, but not limited to, the federal government, state governments, public agencies, and private entities or individuals for the purpose of defraying the expenses of carrying out subdivision (3) of section 81-201 and sections 81-2,163 and 81-2,164.03. All advances so received shall be credited to the Agricultural Products Marketing Information Cash Fund, which fund is hereby created. Disbursements from such fund shall be made upon vouchers approved by the director and warrants issued thereon as provided by law. All money received from the federal government, local government agencies, private research agencies, farm industry associations, individuals, or any other person, which are reimbursements for expenditures made, shall be remitted to the State Treasurer for credit to the Agricultur-

al Products Marketing Information Cash Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1953, c. 337, § 3, p. 1110; Laws 1955, c. 335, § 1, p. 1047; Laws 1965, c. 8, § 48, p. 117; Laws 1974, LB 888, § 2; Laws 1986, LB 795, § 3; Laws 1995, LB 7, § 100; Laws 2018, LB135, § 2.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(p) BEEKEEPING

81-2,165 Beekeeping; inspections; rules and regulations; duties of department and director.

The department is authorized to enforce the Nebraska Apiary Act. The director may make or cause to be made all necessary examinations and inspections and adopt and promulgate such rules, regulations, and orders as may be necessary to carry out the duties of the department under the act.

The department within its authority and funding appropriated to carry out the purposes of the act may take all measures necessary to prevent the introduction, spread, or dissemination of any and all contagious or infectious diseases, parasites, or pests of honeybees and to bring or cause to be brought actions and proceedings in the name of the people of the State of Nebraska to fulfill its duties under the act.

Source: Laws 1929, c. 9, § 1, p. 76; C.S.1929, § 81-2701; R.S.1943, § 81-2,165; Laws 1965, c. 548, § 1, p. 1752; Laws 1967, c. 583, § 1, p. 1964; Laws 1971, LB 403, § 1; Laws 1986, LB 1001, § 1; Laws 1992, LB 366, § 42; Laws 1994, LB 1071, § 2; Laws 2004, LB 835, § 1.

81-2,165.01 Act, how cited.

Sections 81-2,165 to 81-2,180 shall be known and may be cited as the Nebraska Apiary Act.

Source: Laws 1992, LB 366, § 54; Laws 1994, LB 1071, § 3.

81-2,165.02 Beekeeping; legislative intent; responsibility for education.

It is the intent of the Legislature that the department is not responsible for education regarding good beekeeping practices and education intended to aid in the protection of the apicultural interests in the state from bee diseases, parasites, or pests.

It is further the intent of the Legislature that the University of Nebraska provide such education in accordance with the transfer of appropriations to the university for this purpose.

Source: Laws 1994, LB 1071, § 1.

81-2,166 Terms, defined.

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

(1) Abandoned apiary shall mean any apiary not regularly attended in accordance with good beekeeping practices and which constitutes a disease, parasite, or pest hazard to the beekeeping industry;

(2) Apiary shall mean any place where one or more colonies of bees or nuclei of bees are located;

(3) Bee equipment shall mean hives, supers, frames, veils, gloves, or any other apparatus, tool, machine, vehicle, or device used in the handling, moving, or manipulating of bees, honey, wax, or hives, including containers of honey or wax which may be used in any apiary or in transporting bees and their products and apiary supplies;

(4) Beekeeping shall mean the moving, raising, and producing of bees, beeswax, and honey which is an agricultural pursuit;

(5) Bees shall mean any stage of the common honeybee, *Apis mellifera* L;

(6) Colony shall mean the aggregate of worker bees, drones, the queen, and developing young bees living together as a family unit in a hive or other dwelling;

(7) Department shall mean the Department of Agriculture;

(8) Director shall mean the Director of Agriculture or his or her designated representative, employee, or authorized agent;

(9) Disease shall mean American foulbrood, European foulbrood, chalkbrood, sacbrood, paralysis, or any other abnormal condition of egg, larva, pupa, or adult stages of bees;

(10) Exotic disease, parasite, or pest shall mean any disease, parasite, or pest not known to be established in this state;

(11) Hive shall mean a frame hive, box hive, box, barrel, log gum, skep, or any other receptacle or container, natural or artificial, or any part thereof, which is used or employed as a domicile for bees;

(12) Nuclei shall mean a small mass of bees and combs of brood used in forming a new colony;

(13) Parasite shall mean any harmful organism living in or on bees, including, but not limited to, *Varroa jacobsoni*, *Acarapis woodi*, and *Tropilaelaps clareae*; and

(14) Pest shall mean any harmful subspecies of the honeybee *Apis mellifera*, including, but not limited to, *Apis mellifera scutellata*.

Words used in the act shall be construed to import either the plural or singular, as the case demands.

Source: Laws 1929, c. 9, § 2, p. 76; C.S.1929, § 81-2702; R.S.1943, § 81-2,166; Laws 1961, c. 426, § 1, p. 1331; Laws 1965, c. 548, § 3, p. 1754; Laws 1967, c. 583, § 2, p. 1965; Laws 1986, LB 1001, § 2; Laws 1992, LB 366, § 43; Laws 1994, LB 1071, § 4; Laws 2004, LB 835, § 2.

81-2,167 Beekeeping; department; inspection; purpose; violations.

In order to carry out its duties under the Nebraska Apiary Act or any rule, regulation, or order made pursuant to the act, the officers and employees of the department may at all reasonable times enter upon any public or private premises for the purpose of inspection for the existence of or for treatment or

destruction of any contagious or infectious diseases, parasites, or pests of bees. They shall have free access to all apiaries, structures, bee equipment, or premises where bees, honey, used bee equipment, or comb in apiaries may be. They may open any hive, colony, package, or receptacle of any kind containing or which they have reason to believe contains any bees, comb, bee products, used beekeeping equipment, or anything else which is capable of transmitting diseases, parasites, or pests of bees. They may stop pedestrians, motor cars, and vehicles when they are likely to be carrying, contrary to the act or any rule, regulation, or order established pursuant to the act, any bees, comb, used bee equipment, or anything else which is capable of transmitting diseases, parasites, or pests of bees. They shall have authority to inspect or reinspect at any time or place any bees, bee products, or used bee equipment shipped in or into the state and to treat it as provided in section 81-2,171. It shall be unlawful to deny such access to the officers and employees of the department or to offer any resistance to, thwart, or hinder such officers and employees by misrepresentation or by concealing facts or conditions. They shall have the power to inspect any apiary, honey house, building, or portion of building or container in which honey is stored, graded, or processed and to determine whether or not any insanitary conditions exist. If it is found that insanitary conditions exist or are permitted to exist, the owner or person in charge, after being notified by the department of the insanitary conditions, shall place such apiary, honey house, building, or portion of building or container in a sanitary condition within a reasonable length of time, and any operator or owner of such apiary, honey house, building, or container failing to obey such notice shall be in violation of the act and shall be punished as provided in section 81-2,179. Each apiary not located at the owner's or operator's place of residence shall have posted in a conspicuous place the name and address of the owner.

Source: Laws 1929, c. 9, § 3, p. 77; C.S.1929, § 81-2703; R.S.1943, § 81-2,167; Laws 1965, c. 548, § 4, p. 1755; Laws 1986, LB 1001, § 3; Laws 1992, LB 366, § 44; Laws 1994, LB 1071, § 5; Laws 2004, LB 835, § 3.

81-2,168 Beekeeping; inspection; notice to owner; University of Nebraska; duties.

If upon inspection of any bee colonies in the state the existence of diseases, parasites, or pests are found, the owner or person in charge of the bees, after being notified by the department of the nature of the disease, parasite, or pest shall use the best method of treating such disease, parasite, or pest.

Within the appropriation provided, the University of Nebraska shall provide information for beekeepers regarding the best method of preventing or treating such disease, parasite, or pest. When establishing the best method of prevention or treatment, the University of Nebraska shall consider (1) the specific disease, parasite, or pest found, (2) the severity of the infestation, (3) the time of year such disease, parasite, or pest was found, (4) the effectiveness of current control methods, and (5) any other factors deemed necessary by the University of Nebraska to effectively control the disease, parasite, or pest.

Source: Laws 1929, c. 9, § 4, p. 78; C.S.1929, § 81-2704; R.S.1943, § 81-2,168; Laws 1957, c. 242, § 59, p. 866; Laws 1986, LB 1001, § 4; Laws 1992, LB 366, § 45; Laws 1994, LB 1071, § 6.

81-2,169 Beekeeping; infected bees or apiaries; nuisance; destruction.

Infected shipments, apiaries in which the existing disease, parasite, or pest cannot be successfully treated, apiaries which are affected by a disease, parasite, or pest amenable to treatment but which have not been treated as provided in section 81-2,168, and apiaries having bees in hives without movable frames or any colonies of bees or shipments of used bee equipment which entered this state illegally are declared to be a public nuisance and menace to the community, and the officers and employees of the department may destroy by burning or otherwise, without any remuneration to the owner, any box hives or infected bees, hives, or used bee equipment found therein.

Source: Laws 1929, c. 9, § 5, p. 78; C.S.1929, § 81-2705; R.S.1943, § 81-2,169; Laws 1965, c. 548, § 5, p. 1756; Laws 1986, LB 1001, § 5; Laws 1992, LB 366, § 46; Laws 1994, LB 1071, § 7.

81-2,170 Beekeeping; contagion or infection; duty of owner to report to department; quarantine; when; notice; effect.

(1) It shall be unlawful for any person knowingly to keep in his or her possession, without proper treatment, any colony of bees affected with any bee diseases, parasites, or pests or to expose any diseased or parasitized colony or infected hive or bee equipment so that flying bees may have access to them. Any person who knows that bees owned or controlled by him or her are affected with contagious or infectious diseases, parasites, or pests shall at once report such fact to the department stating all facts known to him or her with reference to the contagion or infection. When it has been determined that contagious or infectious diseases, parasites, or pests have been found in an apiary, such apiary may be quarantined by the department until released by the department. Whenever American foulbrood is found in the apiary, no colony, honey, or bee equipment of any kind shall be removed from the apiary unless under special written permit issued by the department. A notice shall be posted in each yard so quarantined, and written notice shall be sent to the owner or person in charge. Should any state be willing to accept bees or used bee equipment from a quarantined yard of bees in Nebraska, the department may, after all known contagious or infectious diseases, parasites, or pests have been destroyed, issue a special permit allowing bees and used bee equipment to be moved out of the state.

(2) If an exotic disease, parasite, or pest is found to have been introduced into this state, the director shall have the authority to quarantine any portion of this state until he or she can determine whether the disease, pest, or parasite has spread and may take action to eradicate or prevent the spread of the exotic disease, parasite, or pest as provided in the Nebraska Apiary Act. Beekeepers affected shall be notified in writing of the quarantine and shall also be notified in writing when the quarantine is released.

Source: Laws 1929, c. 9, § 6, p. 79; C.S.1929, § 81-2706; R.S.1943, § 81-2,170; Laws 1965, c. 548, § 6, p. 1757; Laws 1967, c. 583, § 3, p. 1966; Laws 1976, LB 722, § 1; Laws 1986, LB 1001, § 6; Laws 1992, LB 366, § 47; Laws 1994, LB 1071, § 8; Laws 2004, LB 835, § 4.

81-2,171 Beekeeping; abandoned apiary; seized by department; notice.

Any apiary not regularly attended in accordance with good beekeeping practice and which constitutes a disease, parasite, or pest hazard to the beekeeping industry may be considered an abandoned apiary and may be seized by the department. Any diseased bee equipment may be burned and the remainder may be sold at public auction, with proceeds after the cost of the sale are deducted to be returned to the former owner or his or her estate, except that before burning any such equipment or causing the same to be sold, the department shall give the owner or person in charge thereof a written notice at least ten days prior to the date on which the property will be burned or sold. Such notice shall be given by registered or certified mail or personally served upon the owner or person in charge of such property.

Source: Laws 1929, c. 9, § 7, p. 79; C.S.1929, § 81-2707; R.S.1943, § 81-2,171; Laws 1961, c. 426, § 2, p. 1332; Laws 1965, c. 548, § 7, p. 1758; Laws 1967, c. 583, § 4, p. 1967; Laws 1976, LB 722, § 2; Laws 1979, LB 548, § 1; Laws 1986, LB 1001, § 7; Laws 1992, LB 366, § 48; Laws 1994, LB 1071, § 9; Laws 2004, LB 835, § 5.

81-2,171.01 Repealed. Laws 1976, LB 722, § 4.

81-2,172 Repealed. Laws 2004, LB 835, § 9.

81-2,173 Beekeeping; inspection certificate; procedure.

(1) The department shall issue certificates stating that an apiary is apparently free from infectious or contagious diseases, parasites, or pests after inspecting the apiary when such apiary is apparently free from such diseases, parasites, and pests and upon payment of the certificate fee provided for in section 81-2,174. Such certificate shall also state the date of inspection and shall continue in force for one year unless revoked for cause.

(2) Any person may request an inspection for his or her apiary in order to obtain a certificate.

Source: Laws 1929, c. 9, § 9, p. 80; C.S.1929, § 81-2709; R.S.1943, § 81-2,173; Laws 1979, LB 548, § 2; Laws 1986, LB 1001, § 8; Laws 1992, LB 366, § 49; Laws 1994, LB 1071, § 11; Laws 2002, LB 436, § 26; Laws 2004, LB 835, § 6.

81-2,174 Beekeeping; inspection certificate; fees; State Apiary Cash Fund; created; use; investment.

Upon issuing a certificate to a beekeeper after an inspection as provided in section 81-2,173, the department shall collect a certificate fee as set forth in rules and regulations adopted and promulgated pursuant to the Nebraska Apiary Act not to exceed the following amounts: Two hundred dollars for the inspection of two hundred fifty colonies or less; two hundred fifty dollars for the inspection of two hundred fifty-one through five hundred colonies; three hundred fifty dollars for the inspection of five hundred one through one thousand colonies; and four hundred fifty dollars for the inspection of more than one thousand colonies. The certification fee shall be paid prior to the issuance of certificates by the department. All fees and any gifts, grants, or donations from any source shall be remitted to the State Treasurer for credit to the State Apiary Cash Fund which is hereby created. The fund shall be used to defray the expenses of administering the Nebraska Apiary Act. Any money in

the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1929, c. 9, § 10, p. 81; C.S.1929, § 81-2710; R.S.1943, § 81-2,174; Laws 1965, c. 8, § 49, p. 118; Laws 1976, LB 722, § 3; Laws 1983, LB 617, § 27; Laws 1986, LB 1001, § 9; Laws 1994, LB 1071, § 12; Laws 1995, LB 7, § 101; Laws 2004, LB 835, § 7.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-2,175 Repealed. Laws 1986, LB 1001, § 13.

81-2,176 Beekeeping; inspection certificate; unlawful use; penalty.

If it is found that any certificate issued or approved by the department (1) is being used in connection with bees, queen bees, or used bee equipment (a) which have not been inspected, (b) which are infected with any infectious or contagious disease, parasite, or pest, or (c) which are being sold or delivered without the prescribed treatment being observed or other precautionary measures prescribed by the department taken by the owner or (2) is being used by persons other than the one to whom it was issued without the permission of the department, the department may revoke or withdraw such certificate. The use of such certificate issued by the department after it has been revoked and before such revocation has been withdrawn by the department shall be unlawful and shall subject the holder thereof to the penalty prescribed for a violation of the Nebraska Apiary Act. Revocation or withdrawal of approval shall be through written notice to the holder of the certificate.

Source: Laws 1929, c. 9, § 12, p. 81; C.S.1929, § 81-2712; R.S.1943, § 81-2,176; Laws 1986, LB 1001, § 10; Laws 1992, LB 366, § 50; Laws 1994, LB 1071, § 13.

81-2,177 Repealed. Laws 1979, LB 548, § 4.

81-2,177.01 Repealed. Laws 2004, LB 835, § 9.

81-2,178 Repealed. Laws 1967, c. 583, § 7.

81-2,179 Beekeeping; director; enforcement powers; county attorney or Attorney General; duties; violations; penalty.

(1) If the director has reason to believe that any person has violated any of the provisions of the Nebraska Apiary Act or any rules and regulations adopted and promulgated under the act, an order may be entered requiring such person to appear before the director and show cause why an order should not be entered requiring such person to cease and desist from the violations charged. Such order shall set forth the alleged violations, fix the time and place of the hearing, and provide for notice to be given at least twenty days before the date of such hearing. After such hearing, if the director finds such person to be in violation, the director shall enter an order requiring such person to cease and desist from the specific acts, practices, or omissions. Such order shall be a final order. Any person aggrieved may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

(2) The director may apply for a restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the Nebraska Apiary Act, the rules and regulations, or a final order of the director. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(3) It shall be the duty of the Attorney General or the county attorney of the county in which any violation occurs or is about to occur when notified by the department of a violation or a threatened violation to institute appropriate proceedings either criminal, injunctive, or both without delay.

(4) Any person violating any of the provisions of the Nebraska Apiary Act shall be guilty of a Class III misdemeanor.

Source: Laws 1929, c. 9, § 15, p. 82; C.S.1929, § 81-2715; R.S.1943, § 81-2,179; Laws 1961, c. 426, § 3, p. 1334; Laws 1965, c. 548, § 8, p. 1761; Laws 1977, LB 39, § 284; Laws 1992, LB 366, § 52; Laws 1994, LB 1071, § 15.

Cross References

Administrative Procedure Act, see section 84-920.

81-2,180 Beekeeping; liability of beekeeper for acts of agent.

Every person who by agents or representatives shall cause any act to be done in violation of the Nebraska Apiary Act shall be responsible for the acts performed by such agent or representative.

Source: Laws 1929, c. 9, § 16, p. 82; C.S.Supp.,1941, § 81-2716; R.S. 1943, § 81-2,180; Laws 1992, LB 366, § 53.

81-2,181 Honey; Department of Agriculture; adopt standard; label restrictions; violation; remedy or penalty.

(1) It is the intent of the Legislature to provide for an identity standard for packaged food products labeled as honey in order to aid consumer information and to protect the integrity of the honey industry in Nebraska.

(2) The Department of Agriculture shall adopt and promulgate rules and regulations that adopt a standard for all honeys produced by honey bees. In promulgating a standard for honey, the department may utilize as a guideline available authoritative references to the composition and grades of honey. Such rules and regulations shall be effective on or before January 1, 2012.

(3) A product shall not be labeled as honey or be labeled as to imply that the product is honey unless the product meets the standard for honey adopted by the Department of Agriculture under subsection (2) of this section.

(4) A violation of subsection (3) of this section shall constitute a deceptive trade practice under the Uniform Deceptive Trade Practices Act and shall be subject to any remedies or penalties available for a violation under the act.

Source: Laws 2011, LB114, § 1.

Cross References

Uniform Deceptive Trade Practices Act, see section 87-306.

(q) SOFT DRINKS

81-2,182 Repealed. Laws 1981, LB 487, § 62.

81-2,183 Repealed. Laws 1981, LB 487, § 62.

81-2,184 Repealed. Laws 1981, LB 487, § 62.

81-2,185 Repealed. Laws 1981, LB 487, § 62.

(r) ANTIFREEZE

81-2,186 Repealed. Laws 1981, LB 497, § 1.

81-2,187 Repealed. Laws 1981, LB 497, § 1.

81-2,188 Repealed. Laws 1981, LB 497, § 1.

81-2,189 Repealed. Laws 1981, LB 497, § 1.

81-2,190 Repealed. Laws 1981, LB 497, § 1.

81-2,191 Repealed. Laws 1981, LB 497, § 1.

81-2,192 Repealed. Laws 1981, LB 497, § 1.

81-2,193 Repealed. Laws 1981, LB 497, § 1.

81-2,194 Repealed. Laws 1981, LB 497, § 1.

81-2,195 Repealed. Laws 1981, LB 497, § 1.

81-2,196 Repealed. Laws 1981, LB 497, § 1.

81-2,197 Repealed. Laws 1981, LB 497, § 1.

(s) MOBILE HOME COURTS

81-2,198 Repealed. Laws 1959, c. 303, § 11.

81-2,199 Repealed. Laws 1959, c. 303, § 11.

81-2,200 Repealed. Laws 1959, c. 303, § 11.

81-2,201 Repealed. Laws 1959, c. 303, § 11.

81-2,202 Repealed. Laws 1959, c. 303, § 11.

81-2,203 Repealed. Laws 1959, c. 303, § 11.

81-2,204 Repealed. Laws 1959, c. 303, § 11.

81-2,205 Repealed. Laws 1959, c. 303, § 11.

81-2,206 Repealed. Laws 1959, c. 303, § 11.

81-2,207 Repealed. Laws 1959, c. 303, § 11.

81-2,208 Repealed. Laws 1959, c. 303, § 11.

81-2,209 Repealed. Laws 1959, c. 303, § 11.

81-2,210 Repealed. Laws 1959, c. 303, § 11.

(t) MEATS

81-2,211 Repealed. Laws 1969, c. 793, § 1.

81-2,212 Repealed. Laws 1969, c. 793, § 1.

81-2,213 Repealed. Laws 1969, c. 793, § 1.

81-2,214 Repealed. Laws 1969, c. 793, § 1.

81-2,215 Repealed. Laws 1969, c. 793, § 1.

81-2,216 Repealed. Laws 1969, c. 793, § 1.

(u) GRADE A MILK

81-2,217 Repealed. Laws 1980, LB 632, § 47.

81-2,218 Repealed. Laws 1980, LB 632, § 47.

81-2,219 Repealed. Laws 1980, LB 632, § 47.

81-2,220 Repealed. Laws 1980, LB 632, § 47.

81-2,221 Repealed. Laws 1980, LB 632, § 47.

81-2,222 Repealed. Laws 1980, LB 632, § 47.

81-2,223 Repealed. Laws 1980, LB 632, § 47.

81-2,224 Repealed. Laws 1980, LB 632, § 47.

81-2,225 Repealed. Laws 1980, LB 632, § 47.

81-2,226 Repealed. Laws 1980, LB 632, § 47.

81-2,227 Repealed. Laws 1980, LB 632, § 47.

81-2,228 Repealed. Laws 1980, LB 632, § 47.

81-2,229 Repealed. Laws 1980, LB 632, § 47.

81-2,230 Repealed. Laws 1980, LB 632, § 47.

81-2,231 Repealed. Laws 1980, LB 632, § 47.

81-2,232 Repealed. Laws 1980, LB 632, § 47.

(v) ORGANIC FOOD

81-2,233 Repealed. Laws 2016, LB921, § 1.

81-2,234 Repealed. Laws 2016, LB921, § 1.

81-2,235 Repealed. Laws 2016, LB921, § 1.

(w) ANIMAL DAMAGE CONTROL

81-2,236 Director; contract and cooperate with federal government; expenditure of funds.

The Director of Agriculture may contract and cooperate with the Animal and Plant Health Inspection Service of the United States Department of Agriculture in the management and control of (1) coyotes, bobcats, foxes, and other predatory animals listed in section 23-358 in this state that are injurious to livestock, poultry, and game animals and the public health, (2) black-tailed prairie dogs and other injurious commensal and field rodents, and (3) nuisance birds or other nuisance wildlife in accordance with organized and systematic plans of the Animal and Plant Health Inspection Service of the United States Department of Agriculture for the management and control of such animals. Supervision of the program shall be by the local representative of the Animal and Plant Health Inspection Service of the United States Department of Agriculture. Expenditure of funds appropriated by the Legislature may not be made without the approval in writing by the director. The director in cooperation with the Animal and Plant Health Inspection Service of the United States Department of Agriculture may enter into agreements with other governmental agencies and with counties, associations, corporations, or individuals when such cooperation is deemed to be necessary to promote the management and control of such predatory animals, black-tailed prairie dogs and other injurious commensal and field rodents, nuisance birds, or other nuisance wildlife.

Source: Laws 1965, c. 96, § 1, p. 413; Laws 1967, c. 124, § 2, p. 399; R.S.1943, (1983), § 23-609; Laws 1987, LB 102, § 6; Laws 2012, LB473, § 11.

Cross References

County animal damage control program, see sections 23-358 to 23-361.

81-2,237 Animal Damage Control Cash Fund; created; investment.

There is hereby created the Animal Damage Control Cash Fund. Such fund shall be administered by the Department of Agriculture. The fund shall consist of funds received from any source to carry out the animal damage control program pursuant to section 81-2,236. 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 1987, LB 102, § 7; Laws 1995, LB 7, § 102.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-2,238 Director; cooperation with state agencies; receipt of funds.

The Director of Agriculture may cooperate with and receive funds from other agencies or departments of the state for the purposes of section 81-2,236 and may accept from any political subdivision of the state, private association, or other source such funds, contributions, payments, gifts, or bequests as may be given or paid under contractual agreement to the department. Such funds shall be deposited in the Animal Damage Control Cash Fund.

Source: Laws 1987, LB 102, § 8.

(x) NEBRASKA PURE FOOD ACT

81-2,239 Nebraska Pure Food Act; provisions included; how cited.

Sections 81-2,239 to 81-2,292 and the provisions of the Food Code and the Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food adopted by reference in sections 81-2,257.01 and 81-2,259, shall be known and may be cited as the Nebraska Pure Food Act.

Source: Laws 1981, LB 487, § 5; Laws 1989, LB 548, § 3; R.S.Supp.,1990, § 81-216.01; Laws 1991, LB 358, § 8; Laws 1992, LB 366, § 55; Laws 1997, LB 199, § 3; Laws 1999, LB 474, § 1; Laws 2003, LB 250, § 3; Laws 2004, LB 1045, § 1; Laws 2005, LB 131, § 1; Laws 2007, LB74, § 1; Laws 2012, LB771, § 1; Laws 2016, LB798, § 1; Laws 2017, LB134, § 1; Laws 2019, LB304, § 1; Laws 2023, LB562, § 24; Laws 2024, LB262, § 28.

Operative date July 19, 2024.

81-2,240 Definitions, where found.

For purposes of the Nebraska Pure Food Act, unless the context otherwise requires, the definitions found in sections 81-2,241 to 81-2,254 shall be used. In addition, the definitions found in the code and practice adopted by reference in sections 81-2,257.01 and 81-2,259 shall be used.

Source: Laws 1981, LB 487, § 6; Laws 1989, LB 548, § 4; R.S.Supp.,1990, § 81-216.02; Laws 1991, LB 358, § 9; Laws 1992, LB 366, § 56; Laws 1997, LB 199, § 4; Laws 1999, LB 474, § 2; Laws 2004, LB 1045, § 2; Laws 2005, LB 131, § 2; Laws 2016, LB798, § 2; Laws 2017, LB134, § 2; Laws 2023, LB562, § 25; Laws 2024, LB262, § 29.

Operative date July 19, 2024.

81-2,241 Advertising, defined.

Advertising shall mean all representations disseminated in any manner, other than labeling, intended or likely to induce the purchase or use of food, including a menu.

Source: Laws 1981, LB 487, § 15; R.S.1943, (1987), § 81-216.11; Laws 1991, LB 358, § 10.

81-2,242 Bed and breakfast establishment, defined.

Bed and breakfast establishment shall mean any place of lodging that provides rented rooms to ten or fewer people, that is the personal residence of the owner, that is occupied by the owner at the time of rental, and in which the only meal served to renters is breakfast.

Source: Laws 1989, LB 548, § 2; R.S.Supp.,1990, § 81-216.39; Laws 1991, LB 358, § 11.

81-2,242.01 Caterer, defined.

Caterer shall mean a person in the business of providing food to a customer for parties, banquets, or other similar functions at a location owned, rented, or otherwise controlled by the customer.

Source: Laws 1997, LB 199, § 5.

81-2,242.02 Commissary, defined.

Commissary shall mean a food establishment where food, food containers, or food supplies are kept, handled, prepared, packaged, or stored for use in mobile food units, pushcarts, or vending machines.

Source: Laws 1997, LB 199, § 6.

81-2,242.03 Repealed. Laws 2024, LB262, § 51.

Operative date July 19, 2024.

81-2,242.04 Commercial food establishment, defined.

Commercial food establishment means an operation with a permanent sales location and such location has more than one hundred cubic feet of area containing food.

Source: Laws 2005, LB 131, § 3.

81-2,243 Department, defined.

Department shall mean the Department of Agriculture.

Source: Laws 1981, LB 487, § 12; R.S.1943, (1987), § 81-216.08; Laws 1991, LB 358, § 12.

81-2,243.01 Repealed. Laws 2020, LB835, § 10.

81-2,244 Director, defined.

Director shall mean the Director of Agriculture or his or her designated employee, representative, or authorized agent.

Source: Laws 1981, LB 487, § 13; R.S.1943, (1987), § 81-216.09; Laws 1991, LB 358, § 13.

81-2,244.01 Food Code, defined.

Food Code shall mean the 2017 Recommendations of the United States Public Health Service, Food and Drug Administration, except the definitions of adulterated food and food establishment, person in charge, regulatory authority, and sections 2-102.12, 2-102.20(B), 2-103.11(I) and (M), 3-301.11(B), (C), (D), and (E), 3-501.16, 4-301.12(C)(5), (D), and (E), 4-603.16(C), 4-802.11(C), 8-101, 8-102, 8-201.11, 8-201.12, 8-202.10 through 8-304.20, 8-401.10(B)(2), 8-402.20 through 8-403.20, 8-403.50 through 8-404.12, and 8-405.20(B). The term Food Code does not include the annexes of such federal recommendations.

Source: Laws 1997, LB 199, § 8; Laws 1999, LB 474, § 3; Laws 2003, LB 250, § 4; Laws 2007, LB74, § 2; Laws 2012, LB771, § 2; Laws 2016, LB798, § 3; Laws 2020, LB835, § 1; Laws 2024, LB262, § 30.

Operative date July 19, 2024.

81-2,245 Repealed. Laws 2024, LB262, § 51.

Operative date July 19, 2024.

81-2,245.01 Food establishment, defined.

Food establishment shall mean an operation that stores, prepares, packages, serves, sells, vends, delivers, or otherwise provides food for human consumption. The term does not include:

(1) An establishment or vending machine operation that offers only prepackaged soft drinks, carbonated or noncarbonated; canned or bottled fruit and vegetable juices; prepackaged ice; candy; chewing gum; potato or corn chips; pretzels; cheese puffs and curls; crackers; popped popcorn; nuts and edible seeds; and cookies, cakes, pies, and other pastries, that are not time/temperature control for safety foods;

(2) A produce stand that only offers whole, uncut fresh fruits and vegetables;

(3) A food processing plant;

(4) A salvage operation;

(5) A private home where food is prepared or served for personal use, a small day care in the home, or a hunting lodge, guest ranch, or other operation where no more than ten paying guests eat meals in the home;

(6) A private home or other area where food that is not time/temperature control for safety food is prepared for sale or service at a religious, charitable, or fraternal organization's bake sale or similar function;

(7) A private home where a producer of food that meets the requirements of section 81-2,280 is prepared for sale directly to the consumer including, but not limited to, at a farmers market, fair, festival, craft show, or other public event or for pick up at or delivery from such private home;

(8) A private home or other area where food is prepared for distribution at a fundraising event for a charitable purpose if the consumer is informed by a clearly visible placard at the serving location that the food was prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority. This subdivision does not apply to a caterer or other establishment providing food for the event if the caterer or establishment receives compensation for providing the food;

(9) The location where food prepared by a caterer is served so long as the caterer only minimally handles the food at the serving location;

(10) Educational institutions, health care facilities, nursing homes, and governmental organizations which are inspected by a state agency or a political subdivision other than the regulatory authority for sanitation in the food preparation areas;

(11) A pharmacy as defined in section 71-425 if the pharmacy only sells prepackaged pharmaceutical, medicinal, or health supplement foods that are not time/temperature control for safety or foods described in subdivision (1) of this section; and

(12) An establishment which is not a commercial food establishment and which sells only commercially packaged foods that are not time/temperature control for safety foods.

Source: Laws 1997, LB 199, § 9; Laws 1999, LB 474, § 4; Laws 2003, LB 250, § 5; Laws 2005, LB 131, § 4; Laws 2016, LB798, § 4; Laws 2019, LB304, § 2; Laws 2024, LB262, § 31.

Operative date July 19, 2024.

81-2,245.02 Food handling activity, defined.

Food handling activity shall mean food service, food catering, conducting retail food sales, or operating a commissary, mobile food unit, food pushcart, or food vending machine.

Source: Laws 2024, LB262, § 32.
Operative date July 19, 2024.

81-2,246 Repealed. Laws 1997, LB 199, § 63.**81-2,246.01 Repealed. Laws 2016, LB798, § 14.****81-2,247 Guidance document, defined.**

Guidance document has the same meaning as in section 84-901.

Source: Laws 2023, LB562, § 26.

81-2,248 Itinerant food vendor, defined.

Itinerant food vendor shall mean a temporary food establishment or a person that sells prepackaged, time/temperature control for safety food from an approved source at a nonpermanent location such as a farmers market, craft show, or county fair.

Source: Laws 2007, LB74, § 3; Laws 2016, LB798, § 5; Laws 2024, LB262, § 33.
Operative date July 19, 2024.

81-2,249 Repealed. Laws 1997, LB 199, § 63.**81-2,250 Limited retail food establishment, defined.**

Limited retail food establishment shall mean a food establishment where food offered to the consumer is intended for off-premises consumption and where there are no meat processing or produce processing areas.

Source: Laws 2024, LB262, § 35.
Operative date July 19, 2024.

81-2,251 Labeling, defined.

Labeling shall mean the display of written, printed, or graphic matter upon the immediate container of an article of food or which accompanies the article at the time of sale.

Source: Laws 1981, LB 487, § 14; R.S.1943, (1987), § 81-216.10; Laws 1991, LB 358, § 20.

81-2,251.01 Repealed. Laws 2024, LB262, § 51.

Operative date July 19, 2024.

81-2,251.02 Repealed. Laws 2024, LB262, § 51.

Operative date July 19, 2024.

81-2,251.03 Limited food service establishment, defined.

Limited food service establishment shall mean a food establishment that serves only alcoholic beverages or serves or otherwise provides only snack

items or commercially prepared and wrapped foods that require little or no preparation.

Source: Laws 1997, LB 199, § 12; Laws 2024, LB262, § 34.
Operative date July 19, 2024.

81-2,251.04 Mobile food unit, defined.

Mobile food unit shall mean a vehicle mounted food establishment designed to be readily movable that returns to a commissary daily for cleanup and service.

Source: Laws 1997, LB 199, § 13.

81-2,251.05 Person in charge, defined.

Person in charge shall mean the individual who is responsible for the operation of the food establishment and who is present at the establishment or is readily accessible to communicate with employees and the regulatory authority.

Source: Laws 1997, LB 199, § 14.

81-2,251.06 Pushcart, defined.

Pushcart shall mean a non-self-propelled vehicle limited to serving food which is not time/temperature control for safety or commissary wrapped food maintained at temperatures in compliance with the Nebraska Pure Food Act or limited to the preparation and serving of frankfurters.

Source: Laws 1999, LB 474, § 6; Laws 2016, LB798, § 7.

81-2,252 Regulatory authority, defined.

Regulatory authority shall mean the department or a political subdivision or state agency under contract with the department to perform regulatory functions authorized pursuant to the Nebraska Pure Food Act.

Source: Laws 1981, LB 487, § 16; R.S.1943, (1987), § 81-216.12; Laws 1991, LB 358, § 21; Laws 1999, LB 474, § 8.

81-2,253 Repealed. Laws 1997, LB 199, § 63.

81-2,253.01 Salvage operation, defined.

Salvage operation shall mean an operation which reconditions, sells, distributes, brokers, or otherwise supplies any distressed or salvaged food.

Source: Laws 1997, LB 199, § 15.

81-2,253.02 Secondary food handling activity, defined.

Secondary food handling activity shall mean operating mobile food units, food pushcarts, or food vending machines or operating any other type of food handling activity as not the primary food handling activity.

Source: Laws 2024, LB262, § 36.
Operative date July 19, 2024.

81-2,254 Single event food vendor, defined.

Single event food vendor shall mean a temporary food establishment that operates at no more than one event per calendar year for a period of no more than two days.

Source: Laws 2004, LB 1045, § 3.

81-2,254.01 Repealed. Laws 2016, LB798, § 14.

81-2,255 Repealed. Laws 1997, LB 199, § 63.

81-2,256 Repealed. Laws 1997, LB 199, § 63.

81-2,257 Priority items; priority foundation items; designation.

Priority items are designated in the Food Code and sections 81-2,272.01, 81-2,272.10, and 81-2,272.24. Priority foundation items are designated in the Food Code.

Source: Laws 1999, LB 474, § 19; Laws 2003, LB 250, § 6; Laws 2007, LB74, § 4; Laws 2012, LB771, § 3; Laws 2016, LB798, § 8; Laws 2020, LB835, § 2.

81-2,257.01 Food Code; adoption.

The Legislature hereby adopts by reference the Food Code as defined in section 81-2,244.01 as a part of the Nebraska Pure Food Act.

Source: Laws 1997, LB 199, § 17.

81-2,258 Repealed. Laws 2016, LB798, § 14.

81-2,259 Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food; adoption.

The Legislature hereby adopts by reference the Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food found in 21 C.F.R. part 110 as it existed on April 1, 2015.

Source: Laws 1999, LB 474, § 7; Laws 2012, LB771, § 4; Laws 2016, LB798, § 9.

81-2,260 Repealed. Laws 1997, LB 199, § 63.

81-2,261 Repealed. Laws 1997, LB 199, § 63.

81-2,262 Code and practice; where filed.

Copies of the code and practice adopted by reference pursuant to sections 81-2,257.01 and 81-2,259 shall be filed in the offices of the Secretary of State, Clerk of the Legislature, and department.

Source: Laws 1981, LB 487, § 24; R.S.1943, (1987), § 81-216.20; Laws 1991, LB 358, § 31; Laws 1997, LB 199, § 19; Laws 1999, LB 474, § 9; Laws 2017, LB134, § 5.

81-2,263 Inconsistencies; sections control.

If there is an inconsistency between sections 81-2,239 to 81-2,292 and any code adopted by reference, the requirements of the sections shall control.

Source: Laws 1991, LB 358, § 32; Laws 1997, LB 199, § 20; Laws 2003, LB 250, § 7; Laws 2017, LB134, § 6; Laws 2024, LB262, § 37.
Operative date July 19, 2024.

81-2,264 Repealed. Laws 1997, LB 199, § 63.

81-2,265 Repealed. Laws 1997, LB 199, § 63.

81-2,266 Repealed. Laws 1997, LB 199, § 63.

81-2,267 Food establishment, food processing plant, or salvage operation; construction, conversion, or remodeling; plans and specifications; requirements.

Prior to construction of, conversion to, or remodeling of a food establishment, food processing plant, or salvage operation, properly prepared plans and specifications for such construction, conversion, or remodeling shall be submitted to the regulatory authority for review and approval. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, construction materials of work areas, type and model of proposed fixed equipment and facilities, and description of the type of food to be served or sold. The regulatory authority shall treat such plans and specifications as confidential or trade secret information and shall approve the plans and specifications if they meet the requirements of the Nebraska Pure Food Act. No food establishment, food processing plant, or salvage operation shall be constructed, converted, or remodeled except in accordance with plans and specifications approved by the regulatory authority. This section does not apply to food establishments which are temporary food establishments.

Source: Laws 1991, LB 358, § 36; Laws 1997, LB 199, § 21; Laws 2004, LB 1045, § 4.

81-2,268 Food establishment, food processing plant, or salvage operation facilities and equipment; design and fabrication requirements.

Food establishment, food processing plant, or salvage operation facilities and equipment in use or new facilities and equipment for which contractual obligations are incurred before September 13, 1997, and which do not meet fully all the design and fabrication requirements of the Nebraska Pure Food Act shall be acceptable if they are in good repair and capable of being maintained in a sanitary condition and the food-contact surfaces are of safe materials. A food establishment, food processing plant, or salvage operation which has a change of ownership or extensive remodeling after September 13, 1997, shall comply with all applicable facility and equipment requirements of the act.

Source: Laws 1991, LB 358, § 37; Laws 1997, LB 199, § 22.

81-2,269 Repealed. Laws 1997, LB 199, § 63.

81-2,270 Food establishment, food processing plant, or salvage operation; permits; application; contents; fees; late fee; exemptions.

(1) No person shall operate without a valid permit:

(a) A food establishment conducting those food handling activities authorized by such permit;

(b) A food processing plant; or

(c) A salvage operation.

(2) Application for a permit shall be made to the director on forms prescribed and furnished by the department. Such application shall include (a) the applicant's full name and mailing address and the names and addresses of any partners, members, or corporate officers, (b) whether the applicant is an individual, partnership, limited liability company, corporation, or other legal entity, (c) the location and type of proposed establishment or operation, and (d) the signature of the applicant. Application for a permit shall be made prior to the operation of a food establishment, food processing plant, or salvage operation. The application shall be accompanied by an initial permit fee and an initial inspection fee in the same amount as the annual inspection fee if inspections are required to be done by the department. If any food establishment, food processing plant, or salvage operation is operating without a valid permit, such establishment, plant, or operation shall pay an additional fee of sixty dollars prior to the issuance of a valid permit.

(3) Payment of the initial permit fee, the initial inspection fee, and the fee for operating without a valid permit shall not preclude payment of the annual inspection fees due on August 1 of each year. Except as provided in subsections (7) through (10) of this section and subsection (2) of section 81-2,281, a permit holder shall pay annual inspection fees on or before August 1 of each year regardless of when the initial permit was obtained.

(4)(a) The director shall set the initial permit fee and the annual inspection fees on or before July 1 of each fiscal year to meet the criteria in this subsection. The director may raise or lower the fees each year, but the fees shall not exceed the maximum fees listed in subdivision (4)(b) of this section. The director shall determine the fees based on estimated annual revenue and fiscal year-end cash fund balance as follows:

(i) The estimated annual revenue shall not be greater than one hundred seven percent of program cash fund appropriations allocated for the Nebraska Pure Food Act;

(ii) The estimated fiscal year-end cash fund balance shall not be greater than seventeen percent of program cash fund appropriations allocated for the act; and

(iii) All fee increases or decreases shall be equally distributed between all categories.

(b) The maximum fees are:

Permit Type	Initial Permit Fee	Base Annual Inspection Fee	Secondary or Additional Food Preparation Area Annual Inspection Fee (per area)	Secondary Unit Or Units Annual Inspection Fee
Limited Retail Food Establishment	\$86.19	\$86.19	\$43.09	N/A

§ 81-2,270

STATE ADMINISTRATIVE DEPARTMENTS

Itinerant Food Vendor Limited Food Service Establishment	\$86.19	\$86.19	\$43.09	N/A
Mobile Food Unit (for each unit)	\$86.19	N/A	N/A	\$43.09
Pushcart (for each unit)	\$86.19	N/A	N/A	\$17.23
Vending Machine Operations:	\$86.19			
One to ten units		N/A	N/A	\$17.23
Eleven to twenty units		N/A	N/A	\$34.46
Twenty-one to thirty units		N/A	N/A	\$51.69
Thirty-one to forty units		N/A	N/A	\$68.92
Over forty units		N/A	N/A	\$86.15
Food Processing Plant	\$86.19	\$120.64	\$43.09	N/A
Salvage Operation	\$86.19	\$120.64	\$43.09	N/A
Commissary	\$86.19	\$120.64	\$43.09	N/A
All Other Food Establishments	\$86.19	\$120.64	\$43.09	N/A

(5) For a food establishment, a base inspection fee includes one food preparation area and one food handling activity based upon the primary food handling activity conducted within the food establishment as determined by the department. The annual inspection fee shall also include any fees assessed for each additional food preparation area within the primary establishment and any applicable secondary food handling activity as determined by the department. Any mobile food establishment that does not return to a commissary each day shall obtain a separate permit and pay the base inspection fee for the mobile food establishment.

(6) If a person fails to pay the inspection fee for more than one month after the fee is due, such person shall pay a late fee equal to fifty percent of the total fee for the first month that the fee is late and one hundred percent for the second month that the fee is late. The purpose of the late fee is to cover the administrative costs associated with collecting fees. All money collected as a late fee shall be remitted to the State Treasurer for credit to the Pure Food Cash Fund. If the total fees due remain unpaid ninety days after the original due date, the permit shall no longer be valid.

(7) An educational institution, health care facility, nursing home, or governmental organization operating any type of food establishment, other than a mobile food unit or pushcart, is exempt from the requirements in subsections (1) through (6) of this section.

(8) A food establishment which produces eggs and only stores, packages, sells, delivers, or otherwise provides for human consumption the eggs it produces, or only stores, packages, sells, delivers, or otherwise provides for human consumption eggs produced from no more than four producers at the same time, is exempt from the requirements of subsections (1) through (6) of this section.

(9) A food establishment or food processing plant holding a permit under the Nebraska Milk Act is exempt from the requirements of subsections (1) through (6) of this section.

(10) A single event food vendor or a religious, charitable, or fraternal organization operating any type of temporary food establishment, mobile food unit, or pushcart is exempt from the requirements of subsections (1) through (6) of this section. Any such organization operating any nontemporary food estab-

lishment prior to July 1, 1985, is exempt from the requirements of subsection (2) of this section.

(11) A permitholder may sell food prepared by the permitholder at the location of another permitholder without obtaining a separate permit at such location so long as the permitholder preparing the food is not a food processing plant. Both the permitholder preparing the food and the permitholder selling the food are responsible for compliance with the Nebraska Pure Food Act.

Source: Laws 1981, LB 487, § 25; Laws 1982, LB 547, § 15; Laws 1985, LB 460, § 9; R.S.1943, (1987), § 81-216.21; Laws 1991, LB 358, § 39; Laws 1993, LB 121, § 526; Laws 1997, LB 199, § 23; Laws 1999, LB 474, § 10; Laws 2003, LB 250, § 8; Laws 2004, LB 1045, § 5; Laws 2007, LB74, § 5; Laws 2007, LB111, § 29; Laws 2012, LB771, § 5; Laws 2017, LB134, § 7; Laws 2020, LB835, § 3; Laws 2024, LB262, § 38.
Operative date July 19, 2024.

Cross References

Nebraska Milk Act, see section 2-3965.

81-2,270.01 Eggs.

Any person who for remuneration packs and sells, offers for sale, barter, or otherwise provides eggs for human consumption shall comply with all applicable requirements set forth in rules and regulations adopted and promulgated by the department and shall establish the source of the eggs by labeling the eggs with a packer identification number assigned by the department or the United States Department of Agriculture.

Source: Laws 2017, LB134, § 8.

81-2,271 Food establishment, food processing plant, or salvage operation; permit; posting; change of ownership or location; duties; mobile food unit or pushcart; copy of permit.

(1) The permit required by section 81-2,270 shall be posted in a conspicuous manner at the food establishment, each location where food handling activity included under a permit is occurring, the food processing plant, or the salvage operation. For a food establishment that does not have a permanent location, the permit location shall be a permanent address where the permitholder may be contacted.

(2) The permit is not transferable to any other person or location. Any permit issued lapses automatically upon a change of ownership or location except as provided in subsection (3) of this section. The permitholder shall notify the department in writing at least thirty days prior to any change in ownership, name, or address. When an establishment is to be permanently closed, the permitholder shall return the permit to the department within one week after the closing.

(3) A permitholder shall provide information regarding the current location of any food handling activity included under the permitholder's permit to the regulatory authority upon request.

(4) Every mobile food unit or pushcart operator shall have a copy of the permit to operate available at the mobile food unit or pushcart when in operation.

Source: Laws 1991, LB 358, § 40; Laws 1997, LB 199, § 25; Laws 2012, LB771, § 6; Laws 2017, LB134, § 9; Laws 2024, LB262, § 39. Operative date July 19, 2024.

81-2,272 Food establishment, food processing plant, or salvage operation; inspection; denial of permit; hearing.

Before approving an application for a permit pursuant to section 81-2,270, the regulatory authority shall inspect the food establishment, food processing plant, or salvage operation to determine whether the applicant qualifies to hold a permit pursuant to subsection (1) of section 81-2,273. An applicant found to qualify to hold a permit pursuant to such subsection shall be issued a permit. An applicant who does not receive a permit shall be afforded the opportunity of a hearing to present evidence that the applicant is qualified to hold a permit pursuant to such subsection and should be issued a permit. All such hearings shall be in accordance with the Administrative Procedure Act.

Source: Laws 1991, LB 358, § 41; Laws 1997, LB 199, § 26.

Cross References

Administrative Procedure Act, see section 84-920.

81-2,272.01 Time/temperature control for safety food; temperature; equipment.

(1) Except during preparation, cooking, or cooling or when time is used as the public health control as specified under the Nebraska Pure Food Act and except as specified under subsection (2) of this section, time/temperature control for safety food shall be maintained:

(a) At one hundred thirty-five degrees Fahrenheit (fifty-seven degrees Celsius) or above, except that roasts cooked to a temperature and for a time specified in the Nebraska Pure Food Act or reheated as specified in the act may be held at a temperature of one hundred thirty degrees Fahrenheit (fifty-four degrees Celsius) or above; or

(b) At:

(i) Forty-one degrees Fahrenheit (five degrees Celsius) or less; or

(ii) Forty-five degrees Fahrenheit (seven degrees Celsius) or between forty-one degrees Fahrenheit (five degrees Celsius) and forty-five degrees Fahrenheit (seven degrees Celsius) in existing refrigeration equipment that is not capable of maintaining the food at forty-one degrees Fahrenheit (five degrees Celsius) or less if:

(A) The equipment is in place and in use in the food establishment; and

(B) Refrigeration equipment that is not capable of meeting a cold holding temperature of forty-one degrees Fahrenheit (five degrees Celsius) that is in use on March 8, 2012, shall, upon replacement of the equipment or at a change of ownership of the food establishment, be replaced with equipment that is capable of maintaining foods at forty-one degrees Fahrenheit (five degrees Celsius) or below.

(2) Eggs that have not been treated to destroy all viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit (seven degrees Celsius) or less.

(3) Time/temperature control for safety food in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under subsection (1) of this section, while contained within specially designed equipment that complies with the design and construction requirements as specified in the act.

Source: Laws 2012, LB771, § 7; Laws 2016, LB798, § 10.

81-2,272.02 Repealed. Laws 2012, LB 771, § 10.

81-2,272.03 Repealed. Laws 2007, LB 74, § 12.

81-2,272.04 Repealed. Laws 2007, LB 74, § 12.

81-2,272.05 Repealed. Laws 2007, LB 74, § 12.

81-2,272.06 Repealed. Laws 2007, LB 74, § 12.

81-2,272.07 Repealed. Laws 2003, LB 250, § 29.

81-2,272.08 Repealed. Laws 2003, LB 250, § 29.

81-2,272.09 Repealed. Laws 2003, LB 250, § 29.

81-2,272.10 Food employees; hand washing; food contact; restrictions.

(1) Food employees shall wash their hands as specified in the Nebraska Pure Food Act.

(2) Food employees shall be trained to wash their hands as specified in the act.

(3) Except when washing fruits and vegetables, food employees shall minimize bare hand and arm contact with exposed food. This may be accomplished with the use of suitable utensils such as deli tissues, spatulas, tongs, single-use gloves, or dispensing equipment.

(4) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if they have washed their hands as specified in the act prior to handling the food.

Source: Laws 1997, LB 199, § 35; Laws 2003, LB 250, § 9; Laws 2007, LB74, § 6.

81-2,272.11 Repealed. Laws 2003, LB 250, § 29.

81-2,272.12 Repealed. Laws 2003, LB 250, § 29.

81-2,272.13 Repealed. Laws 2003, LB 250, § 29.

81-2,272.14 Repealed. Laws 2007, LB 74, § 12.

81-2,272.15 Repealed. Laws 2007, LB 74, § 12.

81-2,272.16 Repealed. Laws 2007, LB 74, § 12.

81-2,272.17 Repealed. Laws 2012, LB 771, § 10.

81-2,272.18 Repealed. Laws 2003, LB 250, § 29.

81-2,272.19 Repealed. Laws 2007, LB 74, § 12.

81-2,272.20 Repealed. Laws 2007, LB 74, § 12.

81-2,272.21 Repealed. Laws 2007, LB 74, § 12.

81-2,272.22 Repealed. Laws 2007, LB 74, § 12.

81-2,272.23 Repealed. Laws 2007, LB 74, § 12.

81-2,272.24 Time/temperature control for safety food; date marking; sale, consumption, or discard requirements.

In addition to the provisions of sections 3-501.17 and 3-501.18 of the Food Code which apply to food held at a temperature of forty-one degrees Fahrenheit (five degrees Celsius) or below, food held in refrigeration between forty-five degrees Fahrenheit (seven degrees Celsius) and forty-one degrees Fahrenheit (five degrees Celsius) shall meet the following requirements:

(1) Except when packaging food using a reduced oxygen packaging method as specified in section 3-502.12 of the Food Code and except as specified in section 3-501.17 of the Food Code, refrigerated, ready-to-eat, time/temperature control for safety food prepared and held in a food establishment for more than twenty-four hours shall be clearly marked to indicate the date of preparation. The food shall be sold, consumed on the premises, or discarded within four calendar days or less;

(2) Except as specified in section 3-501.17 of the Food Code, refrigerated, ready-to-eat, time/temperature control for safety food prepared and packaged by a food processing plant and held refrigerated at such food establishment, shall be clearly marked, at the time the original container is opened in a food establishment, to indicate the date the food container was opened. The food shall be sold, consumed on the premises, or discarded within four calendar days or less; and

(3) A food specified under this section shall be discarded if such food:

(a) Exceeds the temperature and time combinations specified in subdivision (1) of this section, except time that the food is frozen;

(b) Is in a container or package that does not bear a date or day;

(c) Is appropriately marked with a date or day that exceeds the temperature and time combination as specified in subdivision (1) of this section; or

(d) Is prepared in a food establishment and dispensed through a vending machine with an automatic shut-off control if it exceeds the temperature and time combination as specified in subdivision (1) of this section.

Source: Laws 1997, LB 199, § 49; Laws 1999, LB 474, § 14; Laws 2003, LB 250, § 15; Laws 2007, LB74, § 8; Laws 2016, LB798, § 11.

81-2,272.25 Repealed. Laws 2016, LB798, § 14.

81-2,272.26 Repealed. Laws 2007, LB 74, § 12.

81-2,272.27 Repealed. Laws 2016, LB798, § 14.

81-2,272.28 Repealed. Laws 2007, LB 74, § 12.

81-2,272.29 Repealed. Laws 2007, LB 74, § 12.

81-2,272.30 Repealed. Laws 2007, LB 74, § 12.

81-2,272.31 Repealed. Laws 2024, LB262, § 51.
Operative date July 19, 2024.

81-2,272.32 Food employee; fingernail requirements.

(1) Except as provided under subsection (2) of this section, a food employee shall keep his or her fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough. Unless wearing intact gloves in good condition, a food employee shall not wear fingernail polish or artificial fingernails when working with exposed food.

(2) This section does not apply to a food employee such as a counter staff person who only serves beverages and wrapped or packaged foods, a host staff person, or a wait staff person if he or she presents a minimal risk of contaminating exposed food, clean equipment, utensils, and linens, and unwrapped single-service and single-use articles.

Source: Laws 2003, LB 250, § 22.

81-2,272.33 Repealed. Laws 2007, LB 74, § 12.

81-2,272.34 Repealed. Laws 2016, LB798, § 14.

81-2,272.35 Repealed. Laws 2007, LB 74, § 12.

81-2,272.36 Repealed. Laws 2012, LB 771, § 10.

81-2,272.37 Repealed. Laws 2007, LB 74, § 12.

81-2,273 Permitholder; duties; disciplinary action; effect; hearing; reinstatement of permit.

(1) A holder of a permit issued under the Nebraska Pure Food Act shall comply with the act, the rules and regulations adopted pursuant thereto, and any order of the director issued pursuant thereto. The permitholder shall not interfere with the department in the performance of its duties.

(2) A permitholder may be put on probation requiring such person to comply with the conditions set out in an order of probation issued by the director after: (a) The director determines the permitholder has not complied with subsection (1) of this section; (b) the permitholder is given written notice to comply and written notice of the right to a hearing to show cause why an order of probation should not be issued; and (c) the director finds that issuing an order of probation is appropriate based on the hearing record or on the available information if the hearing is waived by the permitholder.

(3) A permit may be suspended after: (a) The director determines the permitholder has not complied with subsection (1) of this section; (b) the permitholder is given written notice to comply and written notice of the right to a hearing to show cause why the permit should not be suspended; and (c) the director finds that issuing an order suspending the permit is appropriate based on the hearing record or on the available information if the hearing is waived by the permitholder.

(4) A permit may be immediately suspended and the director may order the permitholder's food establishment, food processing plant, or salvage operation closed prior to hearing when: (a) The director determines an immediate danger to the public health, safety, or welfare exists in or is caused by the permitholder's food establishment, food processing plant, or salvage operation; and (b) the permitholder receives the written notice to comply and written notice of the right to a hearing to show cause why the suspension should not be sustained. Within fifteen days after the suspension, the permitholder may request, in writing, a date for a hearing and the director shall consider the interests of the permitholder when the director establishes the date and time of the hearing, except that no hearing shall be held sooner than is reasonable under the circumstances. When a permitholder does not request a hearing date within such fifteen-day period, the director shall establish a hearing date and shall notify the permitholder of the date and time of such hearing.

(5) A permit may be revoked after: (a) The director determines the permitholder has committed serious, repeated, or multiple violations of any of the requirements of subsection (1) of this section; (b) the permitholder is given written notice to comply and written notice of the right to a hearing to show cause why the permit should not be revoked; and (c) the director finds that issuing an order revoking the permit is appropriate based on the hearing record or on the available information if the hearing is waived by the permitholder.

(6) Any food establishment, food processing plant, or salvage operation for which the permit has been suspended shall close and remain closed until the permit is reinstated. Any food establishment, food processing plant, or salvage operation for which the permit has been revoked shall close and remain closed until a new permit is issued.

(7) The director may terminate proceedings to suspend or revoke a permit or to subject a permitholder to an order of probation at any time if the reasons for such proceedings no longer exist. A permit which has been suspended may be reinstated, a person with a revoked permit may be issued a new permit, or a permitholder may no longer be subject to an order of probation if the director determines the conditions which prompted the suspension, revocation, or probation no longer exist.

(8) Proceedings for suspension, revocation, or probation shall not preclude the department from pursuing other civil or criminal actions.

Source: Laws 1991, LB 358, § 42; Laws 1997, LB 199, § 55.

81-2,274 Notice or order; service; contents; hearings; procedure.

(1) Any notice or order provided for in the Nebraska Pure Food Act shall be personally served on the permitholder or on the person authorized by the permitholder to receive notices and orders of the department or shall be sent by certified mail, return receipt requested, to the last-known address of the permitholder or the person authorized to receive such notices and orders. A copy of the notice and the order shall be filed in the records of the department.

(2) A notice to comply provided for in section 81-2,273 shall set forth the acts or omissions with which the permitholder is charged.

(3) A notice of the permitholder's right to a hearing provided for in the act shall set forth the time and place of the hearing except as provided in subsection (4) of section 81-2,273. A notice of the permitholder's right to such

hearing shall include notice that a permitholder's right to a hearing may be waived pursuant to subsection (5) of this section. A notice of the permitholder's right to a hearing to show cause why the permit should not be revoked shall include notice to the permitholder that the permit may be revoked or suspended, that the permitholder may be subject to an order of probation, or that the permit may be suspended and the permitholder subject to an order of probation, if the director determines such action is more appropriate. A notice of the permitholder's right to a hearing to show cause why the permit should not be suspended shall include notice to the permitholder that the permit may be suspended or that the permitholder may also be subject to an order of probation if the director determines such action is more appropriate.

(4) The hearings provided for in the act shall be conducted by the director at the time and place he or she designates. The director shall make a final finding based upon the complete hearing record and issue an order. If the director has suspended a permit pursuant to subsection (4) of section 81-2,273, the director shall sustain, modify, or rescind the order. All hearings shall be in accordance with the Administrative Procedure Act.

(5) A permitholder shall be deemed to waive the right to a hearing if such permitholder does not come to the hearing at the time and place set forth in the notice described in subsection (3) of this section without requesting the director at least two days before the designated time to change the time and place for the hearing, except that before an order of the director becomes final, the director may designate a different time and place for the hearing if the permitholder shows the director that the permitholder had a justifiable reason for not coming to the hearing and not timely requesting a change in the time and place for such hearing. If the permitholder waives the right to a hearing, the director shall make a final finding based upon the available information and issue an order. If the director has suspended a permit pursuant to subsection (4) of section 81-2,273, the director shall sustain, modify, or rescind the order.

(6) Any person aggrieved by the finding of the director shall have ten days from the entry of the director's order to request a new hearing if such person can show that a mistake of fact has been made which affected the director's determination. Any order of the director shall become final upon the expiration of ten days after its entry if no request for a new hearing is made.

Source: Laws 1991, LB 358, § 43.

Cross References

Administrative Procedure Act, see section 84-920.

81-2,275 Food establishment, food processing plant, or salvage operation; unlawful operation.

It is unlawful for a person to operate a food establishment, food processing plant, or salvage operation in any manner which is not in conformity with the Nebraska Pure Food Act or the rules and regulations adopted and promulgated pursuant thereto or to interfere with the duties of the department or any final order of the director pursuant to such act.

Source: Laws 1991, LB 358, § 44; Laws 1997, LB 199, § 56.

81-2,276 Food establishment, food processing plant, or salvage operation regulation.

It is the responsibility of the department to regulate the operation of food establishments, food processing plants, and salvage operations in the manner set out in the Nebraska Pure Food Act.

Source: Laws 1981, LB 487, § 26; R.S.1943, (1987), § 81-216.22; Laws 1991, LB 358, § 45; Laws 1997, LB 199, § 57.

81-2,277 Food processing plants and salvage operations; compliance required.

Food processing plants and salvage operations shall comply with the federal Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food adopted in section 81-2,259.

Source: Laws 1999, LB 474, § 15; Laws 2012, LB771, § 8; Laws 2016, LB798, § 12.

81-2,278 Mobile food establishment operators; guidance document.

The department shall develop and make available to the public a guidance document for mobile food establishment operators. The guidance document shall describe food establishment permit requirements applicable to mobile food establishments, including permit requirements applicable to reciprocity agreements between participating regulatory authorities under section 81-2,278.01.

Source: Laws 2023, LB562, § 29.

81-2,278.01 Mobile food establishment; political subdivision; local licensing reciprocity; report.

(1) A political subdivision acting as a regulatory authority may enter into an agreement under the Interlocal Cooperation Act with other public agencies to grant and provide reciprocity for local licensing of mobile food establishments for purposes of regulating food safety and handling.

(2) On or before December 1, 2023, a political subdivision acting as a regulatory authority that is eligible to participate in an agreement under this section shall submit a report electronically to the Legislature. Such report shall contain the following information:

(a) A description of any reciprocity agreement entered into pursuant to this section; or

(b) If a reciprocity agreement has not been entered into pursuant to this section, a summary of actions taken to develop such an agreement and a description of any impediments to such an agreement.

Source: Laws 2023, LB562, § 27.

Cross References

Interlocal Cooperation Act, see section 13-801.

81-2,279 Mobile Food Establishment Ordinance Registry; department; powers and duties; city of the first class or city of the second class; requirements.

(1) For purposes of this section, city means a city of the first class or a city of the second class.

(2) The department shall establish and maintain the Mobile Food Establishment Ordinance Registry. The registry shall be made available for review by the

public on the department's website. The purpose of the registry is to record in a central location the municipal ordinances used to regulate mobile food establishments.

(3) Each city shall participate in the registry. Except as provided in subsection (4) of this section, each city shall provide the department with the following information for the registry:

(a) The name and address of each person responsible for regulating mobile food establishment operations;

(b) A sample copy of any form that is required to be submitted in order for the mobile food establishment to operate in the city;

(c) A complete electronic record of the ordinances used to regulate mobile food establishments; and

(d) Any other information the department deems necessary.

(4) Any city that does not regulate the operation of mobile food establishments in any way shall submit to the department for publication on the registry a written statement confirming that the city does not regulate the operation of mobile food establishments.

(5) To ensure an accurate and updated registry, each city shall:

(a) Upon a request by the department, make available to the department all information required pursuant to this section; and

(b) Beginning in 2023, by December 31 of each calendar year notify the department of any new or modified ordinance adopted within such calendar year regulating mobile food establishments.

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

Source: Laws 2023, LB562, § 28.

81-2,280 Producer of food at private home; requirements; registration; contents.

(1) A producer of food at a private home as described in subdivision (7) of section 81-2,245.01 shall meet the requirements of this section.

(2) Such producer shall only provide food that is not adulterated and is not any of the following types of time/temperature control for safety food:

(a) Any part of an animal, vertebrate or invertebrate, or animal by-product;

(b) Fluid milk or milk products as defined in the Grade A Pasteurized Milk Ordinance adopted by reference in the Nebraska Milk Act;

(c) Raw eggs;

(d) Unpasteurized juice;

(e) Infused oils or honey;

(f) Sprouts;

(g) Low-acid canned food and hermetically sealed acidified food;

(h) Tofu, tempeh, or similar meat substitutes; or

(i) Kimchi, kombucha, or similar fermented foods.

(3) Prior to conducting any food sales, the producer, other than a producer selling food that is not time/temperature control for safety food directly to the consumer at a farmers market, shall successfully complete:

(a) A nationally accredited food safety and handling education course that covers topics such as food safety issues, regulations, and techniques to maintain a food-safe environment;

(b) A certified food safety and handling training course offered at a culinary school or as required by a county, city, or village to obtain a food handler permit; or

(c) A food safety and handling education course approved by the department.

(4) The producer shall register with the department prior to conducting any sales of food. The registration shall be made on forms prescribed by the department and include (a) the name, address, and telephone number of the producer, (b) the type of food safety and handling education or training course taken pursuant to subsection (3) of this section and the date of its successful completion, and (c) proof of private well water testing for contamination by nitrate or bacteria if the producer uses private well water. This subsection shall not apply to a producer of food that is not time/temperature control for safety food selling directly to the consumer at a farmers market.

(5)(a) The producer shall inform the consumer by a clearly visible notification that the food:

(i) Was prepared in a kitchen that is not subject to regulation and inspection by a regulatory authority; and

(ii) May contain allergens.

(b) For sales conducted at a farmers market, fair, festival, craft show, or other public event, such notification shall be provided at the sale location.

(c) For sales conducted for pickup or delivery, such notification shall be provided at the producer's private home, on the producer's website, if such website exists, and in any print, radio, television, or Internet advertisement for such sales.

(6) The producer shall label the food so that the name and address of the producer is provided to the consumer on the package or container label. Food that is time/temperature control for safety food shall also have labeling that includes ingredients in descending order of predominance.

(7)(a) Food that is not time/temperature control for safety food may be delivered by United States mail or a commercial mail delivery service.

(b) Food that is time/temperature control for safety food shall be delivered only by the producer to the consumer in person. When transported, such food shall be maintained at a temperature in accordance with the Nebraska Pure Food Act and not be transported for longer than two hours.

(8) The provisions of this section supersede and preempt any ordinance, rule, regulation, or resolution regulating food safety and handling adopted or enacted by a political subdivision that is not in conformance with this section.

Source: Laws 2019, LB304, § 3; Laws 2024, LB262, § 40.

Operative date July 19, 2024.

Cross References

Nebraska Milk Act, see section 2-3965.

81-2,281 Department; enforce act; powers; contract for conduct of certain regulatory functions; exemption from inspection fee; inspections; how conducted; by whom.

(1) The department shall enforce the Nebraska Pure Food Act and any rule or regulation adopted and promulgated pursuant to such act. The department may:

(a) Enter at reasonable times and in a reasonable manner, without being subject to any action for trespass or damages if reasonable care is exercised, any food establishment, food processing plant, or salvage operation to inspect all food, structures, vehicles, equipment, packing materials, containers, records, and labels on such property. The department may inspect and examine all records and property relating to compliance with the Nebraska Pure Food Act. Such records and property shall be made available to the department for review at all reasonable times;

(b) In a reasonable manner, hold for inspection and take samples of any food which may not be in compliance with the Nebraska Pure Food Act;

(c) Inspect at any time or place food that is being shipped into or through the state and take any enforcement action authorized under the Nebraska Pure Food Act; and

(d) Obtain an inspection warrant in the manner prescribed in sections 29-830 to 29-835 from a court of record if any person refuses to allow the department to inspect pursuant to this subsection.

(2) In addition to its authority provided in subsection (1) of this section, the department may contract with any political subdivision or state agency it deems qualified to conduct any or all regulatory functions authorized pursuant to the act except those functions relating to the issuance, suspension, or revocation of permits or any order of probation. Holders of permits issued pursuant to the act who are regularly inspected by political subdivisions under contract with the department shall be exempt from the inspection fees prescribed in section 81-2,270 if such holders pay license or inspection fees to the political subdivision performing the inspections.

(3) It shall be the responsibility of the regulatory authority to inspect food establishments and food processing plants as often as required by the act. An inspection of a salvage operation shall be performed at least once every three hundred sixty-five days of operation. Additional inspections shall be performed as often as is necessary for the efficient and effective enforcement of the act.

(4) All inspections conducted pursuant to the act shall be performed by persons who (a) meet the requirements of section 8-402.10 of the Food Code and, within thirty-six months after being hired to conduct such inspections, pass a certified professional food safety credential examination approved by the department that meets the requirements of Option 2 of Standard 2, Trained Regulatory Staff, of the 2022 United States Food and Drug Administration's Voluntary National Retail Food Regulatory Program Standards or (b) are provisional environmental health specialists or registered environmental health specialists as defined in section 38-1305 or 38-1306.

(5) Duly authorized personnel of the regulatory authority after showing proper identification shall have access at all reasonable times to food establishments, food processing plants, or salvage operations required by the act to obtain a permit to perform authorized regulatory functions. Such functions shall include, but not be limited to, inspections, checking records maintained in the establishment or other locations to obtain information pertaining to food and supplies purchased, received, used, sold, or distributed, copying and photographing violative conditions, and examining and sampling food. When

samples are taken, the inspectors shall pay or offer to pay for samples taken. The authorized personnel shall also have access to the records of salvage operations pertaining to distressed salvageable and salvaged merchandise purchased, received, used, sold, or distributed.

(6) Regulatory activities performed by a political subdivision or state agency under contract shall conform with the provisions of the act and such activities shall have the same effect as those performed by the department. Any interference with the regulatory authority's duty to inspect shall be an interference with the department's duties for the purposes of section 81-2,273.

Source: Laws 1981, LB 487, § 31; Laws 1991, LB 703, § 66; R.S.1943, (1987), § 81-216.27; Laws 1991, LB 358, § 50; Laws 1997, LB 199, § 58; Laws 1999, LB 474, § 16; Laws 2007, LB463, § 1311; Laws 2017, LB134, § 11; Laws 2024, LB262, § 41.
Operative date July 19, 2024.

81-2,282 Adulteration of food; prohibited; adulteration, defined.

(1) It shall be unlawful for any person to adulterate any food or for any person to manufacture, distribute, offer for sale, or sell any adulterated food.

(2) Food shall be deemed to be adulterated if:

(a) It bears or contains any substance which may render it injurious to health, considering the quantity of such substance in or on the food;

(b) It consists in whole or in part of any diseased, contaminated, filthy, putrid, or decomposed substance or is otherwise unsafe for use as food;

(c) It has been manufactured, processed, packaged, stored, or held under insanitary conditions where it may have become unsafe for use as food;

(d) It is the product of a diseased animal or one that has died by any means other than slaughter;

(e) Its container is so constructed as to render the food unsafe or otherwise injurious to health; or

(f) Any valuable constituent of the food has been wholly or partially omitted or abstracted.

Source: Laws 1981, LB 487, § 32; R.S.1943, (1987), § 81-216.28; Laws 1991, LB 358, § 51.

81-2,283 Misbranded food; prohibited; misbranded, defined.

(1) It shall be unlawful for any person to misbrand any food or distribute, offer for sale, or sell any misbranded food.

(2) A food shall be deemed to be misbranded if:

(a) It does not bear labeling clearly stating (i) the identity of the food in terms likely to be easily and accurately understood by the consumer, (ii) the net quantity of contents of the food in terms authorized under the Weights and Measures Act, and (iii) the name and address of the manufacturer, distributor, or seller of the food; or

(b) Its labeling is false or misleading in any manner.

Source: Laws 1981, LB 487, § 33; Laws 1991, LB 356, § 3; R.S.1943, (1987), § 81-216.29; Laws 1991, LB 358, § 52.

Cross References

Weights and Measures Act, see section 89-182.01.

81-2,284 Deceptive packaging of food; prohibited; deceptively packed or packaged, defined.

(1) It shall be unlawful for any person to deceptively pack or package any food or for any person to distribute, offer for sale, or sell any food that has been deceptively packed or packaged.

(2) A food shall be deemed to be deceptively packed or packaged if:

(a) Any substance has been added to, mixed with, or packed with the food so as to increase its bulk or weight, reduce its quality or strength, or make it appear to be better or of greater value than it actually is; or

(b) Any inferiority or damage to the food has been concealed in any manner.

Source: Laws 1981, LB 487, § 34; Laws 1991, LB 356, § 4; R.S.1943, (1987), § 81-216.30; Laws 1991, LB 358, § 53; Laws 1997, LB 199, § 59.

81-2,285 False advertisement regarding food; prohibited; false advertisement, defined.

(1) It shall be unlawful for any person engaged in the sale, merchandising, or distribution of food to cause, with intent to deceive, the dissemination of a false advertisement regarding a food.

(2) An advertisement of a food shall be deemed to be false if it is false or misleading in any manner, including the following:

(a) The advertising of food as that of another;

(b) The advertising of food in a manner causing the likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of such food;

(c) The advertising of food in a manner causing the likelihood of confusion or misunderstanding as to affiliation, connection, or association with or certification by another;

(d) The advertisement of food by use of deceptive representations or deceptive designation of geographic origin in connection with such food;

(e) The advertisement of food by way of representations that the food has sponsorship, approval, characteristics, ingredients, benefits, uses, or qualities that it does not have or that a person or company has a sponsorship, approval status, affiliation, or connection that he, she, or it does not have;

(f) The advertisement of food by way of a representation that the food is of a particular standard, quality, or grade when it is not;

(g) The advertisement of food by disparaging the food of another by false or misleading representations of fact;

(h) The advertisement of food with an intent not to sell it as advertised or an intent to sell an alternative food in substitution for the advertised food;

(i) The advertisement of food with the intent not to supply a reasonably expectable public demand unless the advertisement imposes a limitation of quantity; or

(j) The advertisement of food by making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions.

Source: Laws 1981, LB 487, § 35; Laws 1982, LB 547, § 16; R.S.1943, (1987), § 81-216.31; Laws 1991, LB 358, § 54.

81-2,286 Regulatory authority; determination of violations; use of federal regulations; when.

In determining whether food is being manufactured, processed, transported, distributed, offered for sale, or sold in violation of the adulteration, misbranding, deceptive packaging, or false advertising provisions of sections 81-2,282 to 81-2,285 or any other requirement of the Nebraska Pure Food Act which affects such food, the regulatory authority may utilize the appropriate definitions, standards, tolerances, standards of identity, standards of quality, or standards of fill of containers set out in the duly promulgated federal regulations applicable to food and food products if the regulatory authority finds that such federal regulations will adequately protect against the adulteration, misbranding, deceptive packaging, and false advertising of foods.

Source: Laws 1981, LB 487, § 36; R.S.1943, (1987), § 81-216.32; Laws 1991, LB 358, § 55.

81-2,287 Regulatory authority; enforcement; issue stop-sale, stop-use, removal orders; procedure.

If a regulatory authority finds that food is being manufactured, processed, distributed, offered for sale, or sold in violation of the adulteration, misbranding, deceptive packaging, or false advertising provisions of sections 81-2,282 to 81-2,285 or any other requirement of the Nebraska Pure Food Act which affects such food, such regulatory authority may issue and enforce a written or printed stop-sale, stop-use, or removal order to the person in charge of such food if the issuance of such an order is necessary for the protection of the public health, safety, or welfare. No food subject to any such order shall be used, sold, or moved without permission from the regulatory authority. Such an order shall specifically describe the nature of the violation found and the precise actions needed to be taken to bring the food into compliance with the applicable provisions of the act. Such order shall clearly advise the person in charge of the food that he or she may request an immediate hearing before the director or his or her designee on the matter. No such order may direct the involuntary and immediate disposal or destruction of any food until the person in charge of such food has been afforded an opportunity to be heard on the matter and an opportunity to appeal any order of the director or his or her designee from such a hearing in accordance with the Administrative Procedure Act. The regulatory authority may issue a stop-sale, stop-use, or removal order against articles of food that are perishable, even if the practical result of such an order is to bring about the involuntary disposal of such food, when, in the opinion of the person issuing the order, no alternative course of action would sufficiently protect the public health, safety, or welfare under the circumstances.

Source: Laws 1981, LB 487, § 37; Laws 1988, LB 352, § 165; R.S.Supp.,1990, § 81-216.33; Laws 1991, LB 358, § 56.

Cross References

Administrative Procedure Act, see section 84-920.

81-2,288 Department; adopt rules and regulations; contracts with federal agencies authorized; exemptions from act.

(1) The department may adopt and promulgate rules and regulations to aid in the administration and enforcement of the Nebraska Pure Food Act.

(2) The department may adopt and promulgate rules and regulations to provide for source labeling on eggs which are packaged. The department may establish standards, grades, and weight classes for eggs.

(3) The department may contract with agencies of the federal government for the performance by the department of inspections and other regulatory functions at food establishments, food processing plants, or salvage operations within the state which are subject to federal jurisdiction and may receive federal funds for work performed under such contracts.

(4) Except as provided in subsection (3) of this section, the provisions of the act shall not apply to establishments or specific portions of establishments regularly inspected for proper sanitation by an agency of the federal government.

Source: Laws 1981, LB 487, § 38; R.S.1943, (1987), § 81-216.34; Laws 1991, LB 358, § 57; Laws 1997, LB 199, § 60; Laws 2017, LB134, § 12.

81-2,288.01 Regulatory authority; inspection reporting requirements.

(1) The regulatory authority shall document on an inspection report form:

(a) Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation, inspection date, status of the permit, and personnel certificates that may be required;

(b) Specific factual observations of violative conditions, omissions, or other deviations from the requirements of the Nebraska Pure Food Act that require correction by the permit holder; and

(c) Whether the violations listed are priority items, priority foundation items, or repeated.

(2) The regulatory authority shall specify on the inspection report form the timeframe for correction of the violations as specified in the Nebraska Pure Food Act.

(3) All procedures and requirements related to the inspection of food establishments in the act apply to food processing plants and salvage operations.

(4) The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

Source: Laws 1997, LB 199, § 61; Laws 1999, LB 474, § 17; Laws 2020, LB835, § 4.

81-2,288.02 Regulatory authority; inspection intervals.

The regulatory authority may increase the interval between inspections beyond six months if the food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction.

Source: Laws 1999, LB 474, § 18.

81-2,289 Restraining orders and injunctions; department; county attorney; duties.

(1) The department may apply for a restraining order or a temporary or permanent injunction against any person violating or threatening to violate the Nebraska Pure Food Act, the rules and regulations adopted pursuant to the act, or a final order of the director. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(2) It shall be the duty of the county attorney of the county in which any violation of the act occurs or is about to occur, when notified of such violation or threatened violation by the department, to cause appropriate proceedings under subsection (1) of this section to be instituted and pursued in the district court without delay.

Source: Laws 1981, LB 487, § 39; R.S.1943, (1987), § 81-216.35; Laws 1991, LB 358, § 58.

81-2,290 Violations; penalty; county attorney; duties.

(1) Any person violating any provision of the Nebraska Pure Food Act, the rules and regulations adopted pursuant to the act, or a final order of the director shall be guilty of a Class IV misdemeanor notwithstanding the existence of any other remedy at law.

(2) It shall be the duty of the county attorney of the county in which any violation of the Nebraska Pure Food Act occurs or is about to occur, when notified of such violation by the department, to cause appropriate proceedings under subsection (1) of this section to be instituted and pursued in a court of competent jurisdiction.

Source: Laws 1981, LB 487, § 40; R.S.1943, (1987), § 81-216.36; Laws 1991, LB 358, § 59.

81-2,291 Pure Food Cash Fund; created; use; investment.

All fees paid to the department in accordance with the Nebraska Pure Food Act shall be remitted to the State Treasurer. The State Treasurer shall credit the fees to the Pure Food Cash Fund, which fund is hereby created. All money credited to such fund shall be appropriated to the uses of the department to aid in defraying the expenses of administering the act, except that transfers may be made from the fund to the General Fund at the direction of the Legislature.

Any money in the Pure Food 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 1981, LB 487, § 41; R.S.1943, (1987), § 81-216.37; Laws 1991, LB 358, § 60; Laws 1994, LB 1066, § 98; Laws 2009, First Spec. Sess., LB3, § 64.

Cross References

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

81-2,292 Bed and breakfast establishments; exempt from act.

The Nebraska Pure Food Act shall not apply to bed and breakfast establishments.

Source: Laws 1989, LB 548, § 1; R.S.Supp.,1990, § 81-216.38; Laws 1991, LB 358, § 61.

(y) LABORATORY TESTING SERVICES

81-2,293 Laboratory testing services; system of billing; Agricultural Laboratory Testing Services Cash Fund; created; use; investment.

(1) The Department of Agriculture may contract with the following entities to perform laboratory testing services for such entities: Any agency, board, commission, or political subdivision of this or another state, another state, the federal government, or an association which includes members that are governmental entities. Laboratory testing services authorized by this section shall not be performed beyond the scope of the Department of Agriculture's statutory authority and shall be limited to one or more of the following: (a) Acts of terrorism, natural disaster, or other public health or agricultural emergency; (b) testing performed in accordance with intergovernmental agreements for laboratory testing services; and (c) testing performed in connection with validation studies for analytical techniques and methods developed by entities whose function is establishing or approving official laboratory analytical standards. Every department contract to perform laboratory testing services shall include provisions clearly stating that the State of Nebraska shall not be liable to any party to the contract or to any third person for negligence of the department in analyzing samples or in publishing testing findings that result in injury to persons or damage to property.

(2) The department shall develop an equitable system of billing and charges for the laboratory testing services. Such charges shall reflect, as nearly as practicable, the actual costs incurred in performing the services.

(3) The Agricultural Laboratory Testing Services Cash Fund is created. All gifts and grants relating to this section from any source, including federal, state, public, or private sources, and charges collected for laboratory testing services shall be remitted to the State Treasurer for credit to the fund. The department shall use the fund to carry out this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2005, LB 51, § 2.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(z) ZONING

81-2,294 Conditional use permit or special exception application; department; develop assessment matrix; criteria; committee; advise department; use.

(1) The Director of Agriculture shall appoint a committee of experts, not to exceed ten persons, to advise the Department of Agriculture on the development of the assessment matrix described in subsection (2) of this section. Experts shall include representation from county board members, county

zoning administrators, livestock production agriculture, the University of Nebraska, and other experts as may be determined by the director. The committee shall review the matrix annually and recommend to the department changes as needed.

(2) The Department of Agriculture shall, in consultation with the committee created under subsection (1) of this section, develop an assessment matrix which may be used by county officials to determine whether to approve or disapprove a conditional use permit or special exception application. The matrix shall be developed within one year after August 30, 2015. In the development of the assessment matrix, the department shall:

(a) Consider matrices already developed by the counties and other states;

(b) Design the matrix to produce quantifiable results based on the scoring of objective criteria according to an established value scale. Each criterion shall be assigned points corresponding to the value scale. The matrix shall consider risks and factors mitigating risks if the livestock operation were constructed according to the application;

(c) Assure the matrix is a practical tool for use by persons when completing permit applications and by county officials when scoring conditional use permit or special exception applications. To every extent feasible, the matrix shall include criteria that may be readily scored according to ascertainable data and upon which reasonable persons familiar with the location of a proposed construction site would not ordinarily disagree; and

(d) Provide for definite point selections for all criteria included in the matrix and provide for a minimum threshold total score required to receive approval by county officials.

(3) The Department of Agriculture may develop criteria in the matrix which include factors referencing the following:

(a) Size of operation;

(b) Type of operation;

(c) Whether the operation has received or is in the process of applying for a permit from the Department of Environment and Energy, if required by law;

(d) Environmental practices adopted by the operation operator which may exceed those required by the Department of Environment and Energy;

(e) Odor control practices;

(f) Consideration of proximity of a livestock operation to neighboring residences, public use areas, and critical public areas;

(g) Community support and communication with neighbors and other community members;

(h) Manure storage and land application sites and practices;

(i) Traffic;

(j) Economic impact to the community; and

(k) Landscape and aesthetic appearance.

(4) In developing the matrix, the Department of Agriculture shall consider whether the proposed criteria are:

(a) Protective of public health or safety;

(b) Practical and workable;

- (c) Cost effective;
- (d) Objective;
- (e) Based on available scientific information that has been subjected to peer review;
- (f) Designed to promote the growth and viability of animal agriculture in this state;
- (g) Designed to balance the economic viability of farm operations with protecting natural resources and other community interests; and
- (h) Usable by county officials.

Source: Laws 2015, LB106, § 1; Laws 2019, LB302, § 103.

ARTICLE 3

DEPARTMENT OF BANKING AND FINANCE

Cross References

Department of Banking and Finance, powers and duties with respect to:

Bank holding companies, see section 8-908 et seq.
 Banks, generally, see section 8-101 et seq.
 Building and loan associations, see section 8-301 et seq.
 Consumer Rental Purchase Agreement Act, see section 69-2101.
 Credit Union Act, see section 21-1701 et seq.
 Financial institutions, assessments and fees, see section 8-601 et seq.
 Loans, generally, see Chapter 45.
 Trust companies, see section 8-201 et seq.

(a) GENERAL POWERS

Section

81-301. Department of Banking and Finance; general powers.

(b) DEPARTMENT OF BANKING AND FINANCE SETTLEMENT CASH FUND

81-302. Department of Banking and Finance Settlement Cash Fund; created; use; investment.

(a) GENERAL POWERS

81-301 Department of Banking and Finance; general powers.

The Governor, through the agency of the Director of Banking and Finance, is vested with the power to regulate, supervise, and shall have general control over trade and commerce of the state and in addition to such general powers herein conferred, he is vested with the power and charged with the duty of enforcing, through the agency of the director, all of the provisions of Chapter 8. The Department of Banking and Finance shall collect, collate, assort, systematize and report statistical details of the manufacturing industries and commerce of the state, and shall acquire information and report upon the general conditions so far as production is concerned of the leading industries of the state.

Source: Laws 1919, c. 190, tit. V, art. I, § 1, p. 572; C.S.1922, § 7742; C.S.1929, § 81-3401; R.S.1943, § 81-301; Laws 1969, c. 778, § 3, p. 2951; Laws 1976, LB 561, § 6.

Suit instituted by Department of Insurance against citizens of another state, to recover assets of insolvent surety company in charge of department, is suit by state, and not within jurisdiction of federal court. *Hertz v. Knudson*, 6 F.2d 812 (8th Cir. 1925).

(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.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 4

DEPARTMENT OF LABOR

Cross References

Department of Labor, powers and duties generally, see Chapter 48.

Section

81-401. Department of Labor; general powers.

81-402. Repealed. Laws 2017, LB172, § 89.

81-403. Department of Labor; educational opportunities for youth; identify resources.

81-404. Transferred to section 48-2213.

81-405. Transferred to section 81-530.

81-406. Contractor and Professional Employer Organization Registration Cash Fund; created; use; investment.

81-407. Workforce Development Program Cash Fund; created; use; investment.

81-401 Department of Labor; general powers.

The Governor, through the agency of the Department of Labor created by section 81-101, shall have power:

(1) To foster, promote, and develop the welfare of wage earners;

(2) To improve working conditions;

(3) To advance opportunities for profitable employment;

(4) To collect, collate, assort, systematize, and report statistical details relating to all departments of labor, especially in its relation to commercial, industrial, social, economic, and educational conditions and to the permanent prosperity of the manufacturing and productive industries;

(5) To acquire and distribute useful information on subjects connected with labor in the most general and comprehensive sense of the word;

(6) To acquire and distribute useful information concerning the means of promoting the material, social, intellectual, and moral prosperity of laboring men and women;

(7) To acquire and distribute information as to the conditions of employment and such other facts as may be deemed of value to the industrial interests of the state;

(8) To acquire and distribute information in relation to the prevention of accidents, occupational diseases, and other related subjects;

(9) To acquire and distribute useful information regarding the role of the part-time labor force and the manner in which such labor force affects the economy and citizens of the state; and

(10) To administer and enforce all of the provisions of the Employment Security Law, the Farm Labor Contractors Act, and the Wage and Hour Act and Chapter 48, articles 2, 3, 4, and 5, and for that purpose there is imposed upon the Commissioner of Labor the duty of executing all of the provisions of such acts, law, and articles.

Source: Laws 1919, c. 190, tit. IV, art. I, § 1, p. 545; C.S.1922, § 7654; C.S.1929, § 81-2901; Laws 1935, c. 57, § 37, p. 207; C.S.Supp.,1941, § 81-2901; R.S.1943, § 81-401; Laws 1993, LB 334, § 1; Laws 2001, LB 193, § 13; Laws 2015, LB334, § 1; Laws 2019, LB301, § 83.

Cross References

Employment Security Law, see section 48-601.

Farm Labor Contractors Act, see section 48-1701.

Wage and Hour Act, see section 48-1209.

Matters of fair employment practices and civil rights are matters of statewide and not local concern. *Midwest Employers Council, Inc. v. City of Omaha*, 177 Neb. 877, 131 N.W.2d 609 (1964).

81-402 Repealed. Laws 2017, LB172, § 89.

81-403 Department of Labor; educational opportunities for youth; identify resources.

The Department of Labor shall review current programs, policies, and funding sources to identify available resources that may provide educational opportunities for youth. Such opportunities shall include training and job experience in the repair and alteration of public buildings as may be necessary to comply with the requirements of the federal Americans with Disabilities Act of 1990.

Source: Laws 1994, LB 988, § 44.

81-404 Transferred to section 48-2213.

81-405 Transferred to section 81-530.

81-406 Contractor and Professional Employer Organization Registration Cash Fund; created; use; investment.

The Contractor and Professional Employer Organization Registration Cash Fund is created. The fund shall be administered by the Department of Labor and shall consist of fees collected by the department pursuant to the Farm Labor Contractors Act, the Contractor Registration Act, and the Professional Employer Organization Registration Act and such sums as are appropriated to

the fund by the Legislature. The fund shall be used for enforcing and administering the Farm Labor Contractors Act, the Contractor Registration Act, the Employee Classification Act, and the Professional Employer Organization Registration Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Money in the Contractor and Professional Employer Organization Registration Cash Fund may be transferred to the General Fund at the direction of the Legislature.

The State Treasurer shall transfer one million seven hundred thousand dollars from the Contractor and Professional Employer Organization Registration Cash Fund to the General Fund on or before June 15, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2016, LB270, § 1; Laws 2017, LB331, § 47.

Cross References

- Contractor Registration Act, see section 48-2101.
- Employee Classification Act, see section 48-2901.
- Farm Labor Contractors Act, see section 48-1701.
- Nebraska Capital Expansion Act, see section 72-1269.
- Nebraska State Funds Investment Act, see section 72-1260.
- Professional Employer Organization Registration Act, see section 48-2701.

81-407 Workforce Development Program Cash Fund; created; use; investment.

The Workforce Development Program Cash Fund is hereby created. The fund shall consist of transfers authorized by the Legislature. The Department of Labor shall administer the fund to provide workforce development grants. 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 2024, LB1413, § 32.
Effective date April 2, 2024.

Cross References

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

ARTICLE 5

STATE FIRE MARSHAL

(a) DEPARTMENT OF INSURANCE; GENERAL POWERS

Section
81-501. Transferred to section 44-101.01.

(b) GENERAL PROVISIONS

- 81-501.01. State Fire Marshal; powers and duties; appointment; confirmation by Legislature; removal.
- 81-502. State Fire Marshal; fire prevention and safety; duties; delegation of authority to local fire prevention personnel.
- 81-502.01. Repealed. Laws 2024, LB1069, § 10.
- 81-502.02. Repealed. Laws 2024, LB1069, § 10.
- 81-502.03. Repealed. Laws 2024, LB1069, § 10.
- 81-502.04. Rules and regulations; enforcement; procedure.

STATE FIRE MARSHAL

- Section
- 81-503. State Fire Marshal; first assistant; appointment; other employees; duties; uniforms.
- 81-503.01. State Fire Code; State Fire Marshal; duties; contents; enforcement; plans; review; late penalty.
- 81-504. State Fire Marshal; legal counsel; appointment by Attorney General; compensation.
- 81-505. First assistant and deputies; duties.
- 81-505.01. State Fire Marshal; establish and assess fees; procedures.
- 81-506. Fires; investigation by city or county authorities; reports to State Fire Marshal required.
- 81-507. State Fire Marshal; records and statistics on fires required.
- 81-508. State Fire Marshal; arson; investigations; evidence.
- 81-509. State Fire Marshal; investigations; witnesses; subpoena; oath; perjury; contempt.
- 81-510. State Fire Marshal; investigations; witnesses; disobedience of subpoena or contumacy; penalty.
- 81-511. Buildings; entry and inspection by State Fire Marshal; when authorized.
- 81-512. Buildings; entry and inspection; when authorized.
- 81-513. Repealed. Laws 2017, LB371, § 3.
- 81-514. Repealed. Laws 2017, LB371, § 3.
- 81-515. Repealed. Laws 2017, LB371, § 3.
- 81-516. Repealed. Laws 2017, LB371, § 3.
- 81-517. Repealed. Laws 2017, LB371, § 3.
- 81-518. Repealed. Laws 2017, LB371, § 3.
- 81-519. Repealed. Laws 2017, LB371, § 3.
- 81-520. Buildings; fire hazards; abatement; penalty.
- 81-520.01. Statewide open burning ban; waiver; permit; fee.
- 81-520.02. Open burning ban; range-management burning; violations; penalty.
- 81-520.03. Land-management burning, defined; fire chief of local fire department; designate member of department.
- 81-520.04. Land-management burning; permit; issuance; when.
- 81-520.05. Land-management burning; application for permit; plan; contents; fire chief; duties.
- 81-521. Fire insurance companies; reports to State Fire Marshal required; copies mailed to fire department of certain cities.
- 81-522. Fires; failure of city or county authorities to investigate and report; penalty.
- 81-523. State Fire Marshal; office; support and maintenance; tax on fire insurance companies; rate; credit.
- 81-524. State Fire Marshal; office; salaries; expenses; payment.
- 81-525. State Fire Marshal; records public; exceptions.
- 81-526. State Fire Marshal; investigations; duty of county attorney to act.
- 81-527. State Fire Marshal; schools; exits; fire drills.
- 81-528. State Fire Marshal Cash Fund; created; use; investment.
- 81-529. Sections, how construed.
- 81-530. Mechanical Safety Inspection Fund; created; use; investment.
- 81-531. Fire chiefs; local officers; fire reports; compensation; mileage.
- 81-532. Firefighters; report regarding; contents.
- 81-533. Repealed. Laws 1985, LB 40, § 2.
- 81-534. Repealed. Laws 2021, LB37, § 8.
- 81-535. Repealed. Laws 1985, LB 40, § 2.
- 81-536. Repealed. Laws 1985, LB 40, § 2.
- 81-537. Repealed. Laws 1985, LB 40, § 2.
- 81-538. Violations; penalty.
- 81-539. Repealed. Laws 1988, LB 893, § 18.
- 81-540. Repealed. Laws 1988, LB 893, § 18.
- 81-541. Repealed. Laws 1988, LB 893, § 18.
- 81-541.01. Repealed. Laws 2018, LB889, § 5.

(c) NATURAL GAS PIPELINE SAFETY

- 81-542. Terms, defined.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
81-543. State Fire Marshal; safety standards for transportation of gas and operation of pipeline facilities; adopt waiver of compliance; conditions.
81-544. State Fire Marshal; certifications and reports to the United States Secretary of Transportation.
81-545. Transportation of gas; operation of pipeline facilities; safety standards; requirements.
81-546. Transportation of gas; operation of pipeline facilities; violations; notice; response; order; failure to comply; penalty; considerations.
81-547. Transportation of gas; operation of pipeline facilities; violations; district court; jurisdiction.
81-548. Transportation of gas; operation of pipeline facilities; plan for inspection and maintenance; file with State Fire Marshal; adequacy of plan.
81-549. Transportation of gas; operation of pipeline facilities; records; reports; inspection; State Fire Marshal; duties; confidential information.
81-550. Nebraska Natural Gas Pipeline Safety Cash Fund; created; use; investment; assessments.
81-551. State Fire Marshal; duties; powers.
81-552. Act, how cited.

(d) STATE ELECTRICAL DIVISION

- 81-553. Repealed. Laws 1975, LB 525, § 45.
81-554. Repealed. Laws 1975, LB 525, § 45.
81-555. Repealed. Laws 1975, LB 525, § 45.
81-556. Repealed. Laws 1975, LB 525, § 45.
81-557. Repealed. Laws 1975, LB 525, § 45.
81-558. Repealed. Laws 1975, LB 525, § 45.
81-559. Repealed. Laws 1975, LB 525, § 45.
81-560. Repealed. Laws 1975, LB 525, § 45.
81-561. Repealed. Laws 1975, LB 525, § 45.
81-562. Repealed. Laws 1975, LB 525, § 45.
81-563. Repealed. Laws 1975, LB 525, § 45.
81-564. Repealed. Laws 1975, LB 525, § 45.
81-565. Repealed. Laws 1975, LB 525, § 45.
81-566. Repealed. Laws 1975, LB 525, § 45.
81-567. Repealed. Laws 1975, LB 525, § 45.
81-568. Repealed. Laws 1975, LB 525, § 45.
81-569. Repealed. Laws 1975, LB 525, § 45.
81-570. Repealed. Laws 1975, LB 525, § 45.

(e) STATE ELECTRICAL ACT

- 81-571. Transferred to section 81-2101.
81-572. Transferred to section 81-2102.
81-573. Transferred to section 81-2103.
81-574. Transferred to section 81-2145.
81-575. Transferred to section 81-2104.
81-576. Transferred to section 81-2105.
81-577. Transferred to section 81-2106.
81-578. Transferred to section 81-2107.
81-579. Transferred to section 81-2108.
81-580. Transferred to section 81-2109.
81-581. Transferred to section 81-2110.
81-582. Transferred to section 81-2111.
81-583. Transferred to section 81-2112.
81-584. Transferred to section 81-2113.
81-585. Transferred to section 81-2114.
81-586. Transferred to section 81-2115.
81-587. Transferred to section 81-2116.
81-588. Transferred to section 81-2117.
81-589. Transferred to section 81-2118.
81-590. Transferred to section 81-2119.
81-591. Transferred to section 81-2120.

STATE FIRE MARSHAL

Section

- 81-592. Transferred to section 81-2121.
- 81-593. Transferred to section 81-2122.
- 81-593.01. Transferred to section 81-2123.
- 81-594. Transferred to section 81-2124.
- 81-595. Transferred to section 81-2125.
- 81-596. Transferred to section 81-2126.
- 81-597. Transferred to section 81-2127.
- 81-598. Transferred to section 81-2128.
- 81-599. Transferred to section 81-2129.
- 81-5,100. Transferred to section 81-2130.
- 81-5,101. Transferred to section 81-2131.
- 81-5,102. Transferred to section 81-2132.
- 81-5,103. Transferred to section 81-2133.
- 81-5,104. Transferred to section 81-2134.
- 81-5,105. Transferred to section 81-2135.
- 81-5,106. Transferred to section 81-2136.
- 81-5,107. Transferred to section 81-2137.
- 81-5,108. Transferred to section 81-2138.
- 81-5,109. Transferred to section 81-2139.
- 81-5,110. Transferred to section 81-2140.
- 81-5,111. Transferred to section 81-2141.
- 81-5,112. Transferred to section 81-2142.
- 81-5,113. Transferred to section 81-2143.
- 81-5,114. Transferred to section 81-2144.

(f) ARSON REPORTING IMMUNITY ACT

- 81-5,115. Act, how cited.
- 81-5,116. Definitions; sections found.
- 81-5,117. Authorized agency, defined.
- 81-5,118. Relevant, defined.
- 81-5,119. Action, defined.
- 81-5,120. Immune, defined.
- 81-5,121. Authorized agency; fire or explosion loss; access to information.
- 81-5,122. Fire or explosion loss; request for information; subject matter.
- 81-5,123. Fire or explosion loss; investigation; when.
- 81-5,124. Authorized agency; information; release; to whom.
- 81-5,125. Insurance company; request for information; effect.
- 81-5,126. Insurance company; release of information; immune from liability.
- 81-5,127. Authorized agency; insurance company; information; confidentiality; testimony.
- 81-5,128. Information; refusal to release; prohibited.
- 81-5,129. Relevant information; refusal to provide; prohibited.
- 81-5,130. Confidential information; release; prohibited.
- 81-5,131. Violations; penalties.

(g) SMOKE DETECTORS

- 81-5,132. Definitions, sections found.
- 81-5,133. Apartment house, defined.
- 81-5,134. Dwelling, defined.
- 81-5,135. Dwelling unit, defined.
- 81-5,136. Repealed. Laws 2021, LB37, § 8.
- 81-5,137. Repealed. Laws 2021, LB37, § 8.
- 81-5,138. Mobile home, defined.
- 81-5,139. Remodeled, defined.
- 81-5,140. Certain mobile homes and modular housing units; exemption.
- 81-5,141. Adopt rules and regulations; administration of law; investigate violations.
- 81-5,142. Smoke detectors; installation required; when.
- 81-5,143. Smoke detector; number; location; operation.
- 81-5,144. Smoke detector; rental property; responsibility for installing, maintaining, and testing; procedure.
- 81-5,145. Political subdivisions; smoke detector standards; restrictions.

STATE ADMINISTRATIVE DEPARTMENTS

Section

81-5,146. Violations; penalty.

(h) ACCESSIBILITY STANDARDS

81-5,147. Buildings and facilities; standards, specifications, and exclusions; adoption.

81-5,148. Enforcement of standards and specifications; responsibility; failure to comply; effect.

81-5,149. Repealed. Laws 2002, LB 93, § 27.

81-5,150. Repealed. Laws 2002, LB 93, § 27.

(i) TRAINING DIVISION

81-5,151. Training division; established; purpose; State Fire Marshal; powers and duties.

81-5,152. Training program; fees.

81-5,153. Training Division Cash Fund; created; use; investment.

81-5,154. Repealed. Laws 2002, LB 93, § 27.

81-5,155. Repealed. Laws 2002, LB 93, § 27.

81-5,156. Repealed. Laws 2002, LB 93, § 27.

81-5,157. Fire Service and Safety Training Program; transfer to State Fire Marshal; personnel, records, and other property; transfer.

(j) FIRE PROTECTION SYSTEMS

81-5,158. Terms, defined.

81-5,159. Contractor certificate; required; application; fee; examination; renewal; responsible managing employee.

81-5,160. Contractor; insurance required.

81-5,161. Sections; how construed.

81-5,162. Fees; penalties; distribution.

81-5,163. Violation; penalties.

81-5,164. Rules and regulations.

(k) BOILER INSPECTION ACT

81-5,165. Act, how cited.

81-5,166. Terms, defined.

81-5,167. State boiler inspector; deputy inspectors; qualifications; bond or insurance.

81-5,168. State boiler inspector; inspection; exception; contract with authorized inspection agency; certification.

81-5,169. State Fire Marshal and boiler inspectors; right of entry.

81-5,170. Certificate of inspection; certificate of registration; fees.

81-5,171. Excessive pressure prohibited.

81-5,172. Boilers and vessels to which act does not apply.

81-5,173. State Fire Marshal; adopt rules and regulations; adopt schedule of fees; incorporation of codes.

81-5,174. Boiler explosion; investigation; report.

81-5,175. State boiler inspector; record of equipment.

81-5,176. Equipment; installation; notice to State Fire Marshal; reinspection.

81-5,177. Special inspector commission; requirements; inspection under provision of a city ordinance; inspection under the act not required; when; insurance coverage required.

81-5,178. Defective boiler; notice to user.

81-5,179. Boiler; inspection; fees.

81-5,180. Boiler Inspection Cash Fund; created; use; investment.

81-5,181. Violation; penalty.

81-5,182. Defective boiler; State Fire Marshal; state boiler inspector; powers.

81-5,183. Petition for injunction; notice to owner or user; procedure.

81-5,184. Boiler Safety Code Advisory Board; created; members; terms.

81-5,185. Board; members; qualifications.

81-5,186. Board; meetings; chairperson; quorum.

81-5,187. Board member; compensation; expenses.

81-5,188. Board; duties.

81-5,189. Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.

STATE FIRE MARSHAL

Section

(l) NEBRASKA AMUSEMENT RIDE ACT

- 81-5,190. Act, how cited.
- 81-5,191. Terms, defined.
- 81-5,192. State Fire Marshal; adopt rules and regulations; administer act.
- 81-5,193. Amusement ride; permit required; inspection.
- 81-5,194. Reverse bungee jumping rides; prohibited.
- 81-5,195. Permit; issuance; conditions; fee; waiver of inspection.
- 81-5,196. Liability insurance required.
- 81-5,197. Amusement ride; inspection; suspend permit; when.
- 81-5,198. Accident; report; suspend permit; inspection.
- 81-5,199. Permit fees.
- 81-5,200. State Fire Marshal; certify inspectors.
- 81-5,201. Inspection fees.
- 81-5,202. Owner; maintain records.
- 81-5,203. Owner; provide schedule.
- 81-5,204. Operator; requirements.
- 81-5,205. Violation; penalty.
- 81-5,206. Application for injunction.
- 81-5,207. Act, how construed.
- 81-5,208. Local safety standards; authorized.
- 81-5,209. Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.

(m) CONVEYANCE SAFETY ACT

- 81-5,210. Act, how cited.
- 81-5,211. Terms, defined.
- 81-5,212. Conveyance Advisory Committee; created; members; terms; expenses; meetings.
- 81-5,213. Committee; powers and duties.
- 81-5,214. State Fire Marshal; establish fee schedules; administer act.
- 81-5,215. Applicability of act.
- 81-5,216. Exemptions from act.
- 81-5,217. Rules and regulations; State Fire Marshal; variance authorized; appeal.
- 81-5,218. Registration of conveyances; when required.
- 81-5,219. Certificate of inspection; when required; display of certificate.
- 81-5,220. Existing conveyance; prohibited acts; licensed elevator mechanic; licensed elevator contractor; when required; new conveyance installation; requirements.
- 81-5,221. State elevator inspector; qualifications; deputy inspectors; employment; qualifications.
- 81-5,222. State elevator inspector; inspections required; written report.
- 81-5,223. Alternative inspections; requirements.
- 81-5,224. Special inspection; expenses; fee; report.
- 81-5,225. Certificate of inspection; issuance; form.
- 81-5,226. State elevator inspector; records required.
- 81-5,227. Entry upon property for purpose of inspection.
- 81-5,228. Defective or unsafe condition; notice to owner or user; temporary certificate; when issued.
- 81-5,229. Accident involving conveyance; notification required; when; state elevator inspector; duties.
- 81-5,230. Elevator mechanic license; elevator contractor license; application; form; contents.
- 81-5,231. Standards for licensure of elevator mechanics; State Fire Marshal; duties.
- 81-5,232. Elevator contractor license; work experience required.
- 81-5,233. Reciprocity.
- 81-5,234. License; issuance; renewal.
- 81-5,235. Continuing education; extension; when granted; approved providers; records.
- 81-5,236. Insurance policy; requirements; delivery; notice of alteration or cancellation.

§ 81-501

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-5,237. Elevator contractor license; revocation; grounds; elevator mechanic license; disciplinary actions; grounds; procedure; decision; appeal.
- 81-5,238. Temporary and emergency elevator mechanic thirty-day licenses.
- 81-5,239. Request for investigation of alleged violation; preliminary inquiry; formal investigation; procedure.
- 81-5,240. Act; how construed; liability.
- 81-5,241. Compliance with code at time of installation; notification of dangerous condition.
- 81-5,242. Violations; penalty.
- 81-5,243. Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.

(n) APPROPRIATIONS

- 81-5,244. Certain appropriations to Department of Labor; how treated.

(a) DEPARTMENT OF INSURANCE; GENERAL POWERS

81-501 Transferred to section 44-101.01.

(b) GENERAL PROVISIONS

81-501.01 State Fire Marshal; powers and duties; appointment; confirmation by Legislature; removal.

The Governor shall, with the advice and consent of the Legislature, appoint a State Fire Marshal who shall, under the general direction and supervision of the Governor, perform the duties and exercise the powers and have the rights and privileges conferred by sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157. He or she may be removed from office at the pleasure of the Governor.

Source: Laws 1925, c. 183, § 1, p. 479; C.S.1929, § 81-5501; R.S.1943, § 81-501; Laws 1974, LB 622, § 1; Laws 1993, LB 348, § 78.

81-502 State Fire Marshal; fire prevention and safety; duties; delegation of authority to local fire prevention personnel.

(1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire; and

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed foster care facilities or applicants for licenses for foster care facilities, upon request by the Department of Health and Human Services, pursuant to section 71-1903;

(iii) Upon request of the Department of Health and Human Services, licensed providers of programs or applicants for licenses to provide such programs pursuant to section 71-1913 and licensed residential child-caring agencies or applicants for such licensure pursuant to section 71-1934. The State Fire

Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other health care facilities which are licensed under the Health Care Facility Licensure Act or applicants for licenses for such facilities or institutions, upon request by the Department of Health and Human Services, pursuant to section 71-441; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Environment and Energy, pursuant to section 81-15,291.

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to the Arson Reporting Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to 81-538, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

(3) The State Fire Marshal may delegate the authority set forth in this section and section 81-503.01 to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire prevention personnel. Such delegation of authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

Source: Laws 1925, c. 183, § 2, p. 479; C.S.1929, § 81-5502; R.S.1943, § 81-502; Laws 1947, c. 313, § 1, p. 949; Laws 1967, c. 446, § 3, p. 1389; Laws 1969, c. 794, § 1, p. 3000; Laws 1972, LB 782, § 1; Laws 1973, LB 180, § 1; Laws 1976, LB 986, § 3; Laws 1981, LB 266, § 2; Laws 1982, LB 792, § 1; Laws 1983, LB 498, § 5; Laws 1984, LB 130, § 15; Laws 1985, LB 253, § 9; Laws 1986, LB 217, § 12; Laws 1987, LB 459, § 6; Laws 1989, LB 215, § 18; Laws 1993, LB 251, § 4; Laws 1993, LB 348, § 79; Laws 1993, LB 377, § 7; Laws 1995, LB 401, § 44; Laws 1996, LB 1044, § 837; Laws 1997, LB 307, § 215; Laws 1999, LB 594, § 70; Laws 2000, LB 819, § 153; Laws 2007, LB296, § 728; Laws 2013, LB265, § 47; Laws 2018, LB889, § 1; Laws 2021, LB148, § 81; Laws 2024, LB1069, § 2.

Effective date April 16, 2024.

Cross References

Arson Reporting Immunity Act, see section 81-5,115.

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

Inspection of businesses credentialed under the Uniform Credentialing Act, see section 38-139.

Motor vehicle fuel, aboveground tanks, powers, see section 81-1577.01.

Nebraska Natural Gas Pipeline Safety Act of 1969, see section 81-552.

Where state fire marshals had reliable information about existence of incendiary device, action of going upon property and inspecting for existence of fire without actual entry or search of building was proper. *State v. Howard*, 184 Neb. 274, 167 N.W.2d 80 (1969).

81-502.01 Repealed. Laws 2024, LB1069, § 10.

81-502.02 Repealed. Laws 2024, LB1069, § 10.

81-502.03 Repealed. Laws 2024, LB1069, § 10.

81-502.04 Rules and regulations; enforcement; procedure.

The enforcement of rules and regulations adopted and promulgated by the State Fire Marshal under section 81-503.01 shall be as follows:

(1) Any order of the State Fire Marshal under the authority granted to him or her by sections 81-502 and 81-503.01 shall be in writing addressed to the owner or person in charge of the premises affected by such order;

(2) If the affected party or organization does not comply with the final order, the State Fire Marshal shall apply to the district court of the county in which the premises are located to obtain court enforcement of the order. The county attorney of the county in which the action is brought shall represent the State Fire Marshal and the action shall be brought in the name of the State of Nebraska and be tried the same as any action in equity; and

(3) If the affected party or organization feels that the order of the State Fire Marshal is not necessary for the safety and welfare of the persons using or to use the premises regarding which the order is made, the party or organization may appeal such order, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1973, LB 180, § 2; Laws 1988, LB 893, § 7; Laws 1988, LB 352, § 167; Laws 2018, LB889, § 2; Laws 2019, LB195, § 2.

Cross References

Administrative Procedure Act, see section 84-920.

81-503 State Fire Marshal; first assistant; appointment; other employees; duties; uniforms.

(1) The State Fire Marshal may appoint a first assistant fire marshal and such deputies, inspectors, and other persons as in his or her discretion may be necessary to carry into effect sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157, the Nebraska Natural Gas Pipeline Safety Act of 1969, the Petroleum Products and Hazardous Substances Storage and Handling Act, the Wildland Fire Response Act, and any other statutory duties imposed upon the State Fire Marshal. He or she may also, at his or her pleasure, remove such first assistant and any of such deputies as he or she may deem advisable. The deputies and inspectors shall perform such duties and have and enjoy all the rights, privileges, and immunities granted by law. The State Fire Marshal may also employ such clerical assistants, office employees, and other persons as he or she may deem advisable and necessary to carry such duties into effect.

(2) The State Fire Marshal, the first assistant fire marshal, each deputy, and each inspector shall wear full uniform when performing statutory duties. The State Fire Marshal shall determine the type of clothing, in relation to the duty being performed, necessary to meet the full uniform requirement.

Source: Laws 1925, c. 183, § 3, p. 480; C.S.1929, § 81-5503; R.S.1943, § 81-503; Laws 1947, c. 314, § 1, p. 951; Laws 1953, c. 330, § 1, p. 1088; Laws 1957, c. 375, § 1, p. 1315; Laws 1969, c. 763, § 10, p. 2891; Laws 1983, LB 498, § 6; Laws 1988, LB 893, § 8; Laws 1993, LB 348, § 80; Laws 2024, LB1300, § 48.
Operative date July 19, 2024.

Cross References

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.
Wildland Fire Response Act, see section 81-828.01.

81-503.01 State Fire Code; State Fire Marshal; duties; contents; enforcement; plans; review; late penalty.

(1) The State Fire Marshal shall adopt and promulgate rules and regulations constituting a State Fire Code. At a minimum, the State Fire Code shall cover:

- (a) The prevention of fires;
- (b) The storage, sale, and use of flammable liquids, combustibles, and fireworks;
- (c) Electrical wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within structures necessary to promote safety and reduce loss by fire;
- (d) The means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the State Fire Code;
- (e) All other buildings, structures, and enclosures in which numbers of persons congregate from time to time for any purpose, whether privately or publicly owned;
- (f) Design, construction, location, installation, and operation of equipment for storing, handling, and utilization of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof;
- (g) Chemicals, prozolin plastics, X-ray nitrocellulose films, or any other hazardous material that may now or hereafter exist;
- (h) Tanks used for the storage of regulated substances pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act; and
- (i) Accessibility standards and specifications adopted pursuant to section 81-5,147.

(2) Not later than July 1, 2019, the rules and regulations adopted and promulgated as part of the State Fire Code shall conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 1, known as the Fire Code, 2012 edition, the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, 2012 edition, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property.

(3) The State Fire Marshal shall enforce the State Fire Code through inspections, code compliance, and orders. Plans for compliance with the State Fire Code shall be reviewed by the State Fire Marshal. Plans submitted after remodeling or construction has begun shall be accompanied by a penalty of fifty dollars in addition to the plan review fee established pursuant to subdivision (4)(a) of section 81-505.01.

(4) Rules and regulations adopted and promulgated as part of the State Fire Code shall apply to sites or structures in public ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.

Source: Laws 2018, LB889, § 3; Laws 2021, LB37, § 2.

Cross References

Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.

81-504 State Fire Marshal; legal counsel; appointment by Attorney General; compensation.

The Attorney General may appoint a special attorney to assist and advise the State Fire Marshal. The attorney appointed for this purpose shall at all times be under the supervision of the Attorney General, who shall fix his or her compensation, which shall be paid wholly out of the State Fire Marshal Cash Fund.

Source: Laws 1925, c. 183, § 4, p. 480; C.S.1929, § 81-5504; R.S.1943, § 81-504; Laws 2004, LB 1091, § 12.

81-505 First assistant and deputies; duties.

The duties of the first assistant and the deputies shall be to operate under the direction of and to assist the State Fire Marshal in the execution of sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157, the Nebraska Natural Gas Pipeline Safety Act of 1969, the Petroleum Products and Hazardous Substances Storage and Handling Act, and any other statutory duties imposed upon the State Fire Marshal. In the event of a vacancy in the office of State Fire Marshal and until a successor is appointed or during the absence or disability of that officer, the first assistant fire marshal, with the assent and approval of the Governor, shall assume the duties of that office.

Source: Laws 1925, c. 183, § 5, p. 480; C.S.1929, § 81-5505; R.S.1943, § 81-505; Laws 1969, c. 763, § 11, p. 2892; Laws 1988, LB 893, § 9; Laws 1993, LB 251, § 5; Laws 1993, LB 348, § 81.

Cross References

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.

81-505.01 State Fire Marshal; establish and assess fees; procedures.

(1) The State Fire Marshal shall establish and assess fees not to exceed the actual costs for the performance of services by the State Fire Marshal or by qualified local fire prevention personnel to whom the State Fire Marshal has delegated authority to perform such services. Prior to establishing or altering such fees, the State Fire Marshal shall hold a public hearing on the question of the adoption of or change in fees. Notice of such hearing shall be given at least thirty days prior thereto (a) by publication in a newspaper having general circulation in the state and (b) by notifying in writing the head of any agency or department having jurisdiction over facilities that would be subject to the fees. Fees for services performed by the State Fire Marshal shall be paid to the State Fire Marshal and shall be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund. Fees for services performed by local fire prevention personnel shall be paid directly to the office of the local fire prevention personnel.

(2) The fee for inspection for fire safety of any premises or facility pursuant to section 81-502 or 81-503.01 shall be not less than twenty-five nor more than one hundred fifty dollars and shall be paid by the licensee or applicant for a license. The fee for inspection for fire safety of the same premises or facility made within twelve months after the last prior inspection shall be not less than

twenty-five nor more than one hundred fifty dollars and shall be paid by the licensee or applicant for a license. The fees for inspection for fire safety of foster family homes as defined in section 71-1901 may be paid by the Department of Health and Human Services.

(3) The fee for providing investigation reports to insurance companies shall not exceed three dollars for each report provided. The State Fire Marshal may charge an amount not to exceed the actual cost of preparation for any other approved information release.

(4)(a) The State Fire Marshal shall charge a fee for reviewing plans, blueprints, and shop drawings to determine compliance with rules and regulations adopted and promulgated pursuant to section 81-503.01 or 81-5,147. The State Fire Marshal shall establish such fee in rules and regulations adopted and promulgated to be effective on January 1, 2022. Such fee shall meet the costs of administering the plan review requirement found in sections 81-503.01 and 81-5,147 but shall not exceed five hundred dollars. The fee schedule as it existed prior to August 28, 2021, shall be used through December 31, 2021.

(b) The fees established pursuant to subdivision (a) of this subsection shall not be assessed or collected by any political subdivision to which the State Fire Marshal has delegated the authority to conduct such review and which reviews plans, blueprints, or shop drawings to determine compliance with such political subdivision's own fire safety regulations. Nothing in this subdivision shall be construed to prohibit such political subdivision from assessing or collecting a fee set by its governing board for such review.

(c) An additional fee equal to fifty percent of the fee charged pursuant to subdivision (a) of this subsection shall be assessed for reviewing plans, blueprints, and shop drawings to determine compliance with the accessibility standards and specifications adopted pursuant to section 81-5,147, except that the additional fee assessed pursuant to this subdivision shall not exceed two hundred fifty dollars.

Source: Laws 1983, LB 498, § 7; Laws 1986, LB 471, § 1; Laws 1988, LB 893, § 10; Laws 1988, LB 930, § 3; Laws 1993, LB 251, § 6; Laws 1993, LB 377, § 8; Laws 1996, LB 1044, § 839; Laws 1997, LB 307, § 216; Laws 2013, LB265, § 48; Laws 2019, LB195, § 3; Laws 2021, LB37, § 3.

81-506 Fires; investigation by city or county authorities; reports to State Fire Marshal required.

The chief of the fire department of every city or village in which a fire department is established, the mayor of every incorporated city in which no fire department exists, the town clerk of every organized township, or the county commissioner in every commissioner district in counties not under township organization without the limits of any organized city or village shall investigate or cause to be investigated the cause, origin, and circumstances of every fire occurring in such city, village, township, or commissioner district by which property has been destroyed or damaged. All fires of unknown origin shall be reported, and such officers shall especially make investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall begin immediately after the occurrence of such fire, and the State Fire Marshal shall have the right to supervise and direct such investigation whenever he or she deems it expedient or necessary. The officer making

the investigation of fires occurring in cities, villages, townships, or commissioner districts shall forthwith notify the State Fire Marshal and shall, within one week of the occurrence of the fire, furnish him or her written statement of all the facts relating to the cause and origin of the fire and such further information as he or she may call for.

Source: Laws 1925, c. 183, § 6, p. 480; C.S.1929, § 81-5506; R.S.1943, § 81-506; Laws 1988, LB 893, § 11.

81-507 State Fire Marshal; records and statistics on fires required.

The State Fire Marshal shall keep in his office a record by alphabetical index, name of town, and by county and precinct in all unincorporated territory, of all the fires occurring in the state, together with all facts, statistics and circumstances, including the cause and origin of the fires, which may be determined by the investigation provided by section 81-506. Such reports and statistics shall be at all times open to public inspection.

Source: Laws 1925, c. 183, § 6, p. 480; C.S.1929, § 81-5506; R.S.1943, § 81-507.

81-508 State Fire Marshal; arson; investigations; evidence.

The State Fire Marshal shall, when in his opinion further investigation is necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have any means of knowledge in relation to the matter as to which an examination is herein required to be made, and shall cause the same to be reduced to writing. If he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, he shall file complaint with the county attorney, who shall cause such person to be arrested and charged with such offense. The fire marshal shall furnish to the proper prosecuting attorney all such evidence, together with a copy of all names of all witnesses and all the information obtained by him, including a copy of all pertinent and material testimony taken in the case; and shall keep a record of the proceedings and progress made in all such prosecutions for arson and the result of all cases finally disposed of.

Source: Laws 1925, c. 183, § 7, p. 481; C.S.1929, § 81-5507; R.S.1943, § 81-508.

It is statutory duty of fire marshal to investigate the cause, origin and circumstances of every fire. *McHugh v. Ridgell*, 105 Neb. 212, 180 N.W. 75 (1920).

81-509 State Fire Marshal; investigations; witnesses; subpoena; oath; perjury; contempt.

(1) The State Fire Marshal, first assistant fire marshal, and deputies shall each have the power in any county of the State of Nebraska to summon and compel the attendance of witnesses before them, or any of them, to testify in relation to any matter which is by the provisions of sections 81-501.01 to 81-531 a subject of inquiry and investigation, and may require the production of any book, paper, or document deemed pertinent thereto by them or any of them. Such summons shall be served in the same manner and have the same effect as subpoenas from district courts. All witnesses shall receive the same compensation as is paid to witnesses in district courts, with mileage to be computed at the rate provided in section 81-1176 for state employees, which

shall be paid out of the State Fire Marshal Cash Fund upon vouchers signed by the State Fire Marshal, first assistant fire marshal, or deputy before whom any witnesses shall have attended. Such officer shall, at the close of the investigation wherein such witness was subpoenaed, certify to the attendance and mileage of such witness and file such certificate in the office of the State Fire Marshal. All investigations held by or under the direction of the State Fire Marshal or his or her subordinates may be private, and persons other than those required to be present may be excluded from the place where such investigation is held. Witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

(2) The State Fire Marshal, first assistant fire marshal, and deputies are each authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before them, and false swearing in any manner or proceeding aforesaid shall be deemed perjury and shall be punished as such upon conviction in any court of competent jurisdiction.

(3) Any witness (a) who refuses to be sworn, (b) who refuses to testify, (c) who disobeys any lawful order of the State Fire Marshal, first assistant fire marshal, or deputy in relation to any investigation, (d) who fails or refuses to produce any paper, book, or document touching any matter under examination, or (e) who commits any contemptuous conduct after being summoned to appear before the State Fire Marshal, first assistant, or deputy to give testimony in relation to any matter or subject under examination or investigation as aforesaid shall be subject to conviction for contempt and, upon conviction of such contempt before any court of competent jurisdiction, shall be punished as provided by law for contempt of the orders of a district court, except that no person shall be compelled to give testimony which might tend to incriminate him or her or to give testimony which is considered privileged by the laws of the State of Nebraska.

Source: Laws 1925, c. 183, § 8, p. 482; C.S.1929, § 81-5508; R.S.1943, § 81-509; Laws 1981, LB 204, § 170; Laws 1981, LB 205, § 2; Laws 1988, LB 893, § 12; Laws 2004, LB 1091, § 13.

81-510 State Fire Marshal; investigations; witnesses; disobedience of subpoena or contumacy; penalty.

Disobedience of any subpoena in such proceedings, or contumacy of a witness, may, upon application of the State Fire Marshal to the district court of the county in which the offense was committed, be punished by the district court in the same manner as if the proceedings were pending in such court.

Source: Laws 1925, c. 183, § 9, p. 483; C.S.1929, § 81-5509; R.S.1943, § 81-510.

81-511 Buildings; entry and inspection by State Fire Marshal; when authorized.

In the performance of the duties imposed by the provisions of sections 81-501.01 to 81-531, the State Fire Marshal and any of his subordinates, may, at all times of the day and night, enter upon and examine any building or

premises where a fire is in progress or has occurred, and other buildings and premises adjoining or near thereto.

Source: Laws 1925, c. 183, § 10, p. 483; C.S.1929, § 81-5510; R.S.1943, § 81-511.

81-512 Buildings; entry and inspection; when authorized.

The State Fire Marshal, his or her first assistant, deputies, and subordinates, the chief of the fire department of each city or village where a fire department is established, the mayor of a city, the chairperson of the board of trustees of a village where no fire department exists, or the clerk of a township or the county commissioner of a commissioner district in territory without the limits of a city or village, at all reasonable hours, may enter into all buildings and upon all premises within his or her jurisdiction for the purposes of examination, in harmony with sections 81-501.01 to 81-531, the Nebraska Natural Gas Pipeline Safety Act of 1969, the Petroleum Products and Hazardous Substances Storage and Handling Act, and any other statutory duties imposed upon the State Fire Marshal.

Source: Laws 1925, c. 183, § 11, p. 483; C.S.1929, § 81-5511; R.S.1943, § 81-512; Laws 1993, LB 251, § 7.

Cross References

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.

81-513 Repealed. Laws 2017, LB371, § 3.

81-514 Repealed. Laws 2017, LB371, § 3.

81-515 Repealed. Laws 2017, LB371, § 3.

81-516 Repealed. Laws 2017, LB371, § 3.

81-517 Repealed. Laws 2017, LB371, § 3.

81-518 Repealed. Laws 2017, LB371, § 3.

81-519 Repealed. Laws 2017, LB371, § 3.

81-520 Buildings; fire hazards; abatement; penalty.

The State Fire Marshal or any deputy or inspector who finds in any building or upon or beneath any premises any combustibles or explosive material, rubbish, rags, waste, oil, gasoline, or inflammable matter of any kind endangering the safety of such building or property or the occupants thereof or the occupants of adjoining buildings shall order such materials removed or such dangerous condition abated within a specified time. Such order shall be in writing and directed generally to the owner, lessee, agent, or occupant of such building or premises, and any such owner, lessee, agent, or occupant upon whom such order shall be served who fails to comply with such order within the time prescribed in the order shall be guilty of a Class V misdemeanor. Such material may be removed or dangerous condition abated at the expense of the owner of such building and premises or the person upon whom such service is

so made, or both, and the State Fire Marshal may maintain all necessary actions for the recovery thereof.

Source: Laws 1925, c. 183, § 19, p. 487; C.S.1929, § 81-5519; R.S.1943, § 81-520; Laws 1988, LB 893, § 15; Laws 1993, LB 251, § 9.

81-520.01 Statewide open burning ban; waiver; permit; fee.

(1) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

(2) The fire chief of a local fire department may waive an open burning ban under subsection (1) of this section for an area under the local fire department's jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the fire chief to a person desiring to conduct open burning shall at a minimum contain (a) the name and telephone number of the landowner, (b) the burn location, (c) the date and beginning and ending time of the burn, (d) a description of the material to be burned, and (e) the name and telephone number of the person responsible for the burn. The local fire department may have additional requirements for a burn to be permitted. The permit shall contain the signature, written or electronic, of the local fire chief. The State Fire Marshal shall provide a sample form with the minimum requirements on the website of the State Fire Marshal.

(3) The fire chief of a local fire department may waive the open burning ban in the local fire department's jurisdiction when conditions are acceptable to the chief. Anyone intending to burn in such jurisdiction when the open burning ban has been waived shall notify the fire chief of his or her intention to burn prior to starting the burn.

(4) The fire chief of a local fire department may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.

(5) The local fire department may charge a fee, not to exceed ten dollars, for each such permit issued. This fee shall be remitted to the governing body for inclusion in the general funds allocated to the fire department. Such funds shall not reduce the tax requirements for the fire department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (2) of this section in the course of such state's or political subdivision's official duties.

Source: Laws 1980, LB 810, § 2; Laws 1982, LB 790, § 1; Laws 1994, LB 408, § 1; Laws 2011, LB248, § 1; Laws 2024, LB1069, § 3.
Effective date April 16, 2024.

A permit issued under this section is a license and does not create any contractual liability between the person obtaining the permit and the fire district that issues it. Syracuse Rur. Fire Dist. v. Pletan, 254 Neb. 393, 577 N.W.2d 527 (1998).

81-520.02 Open burning ban; range-management burning; violations; penalty.

Any person violating the statewide open burning ban established by section 81-520.01 or violating sections 81-520.03 to 81-520.05 shall be guilty of a Class IV misdemeanor.

Source: Laws 1980, LB 810, § 3; Laws 1989, LB 19, § 1; Laws 1994, LB 408, § 2.

81-520.03 Land-management burning, defined; fire chief of local fire department; designate member of department.

(1) For purposes of sections 81-520.01 to 81-520.05, the fire chief of a local fire department may designate a member of the local fire department to share the powers and duties of the fire chief under such sections, except adopting standards pursuant to subsection (4) of section 81-520.01.

(2) For purposes of sections 81-520.04 and 81-520.05, land-management burning means the controlled application of fire to existing vegetative matter on land utilized for grazing, pasture, forests, or grassland to control weeds, pests, insects, and disease, prevent wildland fires, manage watersheds, care for windbreaks, and conduct scientific research.

Source: Laws 1994, LB 408, § 3; Laws 2011, LB248, § 2.

81-520.04 Land-management burning; permit; issuance; when.

The fire chief of a local fire department may waive an open burning ban under subsection (1) of section 81-520.01 by issuing a permit for land-management burning only if the land-management burning is to be conducted in accordance with section 81-520.05.

Source: Laws 1994, LB 408, § 4; Laws 2011, LB248, § 3.

81-520.05 Land-management burning; application for permit; plan; contents; fire chief; duties.

(1) A landowner, tenant, or other landowner's agent of the land where land-management burning is proposed shall file an application for a permit and a plan for conducting such burning. The plan shall include:

(a) The name of the landowner of the land on which land-management burning is to occur;

(b) The name of the person who will supervise the land-management burning if such person is different than the landowner;

(c) The land-management objective to be accomplished;

(d) A map showing the areas to be burned, including natural and manmade firebreaks;

(e) Procedures to be used to confine the fire in boundary areas without preexisting firebreaks;

(f) A list of equipment that will be on hand;

(g) The types and conditions of the vegetative matter to be burned on the land and in adjacent areas;

(h) Identification of roads and habitations that may be affected by smoke;

(i) A description of weather conditions believed to be required to safely and successfully conduct the land-management burning, including wind speed and direction, temperature, and relative humidity; and

(j) Such other information as may be prescribed by the fire chief of a local fire department.

(2) The fire chief of a local fire department shall evaluate each plan to determine its compliance with subsection (1) of this section. If a plan fails to comply with all provisions of such subsection, a permit for land-management burning shall not be issued.

(3) The fire chief of a local fire department shall issue a permit for land-management burning if (a) the plan complies with subsection (1) of this section

and (b) the fire chief determines that land-management burning conducted in accordance with the plan would be conducted with due regard for the safety of people and property outside the burning areas. No permit shall be valid for more than thirty days.

Source: Laws 1994, LB 408, § 5; Laws 2011, LB248, § 4.

81-521 Fire insurance companies; reports to State Fire Marshal required; copies mailed to fire department of certain cities.

Every fire insurance company authorized to transact business in this state is required to report to the State Fire Marshal, through the secretary or other officer of the company designated by the board of directors for that purpose, all fire losses on property insured in any such company, giving the date of fire, the amount of probable loss, the character of property destroyed or damaged, and the supposed cause of the fire, together with the amount of insurance carried by such company. Such report shall be mailed to the State Fire Marshal within thirty days after notice of loss is received by such company. Each company is also required to report the amount of loss adjusted on each fire to the State Fire Marshal within thirty days after adjustment is made. Such report shall be in addition to any, and not in lieu of any, report or reports such companies may be required to make by any law of this state to the Director of Insurance; *Provided*, that in the case of a fire of suspicious origin a preliminary report shall be made immediately through some officer of the insurance company showing the name of the assured, the date of fire, location, occupancy, and such facts and circumstances as shall come to his knowledge, tending to establish the cause or origin of the fire; *and provided further*, that copies of the reports required by this section concerning any city of the metropolitan, primary, or first class shall be mailed by the insurance company concerned to the fire department of such city.

Source: Laws 1925, c. 183, § 20, p. 487; C.S.1929, § 81-5520; R.S.1943, § 81-521; Laws 1965, c. 550, § 1, p. 1799.

81-522 Fires; failure of city or county authorities to investigate and report; penalty.

Any officer referred to in section 81-506 who neglects to comply with any of the requirements of sections 81-501.01 to 81-531 shall be guilty of a Class V misdemeanor.

Source: Laws 1925, c. 183, § 21, p. 488; C.S.1929, § 81-5521; R.S.1943, § 81-522; Laws 1977, LB 39, § 289.

81-523 State Fire Marshal; office; support and maintenance; tax on fire insurance companies; rate; credit.

(1) For the purpose of maintaining the office of the State Fire Marshal and such other fire prevention activities as the Governor may direct, every foreign and alien insurance company including nonresident attorneys for subscribers to reciprocal insurance exchanges shall, on or before March 1, pay a tax to the Director of Insurance of three-fourths of one percent of the gross direct writing premiums and assessments received by each of such companies during the preceding calendar year for fire insurance business done in this state.

(2) For the purpose set forth in subsection (1) of this section, every domestic insurance company including resident attorneys for subscribers to reciprocal

insurance exchanges shall, on or before March 1, pay a tax to the Director of Insurance of three-eighths of one percent of the gross direct writing premiums and assessments received by each of such companies during the preceding calendar year for fire insurance business done in this state.

(3) The term fire insurance business, as used in subsections (1), (2), and (4) of this section, shall include, but not be limited to, premiums of policies on fire risks on automobiles, whether written under floater form or otherwise.

(4) Return premiums on fire insurance business, subject to the fire insurance tax, in accordance with subsections (1) and (2) of this section, may be deducted from the gross direct writing premiums for the purpose of the tax calculations provided for by subsections (1) and (2) of this section. In the case of mutual companies and assessment associations, the dividends paid or credited to policyholders or members in this state shall be construed to be return premiums.

(5) Any tax collected pursuant to subsections (1) and (2) of this section shall be remitted to the State Treasurer for credit to the General Fund.

(6) An insurance company described in this section shall receive a credit on the tax imposed under this section as provided in the Affordable Housing Tax Credit Act and the Relocation Incentive Act.

Source: Laws 1925, c. 183, § 22, p. 488; C.S.1929, § 81-5522; Laws 1933, c. 82, § 1, p. 330; C.S.Supp.,1941, § 81-5522; R.S.1943, § 81-523; Laws 1949, c. 281, § 1, p. 977; Laws 1953, c. 332, § 1, p. 1091; Laws 1957, c. 376, § 1, p. 1316; Laws 1979, LB 212, § 1; Laws 2003, LB 408, § 4; Laws 2004, LB 1091, § 14; Laws 2007, LB322, § 24; Laws 2022, LB800, § 345; Laws 2024, LB1023, § 17.

Operative date July 19, 2024.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.

Relocation Incentive Act, see section 77-3107.

Under former statute, fund created under its provisions could be paid out on proper warrants without legislative appropriation. State ex rel. Ridgell v. Hall, 99 Neb. 89, 155 N.W. 228 (1915), affirmed on rehearing 99 Neb. 95, 156 N.W. 16 (1916).

81-524 State Fire Marshal; office; salaries; expenses; payment.

The State Fire Marshal shall keep on file in his office an itemized statement of all salaries and expenses incurred by his office, and shall approve all vouchers issued therefor, before they are submitted to the Director of Administrative Services for payment, which shall be allowed and paid in the same manner as other claims against the state.

Source: Laws 1925, c. 183, § 23, p. 489; C.S.1929, § 81-5523; R.S.1943, § 81-524.

81-525 State Fire Marshal; records public; exceptions.

All records on file in the State Fire Marshal's office shall be public, except any testimony, correspondence, or other matter taken in an investigation or an inspection by, or in a report to, the State Fire Marshal under the provisions of the Nebraska Natural Gas Pipeline Safety Act of 1969 and sections 81-501.01 to

81-531 and 81-5,151 to 81-5,157 which he or she in his or her discretion may withhold from the public.

Source: Laws 1925, c. 183, § 24, p. 489; C.S.1929, § 81-5524; R.S.1943, § 81-525; Laws 1969, c. 763, § 12, p. 2892; Laws 1993, LB 348, § 82.

Cross References

Nebraska Natural Gas Pipeline Safety Act of 1969, see section 81-552.

81-526 State Fire Marshal; investigations; duty of county attorney to act.

The county attorney of any county, upon request of the State Fire Marshal, or his or her deputies or assistants, shall (1) assist such officers in the investigation of any fire which, in their opinion, is of suspicious origin and (2) act as attorney for such officers in all court proceedings in connection with the enforcement of the Petroleum Products and Hazardous Substances Storage and Handling Act when, in the exercise of a reasonable discretion, the county attorney shall determine that the evidence is sufficient to justify the bringing of such court proceedings.

Source: Laws 1925, c. 183, § 25, p. 489; C.S.1929, § 81-5525; R.S.1943, § 81-526; Laws 1945, c. 228, § 1, p. 675; Laws 1986, LB 217, § 13; Laws 2017, LB371, § 1.

Cross References

Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.

81-527 State Fire Marshal; schools; exits; fire drills.

It shall be the duty of the State Fire Marshal and his or her deputies and assistants to require teachers of public and private schools and educational institutions to conduct regular fire drills in accordance with such rules and regulations as he or she may adopt and promulgate and to keep all doors and exits unlocked during school hours.

Source: Laws 1925, c. 183, § 26, p. 489; C.S.1929, § 81-5526; R.S.1943, § 81-527; Laws 1988, LB 893, § 16.

Cross References

For instruction on fire prevention in schools, see section 79-706.

81-528 State Fire Marshal Cash Fund; created; use; investment.

(1) The State Fire Marshal Cash Fund is created. Money collected pursuant to subsections (2) and (3) of this section shall be remitted to the State Treasurer for credit to the fund. The fund shall be used to pay for costs incurred in the general operations program of the State Fire Marshal's office, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. The State Fire Marshal Cash Fund shall be administered by the State Fire Marshal. 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) All money received from inspection contracts, penalties, fees, or forfeitures, except fines collected under sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157, shall be remitted to the State Treasurer for credit to the fund.

(3) All fees assessed pursuant to section 81-505.01 for services performed by the State Fire Marshal's office shall be remitted to the State Treasurer for credit to the fund.

Source: Laws 1925, c. 183, § 27, p. 489; C.S.1929, § 81-5527; R.S.1943, § 81-528; Laws 1969, c. 584, § 97, p. 2407; Laws 1973, LB 120, § 1; Laws 1983, LB 498, § 8; Laws 1993, LB 348, § 83; Laws 1994, LB 1066, § 99; Laws 2004, LB 1091, § 15; Laws 2009, First Spec. Sess., LB3, § 65.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-529 Sections, how construed.

It is declared that sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157 are in nature necessary for the public safety, health, peace, and welfare and shall be liberally construed.

Source: Laws 1925, c. 183, § 28, p. 490; C.S.1929, § 81-5528; R.S.1943, § 81-529; Laws 1993, LB 348, § 84.

81-530 Mechanical Safety Inspection Fund; created; use; investment.

The Mechanical Safety Inspection Fund is created. All fees collected by the State Fire Marshal pursuant to the Nebraska Amusement Ride Act and the Conveyance Safety Act shall be remitted to the State Treasurer for credit to the Mechanical Safety Inspection Fund. Fees so collected shall be used for administering the provisions of the Nebraska Amusement Ride Act and the Conveyance Safety Act. Any money in the Mechanical Safety Inspection Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Money in the Mechanical Safety Inspection Fund may be transferred to the General Fund at the direction of the Legislature.

Source: Laws 2007, LB265, § 24; Laws 2017, LB331, § 46; R.S.Supp.,2018, § 81-405; Laws 2019, LB301, § 81.

Cross References

Conveyance Safety Act, see section 81-5,210.

Nebraska Amusement Ride Act, see section 81-5,190.

Nebraska Capital Expansion Act, see section 72-1269.

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

81-531 Fire chiefs; local officers; fire reports; compensation; mileage.

(1) There shall be paid to the chiefs of fire departments and mayors of cities who do not receive to exceed fifty dollars annually as compensation for their services as such chiefs or mayors, to chairpersons of the village boards, to the township clerks of every organized township, and to county commissioners in counties not under township organization, who are required by section 81-506 to report fires to the State Fire Marshal, the sum of one dollar for each fire reported to the satisfaction of the State Fire Marshal, and, in addition thereto, mileage at the rate allowed by the provisions of section 81-1176 for each mile traveled from the officers' domicile to and from the place of fire when such mileage is compulsory to investigate the cause of fire by county commissioners or sheriffs but not by fire chiefs. This allowance shall be paid by the State Fire

Marshal at the close of each fiscal year out of any funds provided for the use of the office of the State Fire Marshal.

(2) All chiefs of fire departments who receive a stated salary and devote their entire time to the duties of their respective fire departments, and those mayors of cities who receive a stated salary exceeding fifty dollars as such officers, shall be precluded from receiving any extra allowance for the report mentioned in subsection (1) of this section.

Source: Laws 1925, c. 183, § 30, p. 490; C.S.1929, § 81-5530; Laws 1933, c. 96, § 16, p. 396; C.S.Supp.,1941, § 81-5530; R.S.1943, § 81-531; Laws 1957, c. 70, § 9, p. 301; Laws 1996, LB 1011, § 34.

81-532 Firefighters; report regarding; contents.

The State Fire Marshal shall create a report regarding firefighters including the (1) type of department, including fire and rescue and fire only, (2) number of firefighters, including paid, paid per call, and unpaid, (3) department classification, including all paid departments, all volunteer departments, and all combination paid and volunteer departments, and (4) number of fire stations.

Source: Laws 2021, LB432, § 16.

81-533 Repealed. Laws 1985, LB 40, § 2.

81-534 Repealed. Laws 2021, LB37, § 8.

81-535 Repealed. Laws 1985, LB 40, § 2.

81-536 Repealed. Laws 1985, LB 40, § 2.

81-537 Repealed. Laws 1985, LB 40, § 2.

81-538 Violations; penalty.

Anyone violating any of the provisions of sections 81-501.01 to 81-531, for which no other specific penalty is provided, shall be deemed guilty of a Class V misdemeanor, and each day's noncompliance shall constitute a separate offense.

Source: Laws 1919, c. 190, tit. V, art. XXI, § 14, p. 749; C.S.1922, § 8158; C.S.1929, § 81-5537; R.S.1943, § 81-538; Laws 1947, c. 313, § 2, p. 950; Laws 1977, LB 39, § 290; Laws 1980, LB 810, § 1; Laws 1985, LB 40, § 1; Laws 2021, LB37, § 4.

81-539 Repealed. Laws 1988, LB 893, § 18.

81-540 Repealed. Laws 1988, LB 893, § 18.

81-541 Repealed. Laws 1988, LB 893, § 18.

81-541.01 Repealed. Laws 2018, LB889, § 5.

(c) NATURAL GAS PIPELINE SAFETY

81-542 Terms, defined.

For purposes of the Nebraska Natural Gas Pipeline Safety Act of 1969, unless the context otherwise requires:

(1) The Natural Gas Pipeline Safety Act of 1968 of the United States shall mean Public Law 90-481, 82 Stat. 720, 90th Congress, S. 1166, enacted August 12, 1968;

(2) State Fire Marshal shall mean the officer appointed pursuant to section 81-501.01;

(3) Person shall mean any individual, firm, joint venture, partnership, limited liability company, corporation, association, municipality, cooperative association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

(4) Gas shall mean natural gas, flammable gas, or gas which is toxic or corrosive and which is transported in a gaseous form and not in a liquid form;

(5) Transportation of gas shall mean the gathering, transmission, or distribution of gas by pipeline or its storage, except that it shall not include any such transportation of gas which is subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act of the United States or the Interstate Commerce Commission under the Interstate Commerce Act or the gathering of gas in those rural locations which lie outside the limits of any incorporated or unincorporated city, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area which the State Fire Marshal may define as a nonrural area; and

(6) Pipeline facilities shall include, without limitation, new and existing pipe rights-of-way and any equipment facility or building used in the transportation of gas or the treatment of gas during the course of transportation but rights-of-way as used in the Nebraska Natural Gas Pipeline Safety Act of 1969 does not authorize the State Fire Marshal to prescribe the location or routing of any pipeline facility. Pipeline facilities shall not include any facilities subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act of the United States or the Interstate Commerce Commission under the Interstate Commerce Act.

Source: Laws 1969, c. 763, § 1, p. 2884; Laws 1993, LB 121, § 527.

81-543 State Fire Marshal; safety standards for transportation of gas and operation of pipeline facilities; adopt waiver of compliance; conditions.

(1) After June 12, 1969, and from time to time thereafter, and pursuant to the Administrative Procedure Act, the State Fire Marshal shall, by order, establish minimum safety standards for the transportation of gas and pipeline facilities. Such standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such standards are adopted. Such safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the State Fire Marshal shall consider:

(a) Relevant available pipeline safety data;

(b) Whether such standards are appropriate for the particular type of pipeline transportation;

(c) The reasonableness of any proposed standards;

(d) The extent to which any such standards will contribute to public safety; and

(e) The existing standards established by the United States Secretary of Transportation pursuant to the Natural Gas Pipeline Safety Act of 1968 of the United States and the Interstate Commerce Act.

(2) Any standards prescribed under this section, and amendments thereto, shall become effective thirty days after the date of issuance of such standards unless the State Fire Marshal, for good cause recited, determines an earlier or later effective date is required as the result of the period reasonably necessary for compliance.

(3) The State Fire Marshal shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views, or arguments with opportunity to present oral testimony and argument.

(4) Whenever the State Fire Marshal shall find a particular facility to be hazardous to life or property he shall be empowered to require the person operating such facility to take such steps necessary to remove such hazards.

(5) Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities, the State Fire Marshal may, after notice and opportunity for hearing and under such terms and conditions and to such extent as he deems appropriate, waive in whole or in part compliance with any standards established under sections 81-503, 81-505, 81-525, and 81-542 to 81-552, if he determines that a waiver of compliance with such standard is not inconsistent with gas pipeline safety. The State Fire Marshal shall state his reasons for any such waiver.

Source: Laws 1969, c. 763, § 2, p. 2886.

Cross References

Administrative Procedure Act, see section 84-920.

81-544 State Fire Marshal; certifications and reports to the United States Secretary of Transportation.

The State Fire Marshal is authorized to make such certifications and reports to the United States Secretary of Transportation as may be required from time to time under the Natural Gas Pipeline Safety Act of 1968 of the United States.

Source: Laws 1969, c. 763, § 3, p. 2887.

81-545 Transportation of gas; operation of pipeline facilities; safety standards; requirements.

(1) Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall (a) at all times after the date any applicable safety standard established under sections 81-503, 81-505, 81-525, and 81-542 to 81-552 takes effect comply with the requirements of such standard; (b) file and comply with a plan of inspection and maintenance required by section 81-548; and (c) permit access to or copying of records, and make reports or provide information, and permit entry or inspection, as required under section 81-549.

(2) Nothing in sections 81-503, 81-505, 81-525, and 81-542 to 81-552 shall affect the common-law or statutory tort liability of any person.

Source: Laws 1969, c. 763, § 4, p. 2887.

81-546 Transportation of gas; operation of pipeline facilities; violations; notice; response; order; failure to comply; penalty; considerations.

(1) Whenever the State Fire Marshal, after conducting an inspection or investigation, has determined with a reasonable degree of certainty that any person has violated or is violating any provision of subsection (1) of section 81-545 or any regulation under the Nebraska Natural Gas Pipeline Safety Act of 1969, the State Fire Marshal shall give notice of the determination of a probable violation to such person and provide such person with the basis for the determination, including all documentation or other evidence related to the inspection or investigation.

(2) Such person shall have sixty business days to respond to the notice of a probable violation by either (a) agreeing with the determination and providing any details on what has been or will be done to achieve compliance or (b) disputing the determination and providing documentation or evidence to support that such person should not be found in violation of such section or regulations.

(3) In response to an answer made pursuant to subsection (2) of this section, the State Fire Marshal shall review the information provided. The State Fire Marshal may request any additional information from such person as the State Fire Marshal may require in order to reach a conclusion pursuant to subdivisions (a) and (b) of this subsection. Such person shall have thirty business days to respond to each such request for additional information. After such review:

(a) If the State Fire Marshal concludes that such person was not or is not in violation or that such person has achieved or will achieve compliance to no longer be in violation of any provision of subsection (1) of section 81-545 or any regulation under the Nebraska Natural Gas Pipeline Safety Act of 1969, the State Fire Marshal shall issue a letter indicating settlement based on such compliance and close the matter; or

(b) If the State Fire Marshal concludes that such person has not or will not achieve compliance to no longer be in violation of any provision of subsection (1) of section 81-545 or any regulation under the Nebraska Natural Gas Pipeline Safety Act of 1969, the State Fire Marshal shall issue an order finding such person in violation and providing notice of the right to a hearing pursuant to subdivision (4)(a) of this section.

(4)(a) If the State Fire Marshal issues an order pursuant to subdivision (3)(b) of this section, such person may request a hearing. If such person:

(i) Fails to request a hearing within thirty business days after the date of the order, the State Fire Marshal shall issue a final order finding such person in violation; or

(ii) Requests a hearing, the hearing officer shall conduct the proceeding in accordance with the Administrative Procedure Act. After the hearing, the hearing officer shall prepare findings of fact and conclusions of law. The State Fire Marshal shall issue a final order based on such findings of fact and conclusions of law.

(b) A final order issued pursuant to subdivision (4)(a)(i) or (ii) of this section may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

(5) After issuance of a final order under subdivision (4)(a)(i) or (ii) of this section and if no appeal is timely filed, the State Fire Marshal may request the Attorney General to bring an action under section 81-547 in the district court for the county in which the defendant's principal place of business is located.

(6)(a) Except as provided in subdivision (b) of this subsection, the district court may impose a civil penalty of not to exceed ten thousand dollars for each violation for each day that such violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars for any related series of violations.

(b) For a violation of the federal safety standards established by the United States Secretary of Transportation pursuant to the federal Natural Gas Pipeline Safety Act of 1968 that have been incorporated in safety standards established by the State Fire Marshal under section 81-543, the district court may impose a civil penalty of up to two hundred thousand dollars for each violation for each day that such violation persists, except that the maximum civil penalty shall not exceed two million dollars for any related series of violations.

(7) No person shall be subject to civil penalties under both section 81-547 and the One-Call Notification System Act for conduct which may give rise to a violation under both the Nebraska Natural Gas Pipeline Safety Act of 1969 and the One-Call Notification System Act, unless that conduct is reckless or is done with willful disregard for the safety of others or their property. In the absence of recklessness or willful disregard for the safety of others or their property, such conduct shall be enforced primarily in accordance with section 76-2325.

(8) In determining the amount of a penalty imposed under subsection (6) of this section, the court shall consider the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, the amount of harm or damage resulting from the violation, prior offenses and compliance history of the person charged, the good faith of the person charged in attempting to achieve compliance, remedial actions taken by the person charged, and other such matters as justice may require. The amount of such penalty, when finally determined, may be deducted from any sums owing by the State of Nebraska to the person charged.

Source: Laws 1969, c. 763, § 5, p. 2887; Laws 1993, LB 49, § 1; Laws 2024, LB1069, § 4.

Effective date April 16, 2024.

Cross References

Administrative Procedure Act, see section 84-920.

One-Call Notification System Act, see section 76-2301.

81-547 Transportation of gas; operation of pipeline facilities; violations; district court; jurisdiction.

(1) The district courts shall have jurisdiction to restrain violations of sections 81-503, 81-505, 81-525, and 81-542 to 81-552, including the restraint of transportation of gas or the operation of a pipeline facility, or to enforce standards established under the Nebraska Natural Gas Pipeline Safety Act of 1969 upon petition by the Attorney General on behalf of the State of Nebraska.

(2) Actions under subsection (1) of this section and section 81-546 shall be brought in the county in the State of Nebraska in which the defendant's principal place of business is located, and process in such cases may be served in any other county in the State of Nebraska where the defendant may be found or in which the defendant is an inhabitant or transacts business.

Source: Laws 1969, c. 763, § 6, p. 2888; Laws 2024, LB1069, § 5.
Effective date April 16, 2024.

81-548 Transportation of gas; operation of pipeline facilities; plan for inspection and maintenance; file with State Fire Marshal; adequacy of plan.

Each person who engages in the transportation of gas or who owns or operates pipeline facilities subject to sections 81-503, 81-505, 81-525, and 81-542 to 81-552 shall file with the State Fire Marshal a plan for inspection and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with the regulations prescribed by the State Fire Marshal. If at any time the State Fire Marshal finds that such plan is inadequate to achieve safe operation, he shall, after notice and opportunity for a hearing, require such plan to be revised. The plan required by the State Fire Marshal shall be practicable and designed to meet the need for pipeline safety. In determining the adequacy of any such plan, the State Fire Marshal shall consider:

- (1) Relevant available pipeline safety data;
- (2) Whether the plan is appropriate for the particular type of pipeline transportation;
- (3) The reasonableness of the plan; and
- (4) The extent to which such plan will contribute to public safety.

Source: Laws 1969, c. 763, § 7, p. 2888.

81-549 Transportation of gas; operation of pipeline facilities; records; reports; inspection; State Fire Marshal; duties; confidential information.

(1) Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall establish and maintain such records, make such reports, and provide such information as the State Fire Marshal may reasonably require to enable him or her to determine whether such person has acted or is acting in compliance with the Nebraska Natural Gas Pipeline Safety Act of 1969 and the standards established under the act. Each such person shall, upon request of an officer, employee, or agent authorized by the State Fire Marshal, permit such officer, employee, or agent to inspect books, papers, records, and documents relevant to determining whether such person has acted or is acting in compliance with the act and the standards established pursuant to the act. For purposes of enforcement, officers, employees, or agents authorized by the State Fire Marshal, upon presenting appropriate credentials to the individual in charge, are authorized (a) to enter upon, at reasonable times, pipeline facilities and (b) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such facilities. Each such inspection shall be commenced and completed with reasonable promptness.

(2) In the course of the exercise of his or her duties and responsibilities under the act, the State Fire Marshal shall wherever practicable employ a practice of spot checking and issuance of certificates of compliance, with respect to

persons subject to the act, to limit costs of enforcement of the safety standards established pursuant to section 81-543.

(3) All information reported to or otherwise obtained by the State Fire Marshal or his or her representative pursuant to subsection (1) of this section, which information contains or relates to a trade secret as referred to in 18 U.S.C. 1905 or otherwise constitutes a trade secret under law, shall be considered confidential for the purpose of such laws, except that such information may be disclosed to other officers or employees concerned with carrying out the act or when relevant in any proceeding under the act.

Source: Laws 1969, c. 763, § 8, p. 2889; Laws 1992, LB 858, § 1.

81-550 Nebraska Natural Gas Pipeline Safety Cash Fund; created; use; investment; assessments.

(1) The Nebraska Natural Gas Pipeline Safety Cash Fund is created. The fund shall consist of money received from assessments pursuant to this section which shall be remitted to the State Treasurer for credit to the fund. The Nebraska Natural Gas Pipeline Safety Cash Fund shall be used for purposes of administering the Nebraska Natural Gas Pipeline Safety Act of 1969. The fund shall be administered by the State Fire Marshal. 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) To defray the cost of administering the Nebraska Natural Gas Pipeline Safety Act of 1969, the State Fire Marshal shall on March 1 of each year make an assessment against persons having pipeline facilities in this state subject to the act, which assessment shall be paid within thirty days thereafter.

(3) The assessment against each such person shall be based on the number of meters such person has in service for the retail sale of gas in this state at the end of the calendar year next preceding such assessment. The amount of such assessment shall be set by the State Fire Marshal in an amount not to exceed fifty cents multiplied by the number of such meters for each such person.

(4) It shall be the duty of the State Fire Marshal to make timely application each year to the United States Government for the maximum funds to which this state may be entitled from the United States Government for the administration of the act.

Source: Laws 1969, c. 763, § 9, p. 2890; Laws 1977, LB 410, § 1; Laws 1983, LB 383, § 1; Laws 1992, LB 858, § 2; Laws 2004, LB 1091, § 16; Laws 2009, First Spec. Sess., LB3, § 66; Laws 2024, LB1069, § 6.

Effective date April 16, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-551 State Fire Marshal; duties; powers.

The duties and powers of the State Fire Marshal and of his or her deputies and assistants prescribed in sections 81-509 to 81-523, 81-526, 81-527, 81-531, 81-538, and 81-5,151 to 81-5,157 and the Petroleum Products and Hazardous

Substances Storage and Handling Act shall not be applicable to the Nebraska Natural Gas Pipeline Safety Act of 1969.

Source: Laws 1969, c. 763, § 13, p. 2892; Laws 1986, LB 217, § 14; Laws 1988, LB 893, § 17; Laws 1993, LB 348, § 85; Laws 2021, LB37, § 5.

Cross References

Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.

81-552 Act, how cited.

Sections 81-542 to 81-550 may be cited as the Nebraska Natural Gas Pipeline Safety Act of 1969.

Source: Laws 1969, c. 763, § 14, p. 2892.

(d) STATE ELECTRICAL DIVISION

81-553 Repealed. Laws 1975, LB 525, § 45.

81-554 Repealed. Laws 1975, LB 525, § 45.

81-555 Repealed. Laws 1975, LB 525, § 45.

81-556 Repealed. Laws 1975, LB 525, § 45.

81-557 Repealed. Laws 1975, LB 525, § 45.

81-558 Repealed. Laws 1975, LB 525, § 45.

81-559 Repealed. Laws 1975, LB 525, § 45.

81-560 Repealed. Laws 1975, LB 525, § 45.

81-561 Repealed. Laws 1975, LB 525, § 45.

81-562 Repealed. Laws 1975, LB 525, § 45.

81-563 Repealed. Laws 1975, LB 525, § 45.

81-564 Repealed. Laws 1975, LB 525, § 45.

81-565 Repealed. Laws 1975, LB 525, § 45.

81-566 Repealed. Laws 1975, LB 525, § 45.

81-567 Repealed. Laws 1975, LB 525, § 45.

81-568 Repealed. Laws 1975, LB 525, § 45.

81-569 Repealed. Laws 1975, LB 525, § 45.

81-570 Repealed. Laws 1975, LB 525, § 45.

(e) STATE ELECTRICAL ACT

81-571 Transferred to section 81-2101.

81-572 Transferred to section 81-2102.

81-573 Transferred to section 81-2103.
81-574 Transferred to section 81-2145.
81-575 Transferred to section 81-2104.
81-576 Transferred to section 81-2105.
81-577 Transferred to section 81-2106.
81-578 Transferred to section 81-2107.
81-579 Transferred to section 81-2108.
81-580 Transferred to section 81-2109.
81-581 Transferred to section 81-2110.
81-582 Transferred to section 81-2111.
81-583 Transferred to section 81-2112.
81-584 Transferred to section 81-2113.
81-585 Transferred to section 81-2114.
81-586 Transferred to section 81-2115.
81-587 Transferred to section 81-2116.
81-588 Transferred to section 81-2117.
81-589 Transferred to section 81-2118.
81-590 Transferred to section 81-2119.
81-591 Transferred to section 81-2120.
81-592 Transferred to section 81-2121.
81-593 Transferred to section 81-2122.
81-593.01 Transferred to section 81-2123.
81-594 Transferred to section 81-2124.
81-595 Transferred to section 81-2125.
81-596 Transferred to section 81-2126.
81-597 Transferred to section 81-2127.
81-598 Transferred to section 81-2128.
81-599 Transferred to section 81-2129.
81-5,100 Transferred to section 81-2130.
81-5,101 Transferred to section 81-2131.
81-5,102 Transferred to section 81-2132.

81-5,103 Transferred to section 81-2133.

81-5,104 Transferred to section 81-2134.

81-5,105 Transferred to section 81-2135.

81-5,106 Transferred to section 81-2136.

81-5,107 Transferred to section 81-2137.

81-5,108 Transferred to section 81-2138.

81-5,109 Transferred to section 81-2139.

81-5,110 Transferred to section 81-2140.

81-5,111 Transferred to section 81-2141.

81-5,112 Transferred to section 81-2142.

81-5,113 Transferred to section 81-2143.

81-5,114 Transferred to section 81-2144.

(f) ARSON REPORTING IMMUNITY ACT

81-5,115 Act, how cited.

Sections 81-5,115 to 81-5,131 shall be known and may be cited as the Arson Reporting Immunity Act.

Source: Laws 1979, LB 301, § 1.

81-5,116 Definitions; sections found.

For purposes of sections 81-5,115 to 81-5,131, unless the context otherwise requires, the definitions found in sections 81-5,117 to 81-5,120 shall be used.

Source: Laws 1979, LB 301, § 2.

81-5,117 Authorized agency, defined.

Authorized agency shall mean:

(1) The State Fire Marshal or any local fire department investigation division when authorized or charged with the investigation of fires or explosions at the place where the fire or explosion actually took place;

(2) The colonel of the Nebraska State Patrol;

(3) The county attorney responsible for prosecutions in the county where the fire or explosion occurred; and

(4) A local law enforcement agency in the county where the fire or explosion occurred.

Source: Laws 1979, LB 301, § 3.

81-5,118 Relevant, defined.

Relevant shall mean information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the evidence.

Source: Laws 1979, LB 301, § 4.

81-5,119 Action, defined.

Action shall include nonaction or the failure to take action.

Source: Laws 1979, LB 301, § 5.

81-5,120 Immune, defined.

Immune shall mean that neither a civil action nor a criminal prosecution may arise from any action taken pursuant to sections 81-5,115 to 81-5,131 when actual malice on the part of an insurance company or authorized agency against the insured is not present.

Source: Laws 1979, LB 301, § 6.

81-5,121 Authorized agency; fire or explosion loss; access to information.

Any authorized agency may, in writing, require the insurance company at interest to release to the requesting agency any or all relevant information or evidence deemed important to the authorized agency which the company may have in its possession relating to the fire loss or explosion loss in question. Authorized agency for the purpose of this section shall mean, in addition to agencies included under section 81-5,117, the Federal Bureau of Investigation, any other federal agency, and the United States Attorney's office when authorized or charged with investigation or prosecution of a fire or explosion.

Source: Laws 1979, LB 301, § 7.

81-5,122 Fire or explosion loss; request for information; subject matter.

The request for information under section 81-5,121 may include, but shall not be limited to:

- (1) Pertinent insurance policy information relevant to a fire loss or explosion loss under investigation and any application for such a policy;
- (2) Policy premium payment records which are available;
- (3) History of previous claims made by the insured; and
- (4) Material relating to the investigation of the loss, including statements of any person, proof of loss, and any other evidence relevant to the investigation.

Source: Laws 1979, LB 301, § 8.

81-5,123 Fire or explosion loss; investigation; when.

When an insurance company has reason to believe that a fire loss or explosion loss in which it has an interest may be of other than accidental cause, the company shall, in writing, notify the State Fire Marshal or any local fire department investigation division and request an investigation. The company shall provide the State Fire Marshal or any local fire department investigation division with any or all material developed from the company's inquiry into the fire loss or explosion loss. If an insurance company provides the State Fire Marshal or any local fire department investigation division with notice of a fire loss or explosion loss, such notice shall be sufficient for the purpose of sections 81-5,115 to 81-5,131.

Source: Laws 1979, LB 301, § 9.

81-5,124 Authorized agency; information; release; to whom.

The authorized agency provided with information pursuant to section 81-5,121 or 81-5,123 and in furtherance of its own purposes may release or provide such information to any of the other authorized agencies.

Source: Laws 1979, LB 301, § 10.

81-5,125 Insurance company; request for information; effect.

Any insurance company providing information to an authorized agency or agencies pursuant to section 81-5,121 or 81-5,123 shall have the right to request relevant information and receive, within a reasonable time not to exceed thirty days, the information requested.

Source: Laws 1979, LB 301, § 11.

81-5,126 Insurance company; release of information; immune from liability.

Any insurance company, a person acting in its behalf, or an authorized agency releasing information, whether oral or written, pursuant to section 81-5,121 or 81-5,123 shall be immune from any liability arising out of a civil action or penalty resulting from a criminal prosecution.

Source: Laws 1979, LB 301, § 12.

81-5,127 Authorized agency; insurance company; information; confidentiality; testimony.

(1) Any authorized agency or insurance company which receives any information, furnished pursuant to sections 81-5,115 to 81-5,131, shall hold the information in confidence until such time as its release is required pursuant to a criminal or civil proceeding.

(2) Any authorized agency or its personnel may be required to testify in any litigation in which the insurance company at interest is named as a party.

Source: Laws 1979, LB 301, § 13.

81-5,128 Information; refusal to release; prohibited.

No person or agency shall intentionally or knowingly refuse to release any information requested pursuant to section 81-5,121 or 81-5,124.

Source: Laws 1979, LB 301, § 14.

81-5,129 Relevant information; refusal to provide; prohibited.

No person shall intentionally or knowingly refuse to provide authorized agencies relevant information pursuant to section 81-5,123.

Source: Laws 1979, LB 301, § 15.

81-5,130 Confidential information; release; prohibited.

No person shall fail to hold in confidence information required to be held in confidence by section 81-5,127.

Source: Laws 1979, LB 301, § 16.

81-5,131 Violations; penalties.

Any person violating sections 81-5,128 to 81-5,130 shall be guilty of a Class IV misdemeanor.

Source: Laws 1979, LB 301, § 17.

(g) SMOKE DETECTORS

81-5,132 Definitions, sections found.

As used in sections 81-5,132 to 81-5,146, unless the context otherwise requires, the definitions found in sections 81-5,133 to 81-5,139 shall apply.

Source: Laws 1981, LB 296, § 1.

81-5,133 Apartment house, defined.

Apartment house shall mean any building which is occupied as the home or residence of three or more families or persons living independently of each other and doing their own cooking in the building, and such term shall include buildings containing three or more apartments.

Source: Laws 1981, LB 296, § 2.

81-5,134 Dwelling, defined.

Dwelling shall mean any building which is not an apartment house, lodging house, hotel, or mobile home and which contains one or two dwelling units which are, or are intended or designed to be, occupied for living purposes.

Source: Laws 1981, LB 296, § 3.

81-5,135 Dwelling unit, defined.

Dwelling unit shall mean a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, or a single unit used by one or more persons for sleeping and sanitation pursuant to a work practice or labor agreement.

Source: Laws 1981, LB 296, § 4.

81-5,136 Repealed. Laws 2021, LB37, § 8.

81-5,137 Repealed. Laws 2021, LB37, § 8.

81-5,138 Mobile home, defined.

Mobile home shall mean every transportable or relocatable device of any description containing complete independent living facilities for one or more persons whether or not permanently attached to the real estate upon which it is situated and shall include a manufactured home as defined in section 71-4603.

Source: Laws 1981, LB 296, § 7; Laws 1985, LB 313, § 27.

81-5,139 Remodeled, defined.

Remodeled shall mean the alteration or reconstruction of an existing building for which a building permit is required to be obtained by the local political subdivision.

Source: Laws 1981, LB 296, § 8.

81-5,140 Certain mobile homes and modular housing units; exemption.

Notwithstanding any other provision of sections 81-5,132 to 81-5,146, mobile homes constructed after September 27, 1975, and modular housing units constructed pursuant to sections 71-1555 to 71-1567 after January 10, 1977, shall be exempt from the requirements of sections 81-5,132 to 81-5,146.

Source: Laws 1981, LB 296, § 9; Laws 1985, LB 313, § 28.

81-5,141 Adopt rules and regulations; administration of law; investigate violations.

The State Fire Marshal shall adopt and promulgate rules and regulations for the administration of sections 81-5,132 to 81-5,146, including the placement of smoke detectors in dwellings, apartment houses, hotels, lodging houses, dormitories, and mobile homes. The rules and regulations shall take into account designs of the guest rooms, dwelling units, dormitories, and mobile homes. The State Fire Marshal may consider the requirements for smoke detectors developed by any national testing laboratory in adopting such rules and regulations. The State Fire Marshal shall administer the provisions of sections 81-5,132 to 81-5,146 and may delegate such responsibility to his or her authorized representative or the appropriate official charged with the duty of providing fire protection services within the local jurisdiction. The State Fire Marshal or his or her representative or the appropriate official may investigate any alleged violation of sections 81-5,132 to 81-5,146 and shall report such investigative findings to the county attorney who shall proceed to enforce the provisions of sections 81-5,132 to 81-5,146.

Source: Laws 1981, LB 296, § 10.

81-5,142 Smoke detectors; installation required; when.

(1) Every dwelling unit within a dwelling or apartment house constructed or remodeled on or after January 1, 1982, every guest room in a lodging house or hotel constructed or remodeled on or after January 1, 1982, and every dormitory constructed or remodeled on or after January 1, 1982, shall be provided with one or more operating smoke detectors meeting the requirements of the State Fire Marshal's rules and regulations.

(2) Every guest room in a lodging house or hotel constructed prior to January 1, 1982, and every dormitory constructed prior to January 1, 1982, shall be provided with one or more operating smoke detectors meeting the requirements of the State Fire Marshal's rules and regulations on or before January 1, 1984.

(3) Every (a) dwelling unit within a dwelling or apartment house constructed prior to January 1, 1982, (b) mobile home, and (c) modular housing unit constructed pursuant to sections 71-1555 to 71-1567 shall be provided with one or more operating smoke detectors meeting the requirements of the State Fire Marshal's rules and regulations at the time of their remodeling or sale. In the event of a sale, the provision of smoke detectors shall be the sole responsibility of the seller, which responsibility shall not be assigned or imputed to any other party or the agent of any party to the sale.

Source: Laws 1981, LB 296, § 11; Laws 1985, LB 313, § 29.

81-5,143 Smoke detector; number; location; operation.

The detector shall be mounted in accordance with the rules and regulations regarding the number and location of smoke detectors adopted by the State Fire Marshal. When activated, the detector shall provide an alarm in the dwelling unit, guest room, dormitory, or mobile home.

Source: Laws 1981, LB 296, § 12.

81-5,144 Smoke detector; rental property; responsibility for installing, maintaining, and testing; procedure.

(1) Except as provided in subsection (2) of this section, the owner of every apartment house, dwelling, hotel, lodging house, dormitory, or mobile home or the owner's authorized agent shall be responsible for supplying, installing, maintaining, and testing the smoke detectors.

(2) In the case of a dwelling unit, guest room, hotel room, or mobile home which is being occupied for one month or more by the same occupant, it shall be the responsibility of such occupant to perform the tests on the smoke detector as are recommended by the manufacturer's instructions and immediately notify, in writing, the owner or authorized agent of any deficiencies. The owner of the dwelling, apartment house, lodging house, hotel, or mobile home shall provide a notice to such occupant containing instructions for the testing of the device. For purposes of this subsection, deficiencies shall not include a worn battery or other replaceable energy unit. The occupant shall be responsible for replacement of the battery or unit, except that such battery or unit shall be in operating condition at the time the occupant takes possession. The owner or authorized agent shall correct any reported deficiencies in the smoke detector and shall not be in violation of sections 81-5,132 to 81-5,146 for a deficient smoke detector when he or she has not received notice of the deficiency.

(3) This section shall apply solely to rental property.

Source: Laws 1981, LB 296, § 13.

81-5,145 Political subdivisions; smoke detector standards; restrictions.

Sections 81-5,132 to 81-5,146 shall prohibit a political subdivision from adopting standards less stringent than those provided in sections 81-5,132 to 81-5,146 and rules and regulations adopted under sections 81-5,132 to 81-5,146, except that, as to buildings constructed on or after January 1, 1982, such political subdivision shall require that smoke detectors be attached to a centralized electrical power source within the building which may be equipped with a battery as an alternate power source. No political subdivision shall require that a smoke detector be attached to a centralized power source within a building constructed prior to January 1, 1982.

Source: Laws 1981, LB 296, § 14.

81-5,146 Violations; penalty.

Any person violating the provisions of sections 81-5,132 to 81-5,146 shall be guilty of a Class V misdemeanor.

Source: Laws 1981, LB 296, § 15.

(h) ACCESSIBILITY STANDARDS

81-5,147 Buildings and facilities; standards, specifications, and exclusions; adoption.

The State Fire Marshal shall adopt and promulgate:

(1) Standards, specifications, and exclusions which are consistent with the most current uniform guidelines and standards set by the federal Americans with Disabilities Act of 1990, as amended, for (a) buildings and facilities which are newly constructed for first occupancy and (b) alterations of existing buildings and facilities used by the public. For purposes of this section, alterations of an existing building or facility used by the public shall include remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangements in the plan or configuration of the height of walls or partitions. Normal maintenance, reroofing, painting, wallpapering, asbestos removal, or changes to mechanical and electrical systems shall not be considered alterations; and

(2) Standards and specifications which are consistent with the most current uniform guidelines and standards set by the federal Fair Housing Act of 1968, as adopted by the State of Nebraska, for new constructed covered multifamily dwellings as defined in section 20-319.

Source: Laws 1974, LB 602, § 13; R.S.1943, (1990), § 72-1122; Laws 1993, LB 377, § 3; Laws 1998, LB 1073, § 160; Laws 2002, LB 93, § 22.

81-5,148 Enforcement of standards and specifications; responsibility; failure to comply; effect.

The responsibility for enforcement of the standards and specifications adopted pursuant to section 81-5,147 for (1) buildings and facilities which are newly constructed for first occupancy, (2) alterations of existing buildings and facilities used by the public, and (3) new constructed covered multifamily dwellings as defined in section 20-319 shall lie with the State Fire Marshal or the appropriate officials of the governing bodies of the state government and its political subdivisions responsible for the review and approval of the building plans. Enforcement responsibility includes an appeal process conducted by the enforcing authority for the appeal of any enforcement action or proposed enforcement action. With respect to the enforcement of section 81-5,147 as described in subdivisions (1) and (2) of this section, when plans are being reviewed for both building code and fire code regulations, the officials responsible for building code review shall be responsible for enforcement of section 81-5,147. With respect to the enforcement of section 81-5,147 as described in subdivision (3) of this section, when plans are being reviewed for both building code and fire code regulations, the officials in a city of the metropolitan, primary, or first class shall be responsible for enforcement of section 81-5,147. Officials in a city of the second class or village shall not be responsible for enforcement of section 81-5,147 as described in subdivision (3) of this section if such officials have submitted to the State Fire Marshal a written statement declaring their intent not to assume responsibility for such enforcement. When plans are being reviewed solely for fire code regulations or when the officials responsible for building code review have submitted such a written statement, the State Fire Marshal or his or her designee shall be responsible for enforcement of section 81-5,147. No official of any governing body of the state

government or its political subdivisions responsible for such enforcement shall approve or authorize an occupancy permit unless such building, facility, or dwelling complies with the standards and specifications prescribed by such section. Any unauthorized departure from the standards and specifications established by the State Fire Marshal pursuant to such section may be corrected by full compliance with such standards and specifications within one hundred eighty days after discovery of such departure. Failure to correct an unauthorized departure from such standards and specifications shall result in denial or revocation of the occupancy permit for the building, facility, or dwelling.

Source: Laws 1965, c. 430, § 19, p. 1377; Laws 1974, LB 602, § 10; Laws 1976, LB 986, § 1; Laws 1977, LB 473, § 1; Laws 1988, LB 646, § 1; R.S.1943, (1990), § 72-1119; Laws 1993, LB 377, § 4; Laws 1998, LB 1073, § 161.

81-5,149 Repealed. Laws 2002, LB 93, § 27.

81-5,150 Repealed. Laws 2002, LB 93, § 27.

(i) TRAINING DIVISION

81-5,151 Training division; established; purpose; State Fire Marshal; powers and duties.

The State Fire Marshal shall establish a training division for purposes of operating a statewide training program for fire department personnel, others involved in fire safety training, and other emergency responders that may require specialized training available from the training program for the purposes of developing, maintaining, and updating fire department skills and other skills of those emergency responders requiring specialized training available from the training program. The State Fire Marshal in establishing a training division shall (1) conduct training, (2) certify fire department personnel, (3) give technical assistance to fire departments and other emergency responders requiring specialized training available from the training program, and (4) conduct live fire training. The State Fire Marshal in establishing such training may also give technical assistance to rescue squads and respond to emergencies upon request for technical assistance. Fees for manuals and training shall be collected pursuant to section 81-5,152. Nothing in this section shall require mandatory participation by fire departments, individuals, or others interested in fire safety training or other specialized training available from the training program.

Source: Laws 1980, LB 724, § 2; R.S.1943, (1987), § 79-1430; Laws 1993, LB 348, § 86.

81-5,152 Training program; fees.

The training program as set out in section 81-5,151 for volunteer fire departments and career fire departments shall be free, except that the State Fire Marshal may charge for such books and materials given to the students, testing, or specialized courses.

The State Fire Marshal may charge a fee for providing to private fire departments training, books, materials, testing, or specialized courses.

The State Fire Marshal shall charge a fee for providing to industrial fire brigades training, books, materials, testing, and specialized courses.

Source: Laws 1993, LB 348, § 87.

81-5,153 Training Division Cash Fund; created; use; investment.

(1) The Training Division Cash Fund is created. The State Fire Marshal shall administer the fund.

(2) Money collected pursuant to section 81-5,152 shall be remitted to the State Treasurer for credit to the fund. Such money in the fund shall be used for the purpose of administering the training program established pursuant to sections 81-5,151 to 81-5,157, except that transfers may be made from such money in the fund to the General Fund at the direction of the Legislature.

(3) Money transferred to the Training Division Cash Fund from the Nebraska Opioid Recovery Trust Fund shall be used to connect first responders to behavioral health services, supports, and training and for a statewide wellness learning plan that includes anonymous assessments, education, and awareness to promote resiliency development, in accordance with the terms and conditions of the litigation or settlement that is the source of the money.

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

Source: Laws 1980, LB 724, § 3; R.S.1943, (1987), § 79-1431; Laws 1993, LB 348, § 88; Laws 2004, LB 1091, § 17; Laws 2007, LB322, § 25; Laws 2009, First Spec. Sess., LB3, § 67; Laws 2024, LB1355, § 16.

Operative date July 1, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-5,154 Repealed. Laws 2002, LB 93, § 27.

81-5,155 Repealed. Laws 2002, LB 93, § 27.

81-5,156 Repealed. Laws 2002, LB 93, § 27.

81-5,157 Fire Service and Safety Training Program; transfer to State Fire Marshal; personnel, records, and other property; transfer.

The Fire Service and Safety Training Program is hereby transferred to the State Fire Marshal. All personnel of the program in the State Department of Education who manage, teach, are office personnel, or are involved in the running of the program shall be transferred to the office of the State Fire Marshal on July 1, 1993.

All furniture, equipment, books, files, records, leases, and other property used by the Nebraska Fire Service shall be transferred and delivered to the State Fire Marshal on July 1, 1993.

Source: Laws 1993, LB 348, § 92.

(j) FIRE PROTECTION SYSTEMS

81-5,158 Terms, defined.

For purposes of sections 81-5,158 to 81-5,164:

(1) Responsible managing employee means an individual employed full time by the water-based fire protection system contractor who (a) is currently certified by the National Institute for Certification in Engineering Technologies at level III or IV in fire protection engineering technology, automatic sprinkler system layout, or another nationally recognized certification in automatic sprinkler system layout recognized by the State Fire Marshal, (b) has completed and passed an examination administered by the State Fire Marshal, and (c) is an owner, partner, or officer or in a management position of a contractor;

(2) Water-based fire protection system means a system of overhead piping: (a) Designed in accordance with fire protection engineering standards, usually activated by heat from a fire and which, when activated, discharges water over a fire area; (b) supplied from an acceptable water supply; (c) which is specially sized or hydraulically designed and installed in a building, structure, or fire area to which fire sprinklers are connected; and (d) which includes a controlling valve and usually a device for actuating an alarm when the system is in operation. Only the portion of the water-based fire protection system which is separate from the domestic water system is considered the water-based fire protection system. Water-based fire protection systems include wet-pipe systems, dry-pipe systems, foam-water systems, pre-action systems, deluge systems, combined dry-pipe and pre-action systems, standpipe systems, combined standpipe and sprinkler systems, water-spray fixed systems, fire pumps, fire protection water storage tanks, antifreeze systems, and circulating closed-loop systems; and

(3) Water-based fire protection system contractor means a person engaged in the business of installation, repair, alteration, addition, maintenance, or inspection of water-based fire protection systems, but does not include (a) individuals employed by and working under the direction of a contractor or (b) local building officials, fire inspectors, or insurance inspectors when acting in their official capacity.

Source: Laws 1997, LB 636, § 1.

81-5,159 Contractor certificate; required; application; fee; examination; renewal; responsible managing employee.

(1) Any water-based fire protection system contractor who installs, repairs, alters, adds to, maintains, or inspects water-based fire protection systems in this state shall first obtain a contractor certificate.

(2) A water-based fire protection system contractor may apply to the State Fire Marshal for a contractor certificate. The application shall be made on a form prescribed by the State Fire Marshal and shall include a certificate fee of up to one hundred dollars. Each applicant must designate a responsible managing employee on the application, and such individual's name shall appear on the certificate with that of the water-based fire protection system contractor upon issuance. Proof of insurance required by section 81-5,160 shall also accompany the application.

(3) Upon receipt of a complete application, proof of insurance, and certificate fee, the State Fire Marshal shall schedule a time for an examination of the responsible managing employee to demonstrate that he or she is familiar with the procedures and rules of the State Fire Marshal relating to water-based fire protection systems. If the responsible managing employee passes the examina-

tion, the State Fire Marshal shall issue the certificate to the water-based fire protection system contractor within thirty days.

(4) A certificate shall expire on September 30 of the year following issuance. An application for renewal shall be filed at least ten days prior to expiration and shall be accompanied by a renewal fee of up to one hundred dollars and a sworn affidavit that the responsible managing employee is currently employed by the water-based fire protection system contractor. A water-based fire protection system contractor who fails to apply for renewal within the time stated in this subsection must make a new application for a certificate.

(5) A responsible managing employee may only act as such for one water-based fire protection system contractor at a time. When a responsible managing employee terminates his or her association with a water-based fire protection system contractor, the water-based fire protection system contractor shall notify the State Fire Marshal within thirty days after termination. The responsible managing employee shall not be designated as the responsible managing employee for more than two water-based fire protection system contractors in any twelve-month period. The State Fire Marshal shall revoke the certificate of a water-based fire protection system contractor whose responsible managing employee has terminated his or her association with the water-based fire protection system contractor unless an application designating a new responsible managing employee is filed within six months after termination or prior to expiration of the current certificate, whichever is earlier.

Source: Laws 1997, LB 636, § 2; Laws 2024, LB1069, § 7.
Effective date April 16, 2024.

81-5,160 Contractor; insurance required.

A water-based fire protection system contractor shall maintain general and completed operations liability insurance for installation, inspection, and testing of water-based fire protection systems providing at least one million dollars of coverage.

Source: Laws 1997, LB 636, § 3.

81-5,161 Sections; how construed.

Sections 81-5,158 to 81-5,164 shall not be construed to:

- (1) Relieve any person from payment of local license or permit fees;
- (2) Limit the power of the state or political subdivisions to regulate the quality and character of work performed by water-based fire protection system contractors through a system of permits, fees, and inspections which are designed to assure compliance with, and aid in the implementation of, state and local building laws or to enforce other local laws for the protection of the public health and safety; or
- (3) Limit the power of the state or political subdivisions to adopt any system of permits requiring submission to and approval by the state or political subdivision of plans and specifications for work to be performed by water-based fire protection system contractors before commencement of the work.

Source: Laws 1997, LB 636, § 4.

81-5,162 Fees; penalties; distribution.

Any money collected under sections 81-5,158 to 81-5,160 shall be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund. Any civil penalties collected under section 81-5,163 shall be remitted to the State Treasurer for credit to the permanent school fund.

Source: Laws 1997, LB 636, § 5.

81-5,163 Violation; penalties.

Any violation of sections 81-5,158 to 81-5,162 is a Class V misdemeanor. In addition, the State Fire Marshal may impose a civil penalty of up to two hundred fifty dollars for each day a violation continues. Any violation shall also constitute grounds for revocation of a contractor certificate.

Source: Laws 1997, LB 636, § 6.

81-5,164 Rules and regulations.

The State Fire Marshal shall adopt and promulgate rules and regulations to carry out sections 81-5,158 to 81-5,163.

Source: Laws 1997, LB 636, § 7.

(k) BOILER INSPECTION ACT

81-5,165 Act, how cited.

Sections 81-5,165 to 81-5,189 shall be known and may be cited as the Boiler Inspection Act.

Source: Laws 1987, LB 462, § 1; Laws 1988, LB 863, § 1; Laws 1995, LB 438, § 1; R.S.1943, (2010), § 48-719; Laws 2019, LB301, § 1.

81-5,166 Terms, defined.

As used in the Boiler Inspection Act, unless the context otherwise requires:

(1) Authorized inspection agency means an authorized inspection agency as defined in NB-369, National Board Qualifications and Duties for Authorized Inspection Agencies (AIAs) Performing Inservice Inspection Activities and Qualifications for Inspectors of Boilers and Pressure Vessels;

(2) Board means the Boiler Safety Code Advisory Board; and

(3) Boiler means a closed vessel in which water or other liquid is heated, steam or vapor is generated, steam or vapor is superheated, or any combination thereof, under pressure, for internal or external use to itself, by the direct application of heat and an unfired pressure vessel in which the pressure is obtained from an external source or by the application of heat from a direct source. Boiler includes a fired unit for heating or vaporizing liquids other than water only when such unit is separate from processing systems and complete within itself.

Source: Laws 1987, LB 462, § 2; Laws 1988, LB 863, § 2; Laws 1997, LB 641, § 1; Laws 2007, LB226, § 1; R.S.1943, (2010), § 48-720; Laws 2019, LB301, § 2.

81-5,167 State boiler inspector; deputy inspectors; qualifications; bond or insurance.

(1) The State Fire Marshal shall employ a state boiler inspector who shall work under the direct supervision of the State Fire Marshal or his or her designee. The state boiler inspector shall:

(a) Be a practical boilermaker, technical engineer, operating engineer, or boiler inspector;

(b) Hold an “AI” or “IS” Commission from the National Board of Boiler and Pressure Vessel Inspectors;

(c) Be qualified by not less than ten years’ experience in the construction, installation, repair, inspection, or operation of boilers, steam generators, and superheaters;

(d) Have a knowledge of the operation and use of boilers, steam generators, and superheaters for the generating of steam for power, heating, or other purposes; and

(e) Neither directly nor indirectly be interested in the manufacture, ownership, or agency of boilers, steam generators, and superheaters.

(2) The State Fire Marshal may hire deputy inspectors as necessary to carry out the Boiler Inspection Act. Deputy inspectors shall hold an “IS” Commission from the National Board of Boiler and Pressure Vessel Inspectors or acquire the same within twelve months of hire. Such deputy inspectors shall otherwise be subject to and governed by the same rules and regulations applicable to and governing the acts and conduct of the state boiler inspector.

(3) Before entering upon his or her duties under the Boiler Inspection Act, the state boiler inspector and each deputy inspector shall be bonded or insured as required by section 11-201.

Source: Laws 1943, c. 112, § 1, p. 392; R.S.1943, § 48-701; Laws 1978, LB 653, § 12; R.S.1943, (1984), § 48-701; Laws 1987, LB 462, § 3; Laws 1998, LB 395, § 12; Laws 1999, LB 66, § 1; Laws 2004, LB 884, § 23; Laws 2017, LB264, § 1; R.S.Supp.,2018, § 48-721; Laws 2019, LB301, § 3; Laws 2021, LB37, § 6.

81-5,168 State boiler inspector; inspection; exception; contract with authorized inspection agency; certification.

(1) Except as provided in subsections (3) and (4) of this section, the state boiler inspector shall inspect or cause to be inspected at least once every twelve months all boilers required to be inspected by the Boiler Inspection Act to determine whether the boilers are in a safe and satisfactory condition and properly constructed and maintained for the purpose for which the boiler is used, except that (a) hobby boilers, steam farm traction engines, portable and stationary show engines, and portable and stationary show boilers, which are not otherwise exempted from the act pursuant to section 81-5,172, shall be subject to inspection at least once every twenty-four months and (b) the State Fire Marshal may, by rule and regulation, establish inspection periods for pressure vessels of more than twelve months, but not to exceed the inspection period recommended in the National Board Inspection Code or the American Petroleum Institute Pressure Vessel Inspection Code API-510 for pressure vessels being used for similar purposes. In order to ensure that inspections are performed in a timely manner, the State Fire Marshal may contract with an authorized inspection agency to perform any inspection authorized under the Boiler Inspection Act. If the State Fire Marshal contracts with an authorized

inspection agency to perform inspections, such contract shall be in writing and shall contain an indemnification clause wherein the authorized inspection agency agrees to indemnify and defend the State Fire Marshal for loss occasioned by negligent or tortious acts committed by special inspectors employed by such authorized inspection agency when performing inspections on behalf of the State Fire Marshal.

(2) No boilers required to be inspected by the act shall be operated without valid and current certification pursuant to rules and regulations adopted and promulgated by the State Fire Marshal in accordance with the requirements of the Administrative Procedure Act. The owner of any boiler installed after September 2, 1973, shall file a manufacturer's data report covering the construction of such boiler with the state boiler inspector. Such reports shall be used to assist the state boiler inspector in the certification of boilers. No boiler required to be inspected by the Boiler Inspection Act shall be operated at any type of public gathering or show without first being inspected and certified as to its safety by the state boiler inspector or a special inspector commissioned pursuant to section 81-5,177. Antique engines with boilers may be brought into the state from other states without inspection, but inspection as provided in this section shall be made and the boiler certified as safe before being operated.

(3) The State Fire Marshal may, by rule and regulation, waive the inspection of unfired pressure vessels registered with the State of Nebraska if the State Fire Marshal finds that the owner or user of the unfired pressure vessel follows a safety inspection and repair program that is based upon nationally recognized standards.

(4) A boiler that is used as a water heater to supply potable hot water and that is not otherwise exempt from inspection under the act pursuant to section 81-5,172 shall be subject to inspection at least once every twenty-four months in accordance with a schedule of inspection established by the State Fire Marshal by rule and regulation.

Source: Laws 1943, c. 112, § 2(1), p. 392; R.S.1943, § 48-702; Laws 1961, c. 235, § 5, p. 698; Laws 1971, LB 886, § 1; Laws 1973, LB 481, § 1; R.S.1943, (1984), § 48-702; Laws 1987, LB 462, § 4; Laws 1995, LB 438, § 2; Laws 1997, LB 641, § 2; Laws 1998, LB 395, § 13; Laws 1999, LB 66, § 2; Laws 2007, LB226, § 2; Laws 2009, LB627, § 1; R.S.1943, (2010), § 48-722; Laws 2019, LB301, § 4.

Cross References

Administrative Procedure Act, see section 84-920.

81-5,169 State Fire Marshal and boiler inspectors; right of entry.

The State Fire Marshal and the boiler inspectors shall have the right and power to enter any building or structure, public or private, for the purpose of inspecting any boilers required to be inspected by the Boiler Inspection Act or gathering information relating to such boilers.

Source: Laws 1943, c. 112, § 2(2), p. 393; R.S.1943, § 48-703; R.S.1943, (1984), § 48-703; Laws 1987, LB 462, § 5; Laws 1995, LB 438, § 3; R.S.1943, (2010), § 48-723; Laws 2019, LB301, § 5.

81-5,170 Certificate of inspection; certificate of registration; fees.

(1) Upon making an inspection of any boilers required to be inspected by the Boiler Inspection Act and upon receipt of the inspection fee and certificate fee or registration fee, the boiler inspector shall give to the owner or user of the boilers a certificate of inspection or certificate of registration upon forms prescribed by the State Fire Marshal. The certificate shall be posted in a place near the location of such boiler.

(2) The State Fire Marshal shall establish the amount of the inspection fee, certificate fee, and registration fee by rule or regulation at the level necessary to meet the costs of administering the act.

Source: Laws 1943, c. 112, § 2(3), p. 393; R.S.1943, § 48-704; Laws 1965, c. 288, § 1, p. 824; Laws 1980, LB 959, § 1; R.S.1943, (1984), § 48-704; Laws 1987, LB 462, § 6; Laws 1995, LB 438, § 4; Laws 1996, LB 1047, § 2; Laws 1998, LB 395, § 14; R.S.1943, (2010), § 48-724; Laws 2019, LB301, § 6.

81-5,171 Excessive pressure prohibited.

The owner, user, or person or persons in charge of any boiler required to be inspected by the Boiler Inspection Act shall not allow or permit a greater pressure in any unit than is stated in the certificate of inspection issued by the inspector.

Source: Laws 1943, c. 112, § 2(4), p. 393; R.S.1943, § 48-705; R.S.1943, (1984), § 48-705; Laws 1987, LB 462, § 7; Laws 1995, LB 438, § 5; R.S.1943, (2010), § 48-725; Laws 2019, LB301, § 7.

81-5,172 Boilers and vessels to which act does not apply.

The Boiler Inspection Act shall not apply to:

- (1) Boilers of railway locomotives subject to federal inspection;
- (2) Boilers operated and regularly inspected by railway companies operating in interstate commerce;
- (3) Boilers under the jurisdiction and subject to regular periodic inspection by the United States Government;
- (4) Boilers used exclusively for agricultural purposes;
- (5) Steam heating boilers in single-family residences and apartment houses with four or less units having a safety valve set no higher than fifteen pounds pressure per square inch;
- (6) Heating boilers using water in single-family residences and apartment houses with four or less units having a safety valve set no higher than thirty pounds pressure per square inch;
- (7) Fire engine boilers brought into the state for temporary use in times of emergency;
- (8) Boilers of a miniature model locomotive or boat or tractor or stationary engine constructed and maintained as a hobby and not for commercial use and having a diameter of less than ten inches inside diameter and a grate area not in excess of one and one-half square feet and that are properly equipped with a safety valve;
- (9) Boilers or fired pressure vessels not exceeding two hundred thousand British thermal units of input;

(10) Unfired pressure vessels not exceeding (a) five cubic feet in volume or (b) a pressure of two hundred fifty pounds per square inch;

(11) Unfired pressure vessels owned and maintained by a district or corporation organized under the provisions of Chapter 70, article 6; and

(12) Unfired pressure vessels (a) not exceeding a maximum allowable working pressure of five hundred pounds per square inch, (b) that contain carbon dioxide, helium, oxygen, nitrogen, argon, hydrofluorocarbon refrigerant, or any other nonflammable gas determined by the State Fire Marshal not to be a risk to the public, (c) that are manufactured and repaired in accordance with applicable American Society of Mechanical Engineers standards, and (d) that are installed in accordance with the manufacturer's specifications.

Source: Laws 1943, c. 112, § 3, p. 393; R.S.1943, § 48-706; Laws 1965, c. 288, § 2, p. 825; Laws 1969, c. 406, § 1, p. 1404; R.S.1943, (1984), § 48-706; Laws 1987, LB 462, § 8; Laws 1995, LB 438, § 6; Laws 1997, LB 641, § 3; Laws 1998, LB 395, § 15; Laws 1999, LB 66, § 3; Laws 2005, LB 122, § 1; R.S.1943, (2010), § 48-726; Laws 2019, LB301, § 8; Laws 2024, LB1069, § 8. Effective date April 16, 2024.

81-5,173 State Fire Marshal; adopt rules and regulations; adopt schedule of fees; incorporation of codes.

The State Fire Marshal may adopt and promulgate rules and regulations for the purpose of effectuating the Boiler Inspection Act, including rules and regulations for the methods of testing equipment, the construction and installation of new boilers, and a schedule of inspection and certificate fees for boilers required to be inspected by the act. Such rules and regulations may incorporate by reference any portion of (1) the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, as amended, (2) the National Board Inspection Code, as amended, (3) the American Society of Mechanical Engineers Code for Controls and Safety Devices for Automatically Fired Boilers, as amended, concerning controls and safety devices for automatically fired boilers, (4) the American Petroleum Institute Pressure Vessel Inspection Code API-510, and (5) the National Fire Protection Association pamphlet 85, Boiler and Combustion Systems Hazards Code, including codes referenced in such code. A copy of all rules and regulations adopted and promulgated under the Boiler Inspection Act, including copies of all codes incorporated by reference, shall be kept on file in the office of the State Fire Marshal and shall be known as the Boiler Safety Code.

Source: Laws 1943, c. 112, § 4(1), p. 393; R.S.1943, § 48-707; R.S.1943, (1984), § 48-707; Laws 1987, LB 462, § 9; Laws 1995, LB 438, § 7; Laws 1999, LB 66, § 4; R.S.1943, (2010), § 48-727; Laws 2019, LB301, § 9.

81-5,174 Boiler explosion; investigation; report.

The state boiler inspector shall investigate and report to the State Fire Marshal the cause of any boiler explosion that may occur in the state, the loss of life, the injuries sustained, the estimated loss of property, if any, and such other data as may be of benefit in preventing other similar explosions.

Source: Laws 1943, c. 112, § 4(2), p. 394; R.S.1943, § 48-708; R.S.1943, (1984), § 48-708; Laws 1987, LB 462, § 10; R.S.1943, (2010), § 48-728; Laws 2019, LB301, § 10.

81-5,175 State boiler inspector; record of equipment.

The state boiler inspector shall keep in the office of the State Fire Marshal a complete and accurate record of the name of the owner or user of any boiler required to be inspected by the Boiler Inspection Act and a full description of the equipment including the type, dimensions, age, condition, amount of pressure allowed, and date when last inspected.

Source: Laws 1943, c. 112, § 4(3), p. 394; R.S.1943, § 48-709; R.S.1943, (1984), § 48-709; Laws 1987, LB 462, § 11; Laws 1995, LB 438, § 8; R.S.1943, (2010), § 48-729; Laws 2019, LB301, § 11.

81-5,176 Equipment; installation; notice to State Fire Marshal; reinspection.

Before any boiler required to be inspected by the Boiler Inspection Act is installed, a ten days' written notice of intention to install the boiler shall be given to the State Fire Marshal, except that the State Fire Marshal may, upon application and good cause shown, waive the ten-day prior notice requirement. The notice shall designate the proposed place of installation, the type and capacity of the boiler, the use to be made of the boiler, the name of the company which manufactured the boiler, and whether the boiler is new or used. A boiler moved from one location to another shall be reinspected prior to being placed back into use.

Source: Laws 1943, c. 112, § 5, p. 394; R.S.1943, § 48-710; R.S.1943, (1984), § 48-710; Laws 1987, LB 462, § 12; Laws 1995, LB 438, § 9; Laws 1998, LB 395, § 16; Laws 2007, LB226, § 3; R.S.1943, (2010), § 48-730; Laws 2019, LB301, § 12.

81-5,177 Special inspector commission; requirements; inspection under provision of a city ordinance; inspection under the act not required; when; insurance coverage required.

(1)(a) The State Fire Marshal may issue a special inspector commission to an inspector in the employ of a company if the inspector has previously passed the examination prescribed by the National Board of Boiler and Pressure Vessel Inspectors and the company is an insurance company authorized to insure boilers in this state against loss from explosion or is an authorized inspection agency.

(b) Each special inspector employed by an insurance company or authorized inspection agency who has been issued a special inspector commission under this section shall submit to the state boiler inspector complete data of each boiler required to be inspected by the Boiler Inspection Act which is insured or inspected by such insurance company or authorized inspection agency on forms approved by the State Fire Marshal.

(c) Insurance companies shall notify the State Fire Marshal of new, canceled, or suspended risks relating to insured boilers. Insurance companies shall notify the State Fire Marshal of all boilers which the company insures, or any boiler for which insurance has been canceled, not renewed, or suspended within thirty days after such action. Authorized inspection agencies shall notify the State Fire Marshal of any new or canceled agreements relating to the inspection of boilers or pressure vessels within thirty days after such action.

(d) Insurance companies and authorized inspection agencies shall immediately notify the State Fire Marshal of defective boilers. If a special inspector

employed by an insurance company, upon the first inspection of new risk, finds that the boiler or any of the appurtenances are in such condition that the inspector's company refuses insurance, the company shall immediately submit a report of the defects to the state boiler inspector.

(2) The inspection required by the act shall not be required if (a) an annual inspection is made under a city ordinance which meets the standards set forth in the act, (b) a certificate of inspection of the boiler is filed with the State Fire Marshal with a certificate fee, and (c) the inspector for the city making such inspection is required by such ordinance to either hold a commission from the National Board of Boiler and Pressure Vessel Inspectors commensurate with the type of inspections performed by the inspector for the city or acquire the commission within twelve months after appointment.

(3) The State Fire Marshal may, by rule and regulation, provide for the issuance of a special inspector commission to an inspector in the employ of a company using or operating an unfired pressure vessel subject to the act for the limited purpose of inspecting unfired pressure vessels used or operated by such company.

(4) All inspections made by a special inspector shall be performed in accordance with the act, and a complete report of such inspection shall be filed with the State Fire Marshal in the time, manner, and form prescribed by the State Fire Marshal.

(5) The state boiler inspector may, at his or her discretion, inspect any boiler to which a special inspector commission applies.

(6) The State Fire Marshal may, for cause, suspend or revoke any special inspector commission.

(7) No authorized inspection agency shall perform inspections of boilers in the State of Nebraska unless the authorized inspection agency has insurance coverage for professional errors and omissions and comprehensive and general liability under a policy or policies written by an insurance company authorized to do business in this state in effect at the time of such inspection. Such insurance policy or policies shall be in an amount not less than the minimum amount as established by the State Fire Marshal. Such minimum amount shall be established with due regard to the protection of the general public and the availability of insurance coverage, but such minimum insurance coverage shall not be less than one million dollars for professional errors and omissions and one million dollars for comprehensive and general liability.

Source: Laws 1943, c. 112, § 6(2), p. 394; R.S.1943, § 48-712; Laws 1947, c. 176, § 1, p. 584; Laws 1980, LB 959, § 2; R.S.1943, (1984), § 48-712; Laws 1987, LB 462, § 13; Laws 1995, LB 438, § 10; Laws 1998, LB 395, § 17; Laws 2007, LB226, § 4; R.S.1943, (2010), § 48-731; Laws 2019, LB301, § 13.

81-5,178 Defective boiler; notice to user.

The state boiler inspector shall notify the user in writing of any boiler found to be unsafe or unfit for operation setting forth the nature and extent of such defects and condition. The notice shall indicate whether or not the boiler may be used without making repair or replacement of defective parts or may be used in a limited capacity before repairs or replacements are made. The state

boiler inspector may permit the user a reasonable time to make such repairs or replacements.

Source: Laws 1943, c. 112, § 6(3), p. 395; R.S.1943, § 48-713; R.S.1943, (1984), § 48-713; Laws 1987, LB 462, § 14; Laws 1995, LB 438, § 11; R.S.1943, (2010), § 48-732; Laws 2019, LB301, § 14.

81-5,179 Boiler; inspection; fees.

The owner or user of a boiler required to be inspected under the Boiler Inspection Act or inspected by request of the boiler owner shall pay a fee for such inspection or inspections in accordance with the rules and regulations adopted and promulgated by the State Fire Marshal. Any boiler required to be inspected by the act may be inspected by the state boiler inspector if the owner or his or her agent makes written request to the state boiler inspector. Fees will be imposed as required for services in support of the act in accordance with rules and regulations adopted and promulgated by the State Fire Marshal.

Source: Laws 1943, c. 112, § 7, p. 395; R.S.1943, § 48-714; Laws 1963, c. 294, § 1, p. 880; Laws 1980, LB 959, § 3; R.S.1943, (1984), § 48-714; Laws 1987, LB 462, § 15; Laws 1995, LB 438, § 12; R.S.1943, (2010), § 48-733; Laws 2019, LB301, § 15.

81-5,180 Boiler Inspection Cash Fund; created; use; investment.

The Boiler Inspection Cash Fund is created. The State Fire Marshal shall use the fund for the administration of the boiler inspection program pursuant to the Boiler Inspection Act. The fund shall consist of money appropriated to it by the Legislature and fees collected in the administration of the act. Fees so collected shall be remitted to the State Treasurer with an itemized statement showing the source of collection. The State Treasurer shall credit the fees to the fund and the money in the fund shall not lapse into the General Fund, except that money in the Boiler Inspection Cash Fund may be transferred to the General Fund at the direction of the Legislature. Any money in the Boiler Inspection Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1995, LB 438, § 13; Laws 2017, LB331, § 25; R.S.Supp.,2018, § 48-735.01; Laws 2019, LB301, § 16.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-5,181 Violation; penalty.

Any person, persons, corporations, and the directors, managers, superintendents, and officers of such corporations violating the Boiler Inspection Act shall be guilty of a Class III misdemeanor.

Source: Laws 1943, c. 112, § 9, p. 396; R.S.1943, § 48-716; Laws 1977, LB 40, § 297; R.S.1943, (1984), § 48-716; Laws 1987, LB 462, § 18; Laws 2007, LB226, § 5; R.S.1943, (2010), § 48-736; Laws 2019, LB301, § 17.

81-5,182 Defective boiler; State Fire Marshal; state boiler inspector; powers.

In addition to any and all other remedies, if any owner, user, or person in charge of any boiler required to be inspected by the Boiler Inspection Act continues to use the same after receiving a notice of defect as provided by the act, without first correcting the defects or making replacements, the State Fire Marshal may apply to the district court or any judge thereof by petition in equity, in an action brought in the name of the state, for a writ of injunction to restrain the use of the alleged defective boiler or if the continued operation of the boiler poses serious risk or harm to the general public, the state boiler inspector may take those actions required to immediately shut down and cause to be inoperable any boiler required to be inspected by the act.

Source: Laws 1943, c. 112, § 10, p. 396; R.S.1943, § 48-717; R.S.1943, (1984), § 48-717; Laws 1987, LB 462, § 19; Laws 1995, LB 438, § 14; R.S.1943, (2010), § 48-737; Laws 2019, LB301, § 18.

81-5,183 Petition for injunction; notice to owner or user; procedure.

The State Fire Marshal shall notify the owner or user of the equipment in writing of the time and place of hearing of the petition, as fixed by the court or judge, and serve the notice on the defendant at least five days prior to the hearing in the same manner as original notices are served. The general provisions relating to civil practice and procedure, insofar as the same may be applicable, shall govern such proceedings except as otherwise provided in the Boiler Inspection Act. In the event the defendant does not appear or plead to such action, default shall be entered against the defendant. The action shall be tried in equity, and the court or judge shall make such order or decree as the evidence warrants.

Source: Laws 1943, c. 112, § 11, p. 396; R.S.1943, § 48-718; R.S.1943, (1984), § 48-718; Laws 1987, LB 462, § 20; R.S.1943, (2010), § 48-738; Laws 2019, LB301, § 19.

81-5,184 Boiler Safety Code Advisory Board; created; members; terms.

There is hereby created the Boiler Safety Code Advisory Board. The board shall consist of seven members appointed by the Governor with the approval of the Legislature. Within thirty days after July 9, 1988, the Governor shall appoint three members for terms of two years and four members for terms of four years. Each succeeding member of the board shall be appointed for a term of four years, except that a member appointed to fill a vacancy shall serve for the unexpired term. If the Legislature is not in session when members of the board are appointed, such members shall take office and act as appointees until the next session of the Legislature.

Source: Laws 1988, LB 863, § 3; R.S.1943, (2010), § 48-739; Laws 2019, LB301, § 20.

81-5,185 Board; members; qualifications.

The membership of the board shall consist of one member who represents owners and users of boilers and has experience with boilers, one member who represents sellers of boilers, one member who represents the crafts involved in the construction, repair, or operation of boilers, one member who represents the insurance industry, one member who is a licensed professional engineer with experience with boilers, one member who represents the interest of public

safety, and one member who represents the public. The state boiler inspector shall be a nonvoting member of the board.

Source: Laws 1988, LB 863, § 4; R.S.1943, (2010), § 48-740; Laws 2019, LB301, § 21.

81-5,186 Board; meetings; chairperson; quorum.

The members of the board shall conduct an annual meeting in July of each year, or at such other time as the board determines, and shall elect a chairperson from their members at the annual meeting. Other meetings of the board shall be held when called with at least seven days' notice to all members by the chairperson of the board or pursuant to a call signed by four other members. Four members of the board shall constitute a quorum for the transaction of business.

Source: Laws 1988, LB 863, § 5; Laws 1998, LB 395, § 18; R.S.1943, (2010), § 48-741; Laws 2019, LB301, § 22.

81-5,187 Board member; compensation; expenses.

Each board member shall be paid the sum of fifty dollars per day while actually engaged in the business of the board. The members of the board shall be paid their mileage and expenses in attending meetings of the board and carrying out their official duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1988, LB 863, § 6; R.S.1943, (2010), § 48-742; Laws 2019, LB301, § 23.

81-5,188 Board; duties.

The board shall hold hearings and advise the State Fire Marshal on rules and regulations for methods of testing equipment and construction and installation of new boilers required to be inspected by the Boiler Inspection Act and for inspection and certificate fees for such boilers.

Source: Laws 1988, LB 863, § 7; Laws 1995, LB 438, § 15; R.S.1943, (2010), § 48-743; Laws 2019, LB301, § 24.

81-5,189 Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.

(1) Effective July 1, 2019, all duties and functions of the Department of Labor under the Boiler Inspection Act shall be transferred to the State Fire Marshal.

(2) On July 1, 2019, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Labor pertaining to the duties and functions transferred to the State Fire Marshal pursuant to this section shall become the property of the State Fire Marshal.

(3) On and after July 1, 2019, whenever the Department of Labor is referred to or designated by any contract or other document in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section, such reference or designation shall apply to the State Fire Marshal. All contracts entered into by the Department of Labor prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal are hereby recognized, with the State Fire Marshal succeeding to all rights and obligations under such contracts.

(4) All rules and regulations of the Department of Labor adopted prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

(5) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2019, or which could have been commenced prior to that date, by or against the Department of Labor, or any employee thereof in such employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Department of Labor to the State Fire Marshal.

(6) On and after July 1, 2019, positions of employment in the Department of Labor related to the duties and functions transferred pursuant to this section are transferred to the State Fire Marshal. The affected employees shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the State Fire Marshal from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2019, LB301, § 25.

(I) NEBRASKA AMUSEMENT RIDE ACT

81-5,190 Act, how cited.

Sections 81-5,190 to 81-5,209 shall be known and may be cited as the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 1; Laws 1994, LB 608, § 1; R.S.1943, (2010), § 48-1801; Laws 2019, LB301, § 26.

81-5,191 Terms, defined.

For purposes of the Nebraska Amusement Ride Act, unless the context otherwise requires:

(1) Amusement ride shall mean any mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, or excitement, but such term shall not include (a) any single-passenger coin-operated ride that is manually, mechanically, or electrically operated and customarily placed in a public location and that does not normally require the supervision or services of an operator or (b) nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, and physical fitness devices. Bungee jumping is specifically designated as an amusement ride for purposes of the act and shall mean the sport, activity, or other practice of jumping, diving, stepping out, dropping, or otherwise being released into the air while attached to a bungee cord, whereby the cord stretches, stops the fall, lengthens, and shortens allowing the person to bounce up and down, and is intended to finally bring the person to a stop at a point above a surface or the ground;

(2) Bungee cord shall mean a cord made of rubber, latex, or other elastic-type material, whether natural or synthetic;

(3) Operator shall mean a person actually engaged in or directly controlling the operations of an amusement ride;

(4) Owner shall mean a person who owns, leases, controls, or manages the operations of an amusement ride and may include the state or any political subdivision of the state;

(5) Qualified inspector shall mean any person who is (a) found by the State Fire Marshal to possess the requisite training and experience to perform competently the inspections required by the Nebraska Amusement Ride Act and (b) certified by the State Fire Marshal to perform inspections of amusement rides; and

(6) Reverse bungee jumping shall mean the sport, activity, or practice whereby a person is attached to a bungee cord, the bungee cord is stretched down so that such person is on a fixed catapult, launch, or release position, and such person is catapulted or otherwise launched or released into the air from such fixed position, while attached to a bungee cord, whereby the cord stretches, stops the fall, lengthens, and shortens allowing the person to bounce up and down, and is intended to finally bring the person to a stop at a point above a surface or the ground.

Source: Laws 1987, LB 226, § 2; Laws 1994, LB 608, § 2; R.S.1943, (2010), § 48-1802; Laws 2019, LB301, § 27.

81-5,192 State Fire Marshal; adopt rules and regulations; administer act.

The State Fire Marshal shall adopt and promulgate rules and regulations (1) for the safe installation, repair, maintenance, use, operation, and inspection of amusement rides as the State Fire Marshal may find necessary for the protection of the general public and (2) necessary to carry out the provisions of the Nebraska Amusement Ride Act. Such rules and regulations shall be of a reasonable nature, based upon generally accepted engineering standards, formulas, and practices, and, insofar as practicable and consistent with the Nebraska Amusement Ride Act, uniform with rules and regulations of other states. Whenever such standards are available in suitable form they may be incorporated by reference by the State Fire Marshal. The State Fire Marshal shall administer and enforce the Nebraska Amusement Ride Act and all rules and regulations adopted and promulgated pursuant to such act. The State Fire Marshal shall coordinate all regulatory and investigative activities with the appropriate state agencies.

Source: Laws 1987, LB 226, § 3; R.S.1943, (2010), § 48-1803; Laws 2019, LB301, § 28.

81-5,193 Amusement ride; permit required; inspection.

Except for purposes of testing and inspection, no amusement ride shall be operated without a valid permit for the operation issued by the State Fire Marshal to the owner of such amusement ride. The owner of an amusement ride shall apply for a permit under section 81-5,195 to the State Fire Marshal on an application furnished by the State Fire Marshal and shall include such information as the State Fire Marshal may require. Every amusement ride shall

be inspected before it is originally put into operation for public use and at least once every year after such ride is put into operation for public use.

Source: Laws 1987, LB 226, § 4; R.S.1943, (2010), § 48-1804; Laws 2019, LB301, § 29.

81-5,194 Reverse bungee jumping rides; prohibited.

No person shall operate a reverse bungee jumping ride in this state.

Source: Laws 1994, LB 608, § 5; R.S.1943, (2010), § 48-1804.01; Laws 2019, LB301, § 30.

81-5,195 Permit; issuance; conditions; fee; waiver of inspection.

(1) The State Fire Marshal shall issue a permit to operate an amusement ride to the owner of such amusement ride upon presentation by the owner of (a) an application for a permit, (b) a certificate of inspection by a qualified inspector, (c) proof of liability insurance as required in section 81-5,196, and (d) the permit fee. Such permit shall be valid through December 31 of the year in which the inspection is performed.

(2) The State Fire Marshal may waive the requirement of subdivision (1)(b) of this section if the owner of the amusement ride gives satisfactory proof to the State Fire Marshal that such amusement ride has passed an inspection conducted or required by a federal agency, any other state, or a governmental subdivision of this or of any other state which has standards for the inspection of such an amusement ride at least as stringent as those adopted and promulgated pursuant to the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 5; Laws 2004, LB 947, § 1; R.S.1943, (2010), § 48-1805; Laws 2019, LB301, § 31.

81-5,196 Liability insurance required.

No amusement ride shall be operated unless at the time of operation the owner has an insurance policy in effect written by an insurance company authorized to do business in this state insuring the owner and operator against liability for injury to persons arising out of the operation of such amusement ride. Such insurance policy shall be in amounts not less than the minimum amounts established by the State Fire Marshal. Such minimum amounts shall be established with due regard to the protection of the general public and the availability of insurance coverage, but such minimum amounts shall not be less than one million dollars per occurrence and three million dollars aggregate. The State Fire Marshal may require a separate insurance policy from the owner of any equipment used in an amusement ride, subject to the minimums and limitations provided in this section.

Source: Laws 1987, LB 226, § 6; Laws 1994, LB 608, § 3; R.S.1943, (2010), § 48-1806; Laws 2019, LB301, § 32.

81-5,197 Amusement ride; inspection; suspend permit; when.

The State Fire Marshal may inspect any amusement ride without notice at any time while such amusement ride is operating in this state. The State Fire Marshal may temporarily suspend a permit to operate an amusement ride if it has been determined after inspection to be hazardous or unsafe. An amusement ride shall not be operated while the permit for its operation is suspended.

Operation of such an amusement ride shall not resume until the hazardous or unsafe condition is corrected to the satisfaction of the State Fire Marshal.

Source: Laws 1987, LB 226, § 7; R.S.1943, (2010), § 48-1807; Laws 2019, LB301, § 33.

81-5,198 Accident; report; suspend permit; inspection.

The owner of an amusement ride shall send a copy of any accident report required by his or her insurer to the State Fire Marshal. The State Fire Marshal may provide for the suspension of the permit of operation for any amusement ride the breakdown or malfunction of which directly caused serious injury or death of any person. The State Fire Marshal may also require an inspection of any amusement ride, whose operation has resulted in any serious injury or death, before operation of such amusement ride may be resumed.

Source: Laws 1987, LB 226, § 8; R.S.1943, (2010), § 48-1808; Laws 2019, LB301, § 34.

81-5,199 Permit fees.

The State Fire Marshal shall establish by rules and regulations a schedule of permit fees not to exceed fifty dollars for each amusement ride. Such permit fees shall be established with due regard for the costs of administering the Nebraska Amusement Ride Act and shall be remitted to the State Treasurer for credit to the Mechanical Safety Inspection Fund.

Source: Laws 1987, LB 226, § 9; Laws 2007, LB265, § 25; R.S.1943, (2010), § 48-1809; Laws 2019, LB301, § 35.

81-5,200 State Fire Marshal; certify inspectors.

The State Fire Marshal may certify such qualified inspectors as may be necessary to carry out the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 11; R.S.1943, (2010), § 48-1811; Laws 2019, LB301, § 36.

81-5,201 Inspection fees.

(1) The State Fire Marshal may establish by rules and regulations a schedule of reasonable inspections fees for each amusement ride. The cost of obtaining the certificate of inspection from a qualified inspector shall be borne by the owner of the amusement ride.

(2) A separate schedule of fees shall be established for the inspection of bungee jumping operations, including the inspection of cranes used for bungee jumping. The fees shall be established taking into consideration the cost of such inspections.

Source: Laws 1987, LB 226, § 12; Laws 1994, LB 608, § 4; R.S.1943, (2010), § 48-1812; Laws 2019, LB301, § 37.

81-5,202 Owner; maintain records.

Each owner shall retain at all times up-to-date maintenance and inspection records for each amusement ride as prescribed by the State Fire Marshal. The owner shall make such records available to the State Fire Marshal on request.

Source: Laws 1987, LB 226, § 13; R.S.1943, (2010), § 48-1813; Laws 2019, LB301, § 38.

81-5,203 Owner; provide schedule.

The State Fire Marshal may require the owner of an amusement ride to provide the State Fire Marshal with a tentative schedule of events at which the amusement ride will be operated within this state. The State Fire Marshal shall establish timetables and procedures for providing and updating such schedules.

Source: Laws 1987, LB 226, § 14; R.S.1943, (2010), § 48-1814; Laws 2019, LB301, § 39.

81-5,204 Operator; requirements.

No person shall operate an amusement ride unless he or she is at least sixteen years of age. An operator shall be in attendance at all times that an amusement ride is in operation.

Source: Laws 1987, LB 226, § 15; R.S.1943, (2010), § 48-1815; Laws 2019, LB301, § 40.

81-5,205 Violation; penalty.

Any person who knowingly operates or causes to be operated an amusement ride in violation of the Nebraska Amusement Ride Act shall be guilty of a Class II misdemeanor. Each day a violation continues shall constitute a separate offense.

Source: Laws 1987, LB 226, § 16; R.S.1943, (2010), § 48-1816; Laws 2019, LB301, § 41.

81-5,206 Application for injunction.

The Attorney General, acting on behalf of the State Fire Marshal, or the county attorney in a county in which an amusement ride is located or operated may apply to the district court, pursuant to the rules of civil procedure, for an order enjoining operation of any amusement ride operated in violation of the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 17; R.S.1943, (2010), § 48-1817; Laws 2019, LB301, § 42.

81-5,207 Act, how construed.

The Nebraska Amusement Ride Act shall not be construed to alter the duty of care or the liability of an owner of an amusement ride for injuries or death of any person or damage to any property arising out of an accident involving an amusement ride. The state and its officers and employees shall not be construed to assume liability arising out of an accident involving an amusement ride by reason of administration of the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 18; R.S.1943, (2010), § 48-1818; Laws 2019, LB301, § 43.

81-5,208 Local safety standards; authorized.

The governing board of any city, county, or village may establish and enforce safety standards for amusement rides in addition to, but not in conflict with, the

standards established by the State Fire Marshal pursuant to the Nebraska Amusement Ride Act.

Source: Laws 1987, LB 226, § 19; R.S.1943, (2010), § 48-1819; Laws 2019, LB301, § 44.

81-5,209 Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.

(1) Effective July 1, 2019, all duties and functions of the Department of Labor under the Nebraska Amusement Ride Act shall be transferred to the State Fire Marshal.

(2) On July 1, 2019, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Labor pertaining to the duties and functions transferred to the State Fire Marshal pursuant to this section shall become the property of the State Fire Marshal.

(3) On and after July 1, 2019, whenever the Department of Labor is referred to or designated by any contract or other document in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section, such reference or designation shall apply to the State Fire Marshal. All contracts entered into by the Department of Labor prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal are hereby recognized, with the State Fire Marshal succeeding to all rights and obligations under such contracts.

(4) All rules and regulations of the Department of Labor adopted prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

(5) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2019, or which could have been commenced prior to that date, by or against the Department of Labor, or any employee thereof in such employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Department of Labor to the State Fire Marshal.

(6) On and after July 1, 2019, positions of employment in the Department of Labor related to the duties and functions transferred pursuant to this section are transferred to the State Fire Marshal. The affected employees shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the State Fire Marshal from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2019, LB301, § 45.

(m) CONVEYANCE SAFETY ACT

81-5,210 Act, how cited.

Sections 81-5,210 to 81-5,243 shall be known and may be cited as the Conveyance Safety Act.

Source: Laws 2006, LB 489, § 1; Laws 2007, LB265, § 26; R.S.1943, (2010), § 48-2501; Laws 2019, LB301, § 46.

81-5,211 Terms, defined.

For purposes of the Conveyance Safety Act:

(1) Certificate of inspection means a document issued by the State Fire Marshal that indicates that the conveyance has had the required safety inspection and tests and that the required fees have been paid;

(2) Committee means the Conveyance Advisory Committee;

(3) Conveyance means any elevator, dumbwaiter, vertical reciprocating conveyor, escalator, moving sidewalk, automated people mover, and other equipment enumerated in section 81-5,215 and not exempted under section 81-5,216;

(4) Elevator contractor means any person who is engaged in the business of contracting services for erecting, constructing, installing, altering, servicing, testing, repairing, or maintaining conveyances;

(5) Elevator mechanic means any person who is engaged in erecting, constructing, installing, altering, servicing, repairing, testing, or maintaining conveyances; and

(6) Person means an individual, a partnership, a limited liability company, a corporation, and any other business firm or company and includes a director, an officer, a member, a manager, and a superintendent of such an entity.

Source: Laws 2006, LB 489, § 2; R.S.1943, (2010), § 48-2502; Laws 2019, LB301, § 47.

81-5,212 Conveyance Advisory Committee; created; members; terms; expenses; meetings.

(1) The Conveyance Advisory Committee is created. One member shall be the state elevator inspector employed pursuant to section 81-5,221. The Governor shall appoint the other members of the committee as follows: One representative from a major elevator manufacturing company; one representative from an elevator servicing company; one representative who is a building manager; one representative who is an elevator mechanic; and one representative of the general public from each county that has a population of more than one hundred thousand inhabitants.

(2) The members of the committee appointed by the Governor shall serve for terms of three years, except that of the initial members appointed, two shall serve for terms of one year and three shall serve for terms of two years. The state elevator inspector shall serve continuously. The appointed members shall be reimbursed for expenses for service on the committee as provided in sections 81-1174 to 81-1177. The members of the committee shall elect a chairperson who shall be the deciding vote in the event of a tie vote.

(3) The committee shall meet and organize within thirty days after the appointment of the members. The committee shall meet quarterly at a time and place to be fixed by the committee for the consideration of code regulations and for the transaction of such other business as properly comes before it. Special meetings may be called by the chairperson or at the request of two or more

members of the committee. Any appointed committee member absent from three consecutive meetings shall be dismissed.

Source: Laws 2006, LB 489, § 3; Laws 2007, LB265, § 28; R.S.1943, (2010), § 48-2503; Laws 2019, LB301, § 48; Laws 2020, LB381, § 103.

81-5,213 Committee; powers and duties.

The committee:

(1) May consult with engineering authorities and organizations concerned with standard safety codes;

(2) Shall recommend to the State Fire Marshal rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation, and inspection of conveyances;

(3) Shall recommend to the State Fire Marshal qualifications for licensure as an elevator mechanic or elevator contractor and conditions for disciplinary actions, including suspension or revocation of a license;

(4) Shall recommend to the State Fire Marshal rules and regulations for temporary and emergency elevator mechanic thirty-day licenses;

(5) Shall recommend to the State Fire Marshal an enforcement program which will ensure compliance with the Conveyance Safety Act and the rules and regulations adopted and promulgated pursuant to the act. The enforcement program shall include the identification of property locations which are subject to the act, issuing notifications to violating property owners or operators, random onsite inspections and tests on existing installations, and assisting in development of public awareness programs; and

(6) Shall make recommendations to the State Fire Marshal regarding variances under section 81-5,217, continuing education providers under section 81-5,235, and license disciplinary actions under section 81-5,237.

Source: Laws 2006, LB 489, § 4; R.S.1943, (2010), § 48-2504; Laws 2019, LB301, § 49.

81-5,214 State Fire Marshal; establish fee schedules; administer act.

(1) The State Fire Marshal shall, after a public hearing conducted by the State Fire Marshal or his or her designee, establish a reasonable schedule of fees for licenses, permits, certificates, and inspections authorized under the Conveyance Safety Act. The State Fire Marshal shall establish the fees at a level necessary to meet the costs of administering the act. Inspection fee schedules relating to the inspection of conveyances adopted prior to January 1, 2008, shall continue to be effective until they are amended or repealed by the State Fire Marshal.

(2) The State Fire Marshal shall administer the Conveyance Safety Act. It is the intent of the Legislature that the funding for the administration of the act shall be entirely from cash funds remitted to the Mechanical Safety Inspection Fund that are fees collected in the administration of the act.

Source: Laws 2006, LB 489, § 6; Laws 2007, LB265, § 29; R.S.1943, (2010), § 48-2506; Laws 2019, LB301, § 50.

81-5,215 Applicability of act.

(1) The Conveyance Safety Act applies to the construction, operation, inspection, testing, maintenance, alteration, and repair of conveyances. Conveyances include the following equipment, associated parts, and hoistways which are not exempted under section 81-5,216:

(a) Hoisting and lowering mechanisms equipped with a car which moves between two or more landings. This equipment includes elevators;

(b) Power driven stairways and walkways for carrying persons between landings. This equipment includes:

(i) Escalators; and

(ii) Moving sidewalks; and

(c) Hoisting and lowering mechanisms equipped with a car, which serves two or more landings and is restricted to the carrying of material by its limited size or limited access to the car. This equipment includes:

(i) Dumbwaiters;

(ii) Material lifts and dumbwaiters with automatic transfer devices; and

(iii) Conveyors and related equipment within the scope of American Society of Mechanical Engineers B20.1.

(2) The act applies to the construction, operation, inspection, maintenance, alteration, and repair of automatic guided transit vehicles on guideways with an exclusive right-of-way. This equipment includes automated people movers.

(3) The act applies to conveyances in private residences located in counties that have a population of more than one hundred thousand inhabitants at the time of installation. Such conveyances are subject to inspection at installation but are not subject to periodic inspections.

Source: Laws 2006, LB 489, § 7; Laws 2007, LB265, § 30; R.S.1943, (2010), § 48-2507; Laws 2019, LB301, § 51.

81-5,216 Exemptions from act.

The Conveyance Safety Act does not apply to:

(1) Conveyances under the jurisdiction and subject to inspection by the United States Government;

(2) Conveyances used exclusively for agricultural purposes;

(3) Personnel hoists within the scope of American National Standards Institute A10.4;

(4) Material hoists within the scope of American National Standards Institute A10.5;

(5) Manlifts within the scope of American Society of Mechanical Engineers A90.1;

(6) Mobile scaffolds, towers, and platforms within the scope of American National Standards Institute A92;

(7) Powered platforms and equipment for exterior and interior maintenance within the scope of American National Standards Institute 120.1;

(8) Cranes, derricks, hoists, hooks, jacks, and slings within the scope of American Society of Mechanical Engineers B30;

(9) Industrial trucks within the scope of American Society of Mechanical Engineers B56;

- (10) Portable equipment, except for portable escalators which are covered by American National Standards Institute A17.1;
- (11) Tiering or piling machines used to move materials to and from storage located and operating entirely within one story;
- (12) Equipment for feeding or positioning materials at machine tools, printing presses, and similar equipment;
- (13) Skip or furnace hoists;
- (14) Wharf ramps;
- (15) Railroad car lifts or dumpers;
- (16) Line jacks, false cars, shafters, moving platforms, and similar equipment used for installing a conveyance by an elevator contractor;
- (17) Manlifts, hoists, or conveyances used in grain elevators or feed mills;
- (18) Dock levelators;
- (19) Stairway chair lifts and platform lifts; and
- (20) Conveyances in residences located in counties that have a population of one hundred thousand or less inhabitants.

Source: Laws 2006, LB 489, § 8; Laws 2007, LB265, § 31; R.S.1943, (2010), § 48-2508; Laws 2019, LB301, § 52.

81-5,217 Rules and regulations; State Fire Marshal; variance authorized; appeal.

(1) The State Fire Marshal shall adopt and promulgate rules and regulations which establish the regulations for conveyances under the Conveyance Safety Act. The rules and regulations may include the Safety Code for Elevators and Escalators, American Society of Mechanical Engineers A17.1 except those parts exempted under section 81-5,216; the standards for conveyors and related equipment, American Society of Mechanical Engineers B20.1; and the Automated People Mover Standards, American Society of Civil Engineers 21. The State Fire Marshal shall annually review to determine if the most current form of such standards should be adopted.

(2) The State Fire Marshal may grant a variance from the rules and regulations adopted in subsection (1) of this section in individual situations upon good cause shown if the safety of those riding or using the conveyance is not compromised by the variance. The State Fire Marshal shall adopt and promulgate rules and regulations for the procedure to obtain a variance. The committee shall make recommendations to the State Fire Marshal regarding each variance requested. The decision of the State Fire Marshal in granting or refusing to grant a variance may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 2006, LB 489, § 9; R.S.1943, (2010), § 48-2509; Laws 2019, LB301, § 53.

Cross References

Administrative Procedure Act, see section 84-920.

81-5,218 Registration of conveyances; when required.

Conveyances upon which construction is started subsequent to January 1, 2008, shall be registered at the time they are completed and placed in service.

Source: Laws 2006, LB 489, § 10; R.S.1943, (2010), § 48-2510; Laws 2019, LB301, § 54.

81-5,219 Certificate of inspection; when required; display of certificate.

On and after January 1, 2008: Prior to any newly installed conveyance being used for the first time, the property owner or lessee shall obtain a certificate of inspection from the State Fire Marshal. A fee established under section 81-5,214 shall be paid for the certificate of inspection. A licensed elevator contractor shall complete and submit first-time registrations for new installations to the state elevator inspector for the inspector's approval. A certificate of inspection shall be clearly displayed in an elevator car and on or in each other conveyance.

Source: Laws 2006, LB 489, § 11; R.S.1943, (2010), § 48-2511; Laws 2019, LB301, § 55.

81-5,220 Existing conveyance; prohibited acts; licensed elevator mechanic; licensed elevator contractor; when required; new conveyance installation; requirements.

(1) No person shall wire, alter, replace, remove, or dismantle an existing conveyance contained within a building or structure located in a county that has a population of more than one hundred thousand inhabitants unless such person is a licensed elevator mechanic or he or she is working under the direct supervision of a person who is a licensed elevator mechanic. Neither a licensed elevator mechanic nor a licensed elevator contractor is required to perform nonmechanical maintenance of a conveyance. Neither a licensed elevator contractor nor a licensed elevator mechanic is required for removing or dismantling conveyances which are destroyed as a result of a complete demolition of a secured building.

(2) It shall be the responsibility of licensed elevator mechanics and licensed elevator contractors to ensure that installation and service of a conveyance is performed in compliance with applicable fire and safety codes. It shall be the responsibility of the owner of the conveyance to ensure that the conveyance is maintained in compliance with applicable fire and safety codes.

(3) All new conveyance installations shall be performed by a licensed elevator mechanic under the control of a licensed elevator contractor or by a licensed elevator contractor. Subsequent to installation, a licensed elevator contractor shall certify compliance with the Conveyance Safety Act.

Source: Laws 2006, LB 489, § 12; Laws 2007, LB265, § 32; R.S.1943, (2010), § 48-2512; Laws 2019, LB301, § 56.

81-5,221 State elevator inspector; qualifications; deputy inspectors; employment; qualifications.

(1) The State Fire Marshal shall employ a state elevator inspector who shall work under the direct supervision of the State Fire Marshal.

(2) The person so employed shall be qualified by (a) not less than five years' experience in the installation, maintenance, and repair of elevators as determined by the State Fire Marshal, (b) certification as a qualified elevator

inspector by an association accredited by the American Society of Mechanical Engineers, or (c) not less than five years' journeyman experience in elevator installation, maintenance, and inspection as determined by the State Fire Marshal and shall be familiar with the inspection process and rules and regulations adopted and promulgated under the Conveyance Safety Act.

(3) The State Fire Marshal may employ deputy inspectors possessing the same qualifications as the state elevator inspector as necessary to carry out the Conveyance Safety Act.

Source: Laws 1919, c. 190, tit. IV, art. IV, § 14, p. 561; C.S.1922, § 7695; C.S.1929, § 48-414; R.S.1943, § 48-418; Laws 1965, c. 283, § 1, p. 810; Laws 1967, c. 297, § 1, p. 810; Laws 1973, LB 320, § 1; Laws 1982, LB 659, § 2; Laws 1987, LB 36, § 1; Laws 1997, LB 752, § 126; Laws 2006, LB 489, § 35; R.S.Supp.,2006, § 48-418; Laws 2007, LB265, § 27; R.S.1943, (2010), § 48-2512.01; Laws 2019, LB301, § 57.

81-5,222 State elevator inspector; inspections required; written report.

(1) Except as provided otherwise in the Conveyance Safety Act, the state elevator inspector shall inspect or cause to be inspected conveyances which are located in a building or structure, other than a private residence, at least once every twelve months in order to determine whether such conveyances are in a safe and satisfactory condition and are properly constructed and maintained for their intended use.

(2) Subsequent to inspection of a conveyance, the inspector shall supply owners or lessees with a written inspection report describing any and all violations. An owner has thirty days after the date of the published inspection report to correct the violations.

(3) All tests done for the conveyance inspection shall be performed by a licensed elevator mechanic.

Source: Laws 2006, LB 489, § 13; R.S.1943, (2010), § 48-2513; Laws 2019, LB301, § 58.

81-5,223 Alternative inspections; requirements.

(1) No inspection shall be required under the Conveyance Safety Act when an owner or user of a conveyance obtains an inspection by a representative of a reputable insurance company licensed to do business in Nebraska, obtains a policy of insurance from such company upon the conveyance and files with the State Fire Marshal a certificate of inspection by such insurance company, files a statement that such conveyance is insured, and pays an administrative fee established pursuant to section 81-5,214.

(2) No inspection shall be required under the act when there has been an annual inspection under a city ordinance which meets the standards of the act.

Source: Laws 2006, LB 489, § 14; R.S.1943, (2010), § 48-2514; Laws 2019, LB301, § 59.

81-5,224 Special inspection; expenses; fee; report.

If at any time the owner or user of a conveyance desires a special inspection of a conveyance, it shall be made by the state elevator inspector after due request therefor and the inspector making the inspection shall collect his or her

expenses in connection therewith and a fee established pursuant to section 81-5,214. A report of the inspection shall be provided to the owner or user who requested the inspection upon their request.

Source: Laws 2006, LB 489, § 15; R.S.1943, (2010), § 48-2515; Laws 2019, LB301, § 60.

81-5,225 Certificate of inspection; issuance; form.

Upon a conveyance passing an inspection under section 81-5,222, 81-5,223, or 81-5,224 and receipt of the inspection fee, the State Fire Marshal shall issue the owner or user of the conveyance a certificate of inspection, upon forms prescribed by the State Fire Marshal.

Source: Laws 2006, LB 489, § 16; R.S.1943, (2010), § 48-2516; Laws 2019, LB301, § 61.

81-5,226 State elevator inspector; records required.

The state elevator inspector shall maintain a complete and accurate record of the name of the owner or user of each conveyance subject to sections 81-5,222 and 81-5,223 and a full description of the conveyance and the date when last inspected.

Source: Laws 2006, LB 489, § 17; R.S.1943, (2010), § 48-2517; Laws 2019, LB301, § 62.

81-5,227 Entry upon property for purpose of inspection.

The State Fire Marshal, the state elevator inspector, and the deputy inspectors shall have the right and power to enter any public building or structure for the purpose of inspecting any conveyance subject to the Conveyance Safety Act or gathering information with reference thereto.

Source: Laws 2006, LB 489, § 18; R.S.1943, (2010), § 48-2518; Laws 2019, LB301, § 63.

81-5,228 Defective or unsafe condition; notice to owner or user; temporary certificate; when issued.

The state elevator inspector shall notify the owner or user in writing of any conveyance found to be unsafe or unfit for operation setting forth the nature and extent of any defect or other unsafe condition. If the conveyance can be used without making repair or replacement of defective parts or may be used in a limited capacity before repairs or replacements are made, the state elevator inspector may issue a temporary certificate of inspection which shall state the terms and conditions of operation under the temporary certificate. The temporary certificate shall be valid for no longer than thirty days unless an extension is granted by the state elevator inspector for good cause shown.

Source: Laws 2006, LB 489, § 19; R.S.1943, (2010), § 48-2519; Laws 2019, LB301, § 64.

81-5,229 Accident involving conveyance; notification required; when; state elevator inspector; duties.

The owner of a conveyance shall notify the state elevator inspector of any accident causing personal injury or property damage in excess of one thousand dollars involving a conveyance on or before the close of business the next

business day following the accident, and the conveyance involved shall not operate until the state elevator inspector has conducted an investigation of the accident and has approved the operation of the conveyance. The state elevator inspector shall investigate and report to the State Fire Marshal the cause of any conveyance accident that may occur in the state, the loss of life, the injuries sustained, and such other data as may be of benefit in preventing other similar accidents.

Source: Laws 2006, LB 489, § 20; R.S.1943, (2010), § 48-2520; Laws 2019, LB301, § 65.

81-5,230 Elevator mechanic license; elevator contractor license; application; form; contents.

(1) Any person wishing to engage in the work of an elevator mechanic shall apply for and obtain an elevator mechanic license from the State Fire Marshal. The application shall be on a form provided by the State Fire Marshal.

(2) Any person wishing to engage in the business of an elevator contractor shall apply for and obtain an elevator contractor license from the State Fire Marshal. The application shall be on a form provided by the State Fire Marshal.

(3) Each application shall contain:

(a) If an individual, the name, residence and business address, and social security number of the applicant;

(b) If a partnership, the name, residence and business address, and social security number of each partner;

(c) If a domestic corporation, the name and business address of the corporation and the name, residence address, and social security number of the principal officer of the corporation; and if a corporation other than a domestic corporation, the name and address of an agent located locally who is authorized to accept service of process and official notices;

(d) The number of years the applicant has engaged in the business of installing, inspecting, maintaining, or servicing conveyances;

(e) The approximate number of individuals to be employed by the applicant and, if applicable, satisfactory evidence that the employees are or will be covered by workers' compensation insurance;

(f) Satisfactory evidence that the applicant is or will be covered by general liability, personal injury, and property damage insurance;

(g) Permission for the State Fire Marshal to access the criminal history record information of individuals, partners, or officers maintained by the Federal Bureau of Investigation through the Nebraska State Patrol;

(h) A description of all accidents causing personal injury or property damage in excess of one thousand dollars involving conveyances installed, inspected, maintained, or serviced by the applicant; and

(i) Such other information as the State Fire Marshal may by rule and regulation require.

(4) Social security numbers on applications shall not be made public or be considered a part of a public record.

Source: Laws 2006, LB 489, § 21; R.S.1943, (2010), § 48-2521; Laws 2019, LB301, § 66.

81-5,231 Standards for licensure of elevator mechanics; State Fire Marshal; duties.

The State Fire Marshal shall adopt and promulgate rules and regulations establishing standards for licensure of elevator mechanics. An applicant for an elevator mechanic license shall demonstrate the following qualifications before being granted an elevator mechanic license:

(1) Not less than three years' work experience in the conveyance industry, in construction, maintenance, and service or repair, as verified by current and previous employers;

(2) One of the following:

(a) Satisfactory completion of a written examination administered by the committee on the most recent referenced codes and standards;

(b) Acceptable proof that the applicant has worked as a conveyance constructor, maintenance, or repair person. Such person shall have worked as an elevator mechanic without the direct and immediate supervision of a licensed elevator contractor and have passed a written examination approved by the State Fire Marshal. This employment shall not be less than three years immediately prior to the effective date of the license;

(c) Certificates of completion and successfully passing an elevator mechanic examination of a nationally recognized training program for the conveyance industry as provided by the National Elevator Industry Educational Program or its equivalent; or

(d) Certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of the Conveyance Safety Act and registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or a state apprenticeship council; and

(3) Any additional qualifications adopted and promulgated in rule and regulation by the State Fire Marshal.

Source: Laws 2006, LB 489, § 22; R.S.1943, (2010), § 48-2522; Laws 2019, LB301, § 67.

81-5,232 Elevator contractor license; work experience required.

An applicant for an elevator contractor license shall demonstrate five years' work experience in the conveyance industry in construction, maintenance, and service or repair, as verified by current or previous employers.

Source: Laws 2006, LB 489, § 23; R.S.1943, (2010), § 48-2523; Laws 2019, LB301, § 68.

81-5,233 Reciprocity.

Upon application, an elevator mechanic license or an elevator contractor license may be issued to a person holding a valid license from a state having standards substantially equal to those of the Conveyance Safety Act.

Source: Laws 2006, LB 489, § 24; R.S.1943, (2010), § 48-2524; Laws 2019, LB301, § 69.

81-5,234 License; issuance; renewal.

Upon approval of an application for licensure as an elevator mechanic, the State Fire Marshal may issue a license which shall be renewable biennially if

the continuing education requirements are met. The fee for licenses and for license renewal for elevator mechanic licenses and elevator contractor licenses shall be set by the State Fire Marshal under section 81-5,214.

Source: Laws 2006, LB 489, § 25; R.S.1943, (2010), § 48-2525; Laws 2019, LB301, § 70.

81-5,235 Continuing education; extension; when granted; approved providers; records.

(1) The renewal of elevator mechanic licenses granted under the Conveyance Safety Act shall be conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education on new and existing rules and regulations adopted and promulgated by the State Fire Marshal. Such course shall consist of not less than eight hours of instruction that shall be attended and completed within one year immediately preceding any license renewal. The individual holding the elevator mechanic license shall pay the cost of such course.

(2) The courses shall be taught by instructors through continuing education providers that may include association seminars and labor training programs. The committee shall make recommendations to the State Fire Marshal about approval of continuing education providers.

(3) An elevator mechanic licensee who is unable to complete the continuing education course required under this section prior to the expiration of the license due to a temporary disability may apply for an extension from the state elevator inspector. The extension shall be on a form provided by the state elevator inspector which shall be signed by the applicant and accompanied by a certified statement from a competent physician attesting to such temporary disability. Upon the termination of such temporary disability, the elevator mechanic licensee shall submit to the state elevator inspector a certified statement from the same physician, if practicable, attesting to the termination of such temporary disability. At such time an extension sticker, valid for ninety days, shall be issued to the licensed elevator mechanic and affixed to the license. Such extension shall be renewable for periods of ninety days upon a showing that the disability continues.

(4) Approved continuing education providers shall keep uniform records, for a period of ten years, of attendance of elevator mechanic licensees following a format approved by the state elevator inspector, and such records shall be available for inspection by the state elevator inspector upon request. Approved continuing education providers are responsible for the security of all attendance records and certificates of completion. Falsifying or knowingly allowing another to falsify such attendance records or certificates of completion shall constitute grounds for suspension or revocation of the approval required under this section.

Source: Laws 2006, LB 489, § 26; R.S.1943, (2010), § 48-2526; Laws 2019, LB301, § 71.

81-5,236 Insurance policy; requirements; delivery; notice of alteration or cancellation.

(1) An elevator contractor shall submit to the State Fire Marshal an insurance policy, or certified copy thereof, issued by an insurance company authorized to do business in the state to provide general liability coverage of at least one

million dollars for injury or death of any one person and one million dollars for injury or death of any number of persons in any one occurrence and to provide coverage of at least five hundred thousand dollars for property damage in any one occurrence and workers' compensation insurance coverage as required under the Nebraska Workers' Compensation Act.

(2) Such policies, or certified copies thereof, shall be delivered to the State Fire Marshal before or at the time of the issuance of a license. In the event of any material alteration or cancellation of any policy, at least ten days' notice thereof shall be given to the State Fire Marshal.

Source: Laws 2006, LB 489, § 27; R.S.1943, (2010), § 48-2527; Laws 2019, LB301, § 72.

Cross References

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

81-5,237 Elevator contractor license; revocation; grounds; elevator mechanic license; disciplinary actions; grounds; procedure; decision; appeal.

(1) An elevator contractor license issued under the Conveyance Safety Act may be revoked by the State Fire Marshal upon verification that the elevator contractor licensee lacks the insurance coverage required by section 81-5,236.

(2) An elevator mechanic license or an elevator contractor license issued under the act may be suspended, revoked, or subject to a civil penalty not to exceed five thousand dollars by the State Fire Marshal, after notice and hearing, if the licensee:

- (a) Makes a false statement as to material matter in the license application;
- (b) Commits fraud, misrepresentation, or bribery in obtaining the license; or
- (c) Violates any other provision of the act.

(3) No license shall be suspended, revoked, or subject to civil penalty until after a hearing is held before the committee and the State Fire Marshal or his or her designee. The hearing shall be held within sixty days after notice of the violation is received and all interested parties shall receive written notice of the hearing at least fifteen days prior to the hearing. Within fifteen days after the hearing, the committee shall make recommendations to the State Fire Marshal or his or her designee of appropriate penalties, if any, warranted under the circumstances of the case. The committee does not have the power to suspend or revoke licenses or impose civil penalties. Within thirty days after the hearing, the State Fire Marshal shall issue a decision which may include license suspension, license revocation, and civil penalties. The decision of the State Fire Marshal may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 2006, LB 489, § 28; R.S.1943, (2010), § 48-2528; Laws 2019, LB301, § 73.

Cross References

Administrative Procedure Act, see section 84-920.

81-5,238 Temporary and emergency elevator mechanic thirty-day licenses.

The State Fire Marshal shall adopt and promulgate rules and regulations establishing standards and procedures for the issuance of temporary and

emergency elevator mechanic thirty-day licenses and for the extension of such licenses for good cause shown.

Source: Laws 2006, LB 489, § 29; R.S.1943, (2010), § 48-2529; Laws 2019, LB301, § 74.

81-5,239 Request for investigation of alleged violation; preliminary inquiry; formal investigation; procedure.

(1) Any person may make a request for an investigation into an alleged violation of the Conveyance Safety Act by giving notice to the State Fire Marshal or state elevator inspector of such violation or danger.

(2) Upon receipt of a request for an investigation, the State Fire Marshal or state elevator inspector shall perform a preliminary inquiry into the charges contained in the request for investigation. A request for an investigation may be made in person or by telephone call and shall set forth with reasonable particularity the grounds for the request for an investigation. During the preliminary inquiry, the name, address, and telephone number of the person making the request for an investigation shall be available only to the State Fire Marshal, state elevator inspector, or other person carrying out the preliminary inquiry on behalf of the State Fire Marshal or state elevator inspector. The State Fire Marshal or state elevator inspector shall keep a record of each request for an investigation received under this section for three years after such request is made.

(3) If after the preliminary inquiry the State Fire Marshal or state elevator inspector determines that there are reasonable grounds to believe that such violation or danger exists and is likely to continue to exist such that the operation of the conveyance endangers the public, the State Fire Marshal or state elevator inspector shall cause a formal investigation to be made. During the formal investigation, a statement shall be taken from the person who made the request for an investigation and the person's name, address, and telephone number shall be made available to any opposing parties upon request.

(4) If the State Fire Marshal or state elevator inspector determines that there are no reasonable grounds to believe that a violation or danger exists under either subsection (2) or (3) of this section, the State Fire Marshal shall notify the person requesting the investigation in writing of such determination.

Source: Laws 2006, LB 489, § 30; R.S.1943, (2010), § 48-2530; Laws 2019, LB301, § 75.

81-5,240 Act; how construed; liability.

The Conveyance Safety Act shall not be construed to relieve or lessen the responsibility or liability of any person owning, operating, controlling, maintaining, erecting, constructing, installing, altering, testing, or repairing any conveyance covered by the act for damages to person or property caused by any defect therein. By administering the Conveyance Safety Act, the state and its officers and employees assume no liability for accidents involving a conveyance.

Source: Laws 2006, LB 489, § 31; R.S.1943, (2010), § 48-2531; Laws 2019, LB301, § 76.

81-5,241 Compliance with code at time of installation; notification of dangerous condition.

Under the Conveyance Safety Act, conveyances shall be required to comply with the code standards applicable at the time such conveyance was or is installed. However, if, upon the inspection of any conveyance, (1) the conveyance is found to be in a dangerous condition or there is an immediate hazard to those using such conveyance or (2) the design or the method of operation in combination with devices used is inherently dangerous, the state elevator inspector shall notify the owner of the conveyance of such condition and shall order such alterations or additions as may be deemed necessary to eliminate the dangerous condition.

Source: Laws 2006, LB 489, § 32; R.S.1943, (2010), § 48-2532; Laws 2019, LB301, § 77.

81-5,242 Violations; penalty.

(1) Any person who knowingly violates the Conveyance Safety Act is guilty of a Class V misdemeanor. Each violation shall be a separate offense.

(2) Any person who installs a conveyance in violation of the Conveyance Safety Act is guilty of a Class II misdemeanor.

Source: Laws 2006, LB 489, § 33; R.S.1943, (2010), § 48-2533; Laws 2019, LB301, § 78.

81-5,243 Transfer of duties and functions to State Fire Marshal; effect on property, contracts, rules and regulations, proceedings, and employment.

(1) Effective July 1, 2019, all duties and functions of the Department of Labor under the Conveyance Safety Act shall be transferred to the State Fire Marshal.

(2) On July 1, 2019, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Labor pertaining to the duties and functions transferred to the State Fire Marshal pursuant to this section shall become the property of the State Fire Marshal.

(3) On and after July 1, 2019, whenever the Department of Labor is referred to or designated by any contract or other document in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section, such reference or designation shall apply to the State Fire Marshal. All contracts entered into by the Department of Labor prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal are hereby recognized, with the State Fire Marshal succeeding to all rights and obligations under such contracts.

(4) All rules and regulations of the Department of Labor adopted prior to July 1, 2019, in connection with the duties and functions transferred to the State Fire Marshal pursuant to this section shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

(5) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2019, or which could have been commenced prior to that date, by or against the Department of Labor, or any employee thereof in such employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Department of Labor to the State Fire Marshal.

(6) On and after July 1, 2019, positions of employment in the Department of Labor related to the duties and functions transferred pursuant to this section are transferred to the State Fire Marshal. The affected employees shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the State Fire Marshal from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2019, LB301, § 79.

(n) APPROPRIATIONS

81-5,244 Certain appropriations to Department of Labor; how treated.

Any appropriation and salary limit provided in any legislative bill enacted by the One Hundred Sixth Legislature, First Session, to Agency No. 23 — Department of Labor, in any of the following program classifications, shall be null and void, and any such amounts are hereby appropriated to Agency No. 21, State Fire Marshal: Program No. 230 — Safety Inspection Program; Program No. 194, Division for Protection of People and Property, Subprogram 009 — Conveyance; and Program No. 194, Division for Protection of People and Property, Subprogram 010 — Boiler Inspection. Any financial obligations of the Department of Labor that remain unpaid as of June 30, 2019, and that are subsequently certified as valid encumbrances to the accounting division of the Department of Administrative Services pursuant to sections 81-138.01 to 81-138.04, shall be paid by the State Fire Marshal, Program No. 230 — Safety Inspection Program, from the unexpended balance of appropriations existing in such program classification on June 30, 2019.

Source: Laws 2019, LB301, § 80.

ARTICLE 6

HEALTH AND HUMAN SERVICES

Cross References

Department of Health and Human Services, powers and duties generally, see Chapters 38, 43, 68, and 71 and section 81-3110 et seq.
State Board of Health, see section 71-2601 et seq.

(a) POWERS AND DUTIES

- Section
- 81-601. Department of Health and Human Services; powers.
- 81-601.01. Repealed. Laws 1997, LB 307, § 236.
- 81-602. Department of Health and Human Services; medical schools; inspection; examination of graduates.
- 81-603. Formal grievance process for families involved in child welfare system or juvenile justice system; duties; report.
- 81-604. Notice to Health and Human Services Committee of the Legislature; hearing.
- 81-604.01. Department of Health and Human Services; notified of facility not currently licensed; reports made; by whom; investigation.
- 81-604.02. Division of Public Health of Department of Health and Human Services; survey and certification agency for medicare program and federal clinical laboratory requirements.
- 81-604.03. Division of Public Health of Department of Health and Human Services; survey and certification agency for medicaid program; notice of violation; duties.

HEALTH AND HUMAN SERVICES

Section

(b) MATERNITY AND INFANCY

- 81-605. Transferred to section 71-2101.
- 81-606. Transferred to section 71-2102.
- 81-607. Transferred to section 71-2103.
- 81-608. Transferred to section 71-2104.

(c) MATERNAL AND CHILD HEALTH

- 81-609. Transferred to section 71-2201.
- 81-610. Transferred to section 71-2202.
- 81-611. Transferred to section 71-2203.
- 81-612. Transferred to section 71-2204.
- 81-613. Transferred to section 71-2205.
- 81-614. Transferred to section 71-2206.
- 81-615. Transferred to section 71-2207.
- 81-616. Transferred to section 71-2208.

(d) DEPENDENT AND DELINQUENT CHILDREN

- 81-617. Transferred to section 43-707.
- 81-618. Transferred to section 43-708.

(e) BRANCH LABORATORY AT SCOTTSBLUFF

- 81-619. Transferred to section 71-2301.

(f) DRUGS

- 81-620. Transferred to section 71-2401.
- 81-621. Transferred to section 71-2402.
- 81-622. Transferred to section 71-2403.
- 81-623. Transferred to section 71-2404.
- 81-624. Transferred to section 71-2405.

(g) POISONS

- 81-625. Transferred to section 71-2501.
- 81-626. Transferred to section 71-2502.
- 81-627. Transferred to section 71-2503.
- 81-628. Transferred to section 71-2504.
- 81-629. Transferred to section 71-2505.
- 81-630. Transferred to section 71-2506.
- 81-631. Transferred to section 71-2507.
- 81-632. Transferred to section 71-2508.
- 81-633. Transferred to section 71-2509.
- 81-634. Transferred to section 71-2510.
- 81-635. Transferred to section 71-2511.
- 81-636. Transferred to section 71-2512.

(h) RESEARCH GRANTS

- 81-637. Cancer and smoking disease research; terms, defined.
- 81-638. Cancer and smoking disease research; appropriation; distribution; contracts; requirements.
- 81-639. Cancer and smoking disease research; department; make grants and contracts; considerations.
- 81-640. Cancer and smoking disease research; department; adopt rules and regulations.
- 81-640.01. Cancer research; legislative findings and declarations.

(i) CANCER REGISTRY

- 81-641. Repealed. Laws 1986, LB 925, § 5.
- 81-642. Cancer registry; legislative intent; information released.
- 81-643. Cancer registry; terms, defined.
- 81-644. Cancer registry; Department of Health and Human Services; establish and maintain; information released.
- 81-645. Cancer registry; Department of Health and Human Services; duties.
- 81-646. Cancer registry; hospital; health practitioner; provide data; contents.

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-647. Cancer registry; certain data; confidential; access for research.
- 81-648. Cancer registry; liability for providing information; limitation.
- 81-649. Cancer registry; sections, how construed; patient and patient's family; privacy rights.
- 81-649.01. Repealed. Laws 1993, LB 536, § 128.
- 81-649.02. Cancer registry; hospital; failure to report; penalty.
- 81-650. Cancer registry; Department of Health and Human Services; annual report.

(j) COMMUNITY AND HOME HEALTH SERVICES

- 81-651. Services authorized; powers.
- 81-652. Home health agency; funding authorized.

(k) BRAIN INJURY REGISTRY

- 81-653. Act, how cited; brain injury registry; legislative intent.
- 81-654. Brain injury registry; terms, defined.
- 81-655. Brain injury registry; Department of Health and Human Services; establish and maintain; information released.
- 81-656. Brain injury registry; Department of Health and Human Services; duties.
- 81-657. Brain injury registry; physician, psychologist, hospital, and rehabilitation center; report required; contents.
- 81-658. Repealed. Laws 2006, LB 1178, § 4.
- 81-659. Brain injury registry; certain data; confidential; access; when.
- 81-660. Brain injury registry; liability for providing information; limitation.
- 81-661. Repealed. Laws 2008, LB 928, § 47.
- 81-662. Brain injury; department; provide information regarding services.

(l) MEDICAL RECORDS AND HEALTH INFORMATION

- 81-663. Release of data; legislative findings.
- 81-664. Terms, defined.
- 81-665. Department of Health and Human Services; duties.
- 81-666. Approved researcher; application; contents; Department of Health and Human Services; powers.
- 81-667. Medical records; classification.
- 81-668. Case-specific and patient-identifying data; confidentiality; aggregate data; cost.
- 81-669. Case-specific and patient-identifying data; use in legal proceeding; prohibited.
- 81-670. Research project; department; review.
- 81-671. Release of information to public health departments and agencies; requirements.
- 81-672. Receipt or release of information; immunity; exception.
- 81-673. Patient and patient's family; privacy rights.
- 81-674. Violations; penalty.
- 81-675. Rules and regulations.

(m) HEALTH CARE DATA ANALYSIS

- 81-676. Health care data analysis section; established.
- 81-677. Health care data analysis section; duties.
- 81-678. Health care data analysis section; data and research initiatives; requirements.
- 81-679. Health care data analysis section; public-sector health care programs; requirements.
- 81-680. Department; contracts and grants; authorized; data collection requirements.

(n) PARKINSON'S DISEASE REGISTRY ACT

- 81-681. Repealed. Laws 2001, LB 209, § 36.
- 81-682. Repealed. Laws 2001, LB 209, § 36.
- 81-683. Repealed. Laws 2001, LB 209, § 36.
- 81-684. Repealed. Laws 2001, LB 209, § 36.
- 81-685. Repealed. Laws 2001, LB 209, § 36.
- 81-686. Repealed. Laws 2001, LB 209, § 36.
- 81-687. Repealed. Laws 2001, LB 209, § 36.

- Section
- 81-688. Repealed. Laws 2001, LB 209, § 36.
- 81-689. Repealed. Laws 2001, LB 209, § 36.
- 81-690. Repealed. Laws 2001, LB 209, § 36.
- 81-691. Repealed. Laws 2001, LB 209, § 36.
- 81-692. Repealed. Laws 2001, LB 209, § 36.
- 81-693. Repealed. Laws 2001, LB 209, § 36.
- 81-694. Repealed. Laws 2001, LB 209, § 36.
- 81-695. Repealed. Laws 2001, LB 209, § 36.
- 81-696. Repealed. Laws 2001, LB 209, § 36.
- 81-697. Act, how cited.
- 81-698. Purpose of registry.
- 81-699. Terms, defined.
- 81-6,100. Parkinson's Disease Registry; contents.
- 81-6,101. Department; duties.
- 81-6,102. Diagnosis; report; contents.
- 81-6,103. Pharmacist; report; department; duty.
- 81-6,104. Release of data; other sections applicable.
- 81-6,105. Patient and patient's family; privacy rights.
- 81-6,106. Refusal to provide information; effect.
- 81-6,107. Immunity from liability.
- 81-6,108. Repealed. Laws 2003, LB 667, § 26.
- 81-6,109. Transition from prior law.
- 81-6,110. Costs; how paid; termination of registry; when.
- (o) OUTPATIENT SURGICAL PROCEDURES DATA ACT
- 81-6,111. Act, how cited.
- 81-6,112. Purposes of act.
- 81-6,113. Terms, defined.
- 81-6,114. Hospital and ambulatory surgical center; reports required.
- 81-6,115. Information; confidentiality.
- 81-6,116. Information; use.
- 81-6,117. Department; annual statistical report.
- 81-6,118. Costs; use in establishing licensure fees.
- 81-6,119. Rules and regulations.
- (p) TRANSPORTATION SERVICES
- 81-6,120. Transportation services; restrictions on providers; criminal history record information check required; fingerprinting; costs; release of results; violation; penalty.
- (q) PERSONS WITH DISABILITIES
- 81-6,121. Persons with disabilities; legislative findings and declarations.
- 81-6,122. Strategic plan for providing services; department; duties; advisory committee; analysis and report.
- (r) POPULATION HEALTH INFORMATION
- 81-6,123. Population Health Information Act; act, how cited.
- 81-6,124. Terms, defined.
- 81-6,125. Act; purpose; designated health information exchange; duties; health care facility; health insurance plan; participation required; terms and conditions; individuals; opt out.
- 81-6,126. Federal funding; department; duties.
- (s) HEALTH INFORMATION TECHNOLOGY BOARD
- 81-6,127. Health Information Technology Board; created; members; expenses; quorum.
- 81-6,128. Health Information Technology Board; duties; meetings; annual report.

(a) POWERS AND DUTIES

81-601 Department of Health and Human Services; powers.

The Department of Health and Human Services shall have general supervision and control over matters relating to public health and sanitation and shall provide for examination as provided in section 81-602 and have supervision over all matters of quarantine and quarantine regulations.

Source: Laws 1919, c. 190, tit. VI, art. I, § 1, p. 750; C.S.1922, § 8159; C.S.1929, § 81-5601; Laws 1933, c. 149, § 5, p. 575; Laws 1941, c. 141, § 8, p. 560; C.S.Supp.,1941, § 81-927; C.S.Supp.,1941, § 81-5601; R.S.1943, § 81-601; Laws 1996, LB 1044, § 840; Laws 2007, LB296, § 730.

Under former act, orders of board of health were subject to judicial review. Mathews v. Hedlund, 82 Neb. 825, 119 N.W. 17 (1908); Munk v. Frink, 81 Neb. 631, 116 N.W. 525 (1908).

81-601.01 Repealed. Laws 1997, LB 307, § 236.

81-602 Department of Health and Human Services; medical schools; inspection; examination of graduates.

The Department of Health and Human Services shall have the right at all times to inspect the equipment and methods of teaching in all medical colleges and medical schools of the state and shall have the power to refuse examination to the graduates of any school which, on proper notice and hearing, shall be adjudged not a medical college or medical school in good standing as defined by the laws of this state.

Source: Laws 1919, c. 190, tit. VI, art. I, § 2, p. 750; C.S.1922, § 8160; C.S.1929, § 81-5602; R.S.1943, § 81-602; Laws 1996, LB 1044, § 842; Laws 2007, LB296, § 731.

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.

81-604 Notice to Health and Human Services Committee of the Legislature; hearing.

The Department of Health and Human Services shall notify the chairperson and members of the Health and Human Services Committee of the Legislature prior to submitting any request or application to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services for a demonstration project waiver under section 1115 of the Social Security Act, 42 U.S.C. 1315. Such notification shall be made electronically and shall include a copy of any documentation presented to the public related to the waiver. The Health and Human Services Committee of the Legislature shall

hold a public hearing on such waiver application during the period for public comment required under 42 C.F.R. 431.408.

Source: Laws 2019, LB468, § 3.

81-604.01 Department of Health and Human Services; notified of facility not currently licensed; reports made; by whom; investigation.

Any local or state agency or department, or any private facility involved in arranging or supervising placements for those persons requiring care or supervision, shall notify the Department of Health and Human Services when there is reason to believe that the total number of persons served in any institution, facility, place, or building exceeds three individuals and that such facility is not currently licensed by the Department of Health and Human Services. The department shall investigate or inspect such complaints pursuant to the Health Care Facility Licensure Act.

Source: Laws 1981, LB 487, § 4; Laws 1996, LB 1044, § 843; Laws 2000, LB 819, § 154; Laws 2007, LB296, § 732.

Cross References

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

81-604.02 Division of Public Health of Department of Health and Human Services; survey and certification agency for medicare program and federal clinical laboratory requirements.

For the purpose of assisting the citizens of the state in receiving benefits under the federal medicare law, the State of Nebraska authorizes the Division of Public Health of the Department of Health and Human Services to act as the survey and certification agency for the medicare program in Nebraska and to contract to perform such functions with the federal agency responsible for administration of the medicare program and to enter into such other agreements as may be necessary to implement federal requirements. The division may also contract with the federal agency to perform survey and certification functions in accordance with the federal Clinical Laboratory Improvement Amendments of 1988.

Source: Laws 1989, LB 344, § 14; Laws 1994, LB 1210, § 158; Laws 1996, LB 1044, § 844; Laws 2007, LB296, § 733.

81-604.03 Division of Public Health of Department of Health and Human Services; survey and certification agency for medicaid program; notice of violation; duties.

The Division of Public Health of the Department of Health and Human Services is hereby authorized to act as the survey and certification agency for the medicaid program and to enter into such agreements as may be necessary to carry out its duties. On and after July 1, 2007, the division shall notify the medicaid program of any violation by a nursing facility, as defined in section 71-2097, of federal regulations for participation in the medicaid program. Civil penalties will be determined pursuant to sections 71-2097 to 71-20,101.

Source: Laws 1989, LB 344, § 15; Laws 1996, LB 1044, § 845; Laws 1996, LB 1155, § 77; Laws 2007, LB296, § 734.

(b) MATERNITY AND INFANCY

81-605 Transferred to section 71-2101.

81-606 Transferred to section 71-2102.

81-607 Transferred to section 71-2103.

81-608 Transferred to section 71-2104.

(c) MATERNAL AND CHILD HEALTH

81-609 Transferred to section 71-2201.

81-610 Transferred to section 71-2202.

81-611 Transferred to section 71-2203.

81-612 Transferred to section 71-2204.

81-613 Transferred to section 71-2205.

81-614 Transferred to section 71-2206.

81-615 Transferred to section 71-2207.

81-616 Transferred to section 71-2208.

(d) DEPENDENT AND DELINQUENT CHILDREN

81-617 Transferred to section 43-707.

81-618 Transferred to section 43-708.

(e) BRANCH LABORATORY AT SCOTTSBLUFF

81-619 Transferred to section 71-2301.

(f) DRUGS

81-620 Transferred to section 71-2401.

81-621 Transferred to section 71-2402.

81-622 Transferred to section 71-2403.

81-623 Transferred to section 71-2404.

81-624 Transferred to section 71-2405.

(g) POISONS

81-625 Transferred to section 71-2501.

81-626 Transferred to section 71-2502.

81-627 Transferred to section 71-2503.

81-628 Transferred to section 71-2504.

81-629 Transferred to section 71-2505.

81-630 Transferred to section 71-2506.

81-631 Transferred to section 71-2507.

81-632 Transferred to section 71-2508.

81-633 Transferred to section 71-2509.

81-634 Transferred to section 71-2510.

81-635 Transferred to section 71-2511.

81-636 Transferred to section 71-2512.

(h) RESEARCH GRANTS

81-637 Cancer and smoking disease research; terms, defined.

As used in sections 81-637 to 81-640, unless the context otherwise requires:

- (1) Cancer means all malignant neoplasm regardless of the tissue of origin, including malignant lymphoma and leukemia;
- (2) Department means the Department of Health and Human Services; and
- (3) Smoking disease means diseases whose causes are linked to smoking including, but not limited to, cardiovascular, pulmonary, and gastrointestinal diseases.

Source: Laws 1981, LB 506, § 1; Laws 1996, LB 1044, § 846; Laws 2007, LB296, § 735.

81-638 Cancer and smoking disease research; appropriation; distribution; contracts; requirements.

(1) Subject to subsection (4) of this section, the Legislature shall appropriate for each year from the Health and Human Services Cash Fund to the department an amount derived from one cent of the cigarette tax imposed by section 77-2602, less any amount appropriated from the fund specifically to the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases. The department shall, after deducting expenses incurred in the administration of such funds, distribute such funds exclusively for grants and contracts for research of cancer and smoking diseases, for funding the cancer registry prescribed in sections 81-642 to 81-650, and for associated expenses due to the establishment and maintenance of such cancer registry. Not more than two hundred thousand dollars shall be appropriated for funding the cancer registry and associated expenses. The University of Nebraska may receive such grants and contracts, and other postsecondary institutions having colleges of medicine located in the State of Nebraska may receive such contracts.

(2) Subject to subsection (4) of this section, the Legislature shall appropriate for each year from the Health and Human Services Cash Fund to the department for cancer research an amount derived from two cents of the cigarette tax imposed by section 77-2602 to be used exclusively for grants and contracts for research on cancer and smoking diseases. No amount shall be appropriated or used pursuant to this subsection for the operation and associated expenses of

the cancer registry. Not more than one-half of the funds appropriated pursuant to this subsection shall be distributed to the University of Nebraska Medical Center for research in cancer and allied diseases and the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases. The remaining funds available pursuant to this subsection shall be distributed for contracts with other postsecondary educational institutions having colleges of medicine located in Nebraska which have cancer research programs for the purpose of conducting research in cancer and allied diseases.

(3) Any contract between the department and another postsecondary educational institution for cancer research under subsection (2) of this section shall provide that:

(a) Any money appropriated for such contract shall only be used for cancer research and shall not be used to support any other program in the institution;

(b) Full and detailed reporting of the expenditure of all funds under the contract is required. The report shall include, but not be limited to, separate accounting for personal services, equipment purchases or leases, and supplies. Such reports shall be made available electronically to the Legislature; and

(c) No money appropriated for such contract shall be spent for travel, building construction, or any other purpose not directly related to the research that is the subject of the contract.

(4) The State Treasurer shall transfer seven million dollars from the Health and Human Services Cash Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. It is the intent of the Legislature that the transfer to the General Fund in this subsection be from funds credited to the Cancer Research subfund of the Health and Human Services Cash Fund which were in excess of appropriations established in subsections (1) and (2) of this section.

Source: Laws 1981, LB 506, § 2; Laws 1983, LB 192, § 2; Laws 1986, LB 258, § 33; Laws 1986, LB 925, § 1; Laws 1991, LB 703, § 67; Laws 1993, LB 595, § 3; Laws 1996, LB 1044, § 847; Laws 2007, LB296, § 736; Laws 2012, LB782, § 167; Laws 2017, LB331, § 48.

81-639 Cancer and smoking disease research; department; make grants and contracts; considerations.

The department when making grants and contracts pursuant to sections 81-637 to 81-640 shall consider:

(1) The relevancy of the applicant's proposal to the furthering of research of cancer and smoking diseases;

(2) The feasibility of the applicant's proposal;

(3) The availability of other sources of funding for the applicant's proposal;

(4) The facilities, personnel, and expertise available to the applicant for use in the proposal; and

(5) Evidence of the quality of the applicant's prior or existing programs for research of cancer and smoking diseases or the applicant's potential for developing new programs for such research.

Source: Laws 1981, LB 506, § 3; Laws 2007, LB296, § 737.

81-640 Cancer and smoking disease research; department; adopt rules and regulations.

The department shall adopt and promulgate rules and regulations pursuant to the Administrative Procedure Act to:

- (1) Establish an application process for grants and contracts;
- (2) Establish criteria for programs in order to receive funding;
- (3) Establish criteria as to the rates and amount of funding; and
- (4) Establish other procedures as necessary for the proper administration of sections 81-637 to 81-640.

Source: Laws 1981, LB 506, § 4; Laws 2007, LB296, § 738.

Cross References

Administrative Procedure Act, see section 84-920.

81-640.01 Cancer research; legislative findings and declarations.

The Legislature finds and declares that:

- (1) Cancer is a disease which strikes many Nebraska families and has an extremely detrimental effect on the lives of many Nebraskans and on the economy of this state;
- (2) Cancer research is of utmost importance to Nebraskans in efforts to combat and control this serious disease;
- (3) Nebraska is fortunate to have nationally recognized programs of cancer research in colleges of medicine located in Nebraska;
- (4) The promotion of diversity of research has the greatest potential for significant advancement in finding the causes of cancer and the successful treatment of the disease; and
- (5) It is in the best interests of the citizens of this state to strengthen existing cancer research programs and prevent duplication of research efforts by supporting and contracting with Nebraska colleges of medicine with existing programs to provide cancer research for the improvement of public health in Nebraska.

Source: Laws 1993, LB 595, § 1.

(i) **CANCER REGISTRY**

81-641 Repealed. Laws 1986, LB 925, § 5.

81-642 Cancer registry; legislative intent; information released.

It is the intent of the Legislature to require the establishment and maintenance of a cancer registry for the State of Nebraska. This responsibility is delegated to the Department of Health and Human Services along with the authority to exercise the necessary powers to implement sections 81-642 to 81-650. To insure an accurate and continuing source of data concerning

cancer, all hospitals within the state shall make available to the department upon its request, at least once a year, information contained in the medical records of patients who have cancer within such time following its diagnosis as the department shall require. Any medical doctor, osteopathic physician, or dentist within the state shall make such information available to the department upon request by the department. This cancer registry should provide a central data bank of accurate, precise, and current information which medical authorities state will assist in the research for the prevention, cure, and control of cancer. The information contained in the cancer registry may be used as a source of data for scientific and medical research. Any information released from the cancer registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 81-663 to 81-675.

Source: Laws 1982, LB 212, § 1; Laws 1989, LB 342, § 38; Laws 1991, LB 703, § 68; Laws 1993, LB 536, § 113; Laws 1995, LB 406, § 87; Laws 1996, LB 1044, § 848; Laws 2007, LB296, § 739.

81-643 Cancer registry; terms, defined.

As used in sections 81-642 to 81-650, unless the context otherwise requires, the definitions in section 81-664 shall be used and:

(1) Cancer shall mean: (a) A large group of diseases characterized by an uncontrolled growth and spread of abnormal cells; (b) any condition of tumors having the properties of anaplasia, invasion, and metastasis; (c) a cellular tumor the natural course of which is fatal; and (d) malignant neoplasm. Cancer shall be deemed to include, but not be limited to, carcinoma, sarcoma, melanoma, lymphoma, Hodgkin's disease, and myeloma, but shall not include precancerous conditions, benign polyps, or benign tumors; and

(2) Cancer registry shall mean the system of reporting established by sections 81-642 to 81-650 in which the cases of cancer in this state are reported and recorded in order to achieve the goals of prevention, cure, and control of cancer through research and education.

Source: Laws 1982, LB 212, § 2; Laws 1991, LB 703, § 69; Laws 1993, LB 536, § 114.

81-644 Cancer registry; Department of Health and Human Services; establish and maintain; information released.

The department shall establish and maintain a cancer registry that includes a record of the cases of cancer that occur within the state and such information concerning these cases which the department determines necessary and appropriate to provide a basic source of information to further scientific and medical research for the prevention, cure, and control of cancer. Any information released from the registry shall be disclosed as Class I, Class II, Class III, and Class IV data as provided in sections 81-663 to 81-675.

Source: Laws 1982, LB 212, § 3; Laws 1991, LB 703, § 70; Laws 1993, LB 536, § 115.

81-645 Cancer registry; Department of Health and Human Services; duties.

In order to implement the intent and purposes of sections 81-642 to 81-650, the department shall:

(1) Compile and publish a statistical report annually or at reasonable intervals containing information obtained from patient data pursuant to such sections in order to provide accessible information useful to physicians, medical personnel, and the public. Such report shall comply with sections 81-663 to 81-675;

(2) Comply with all necessary requirements in order to obtain funds or grants;

(3) Coordinate with existing statewide cancer registry programs to the extent feasible; and

(4) Consult with medical professionals, hospital tumor registries, and medical records representatives in formulating the plans and policies of the cancer registry program.

Source: Laws 1982, LB 212, § 4; Laws 1986, LB 925, § 2; Laws 1991, LB 703, § 71; Laws 1993, LB 536, § 116.

81-646 Cancer registry; hospital; health practitioner; provide data; contents.

(1) On the request of the department or its authorized representative, each medical doctor, osteopathic physician, or dentist within the state shall produce and make available to the department or its authorized representative, in a manner prescribed by the department, data which the department determines is necessary and appropriate from each medical record of cancer under the doctor's, osteopathic physician's, or dentist's custody or control.

(2) Each hospital within the state shall make available to the department or its authorized representative on presentation of proper identification of the department's representative, a list of names of cancer patients, corresponding medical records numbers, and medical records which document the diagnosis and treatment of cancer on the premises of the hospital, office, or clinic during normal working hours, for the purpose of recording specific data about a patient's cancer.

(3) Each hospital that initially diagnoses cancer made reportable by the department for more than fifty patients during a calendar year shall, for the next calendar year, at the request of the department or its authorized representative, produce and make available, in a manner prescribed by the department, data which the department determines is necessary and appropriate from each medical record of cancer under the control of the hospital. Any hospital with fewer than fifty initial diagnoses of cancer may report in the same manner.

(4) The data produced pursuant to subsection (1) of this section shall include, but not be limited to, the:

(a) Patient's name, address, and available social security number;

(b) Patient's hospital accession number;

(c) Patient's birthdate, race, and sex;

(d) Date of diagnosis;

(e) Primary site of cancer;

(f) Stage of the disease, including in situ, localized, regional, distant, or metastasis;

(g) Basis of staging, including clinical diagnostic, surgical evaluative, post-surgical treatment pathological, or retreatment; and

(h) Diagnostic confirmation.

Source: Laws 1982, LB 212, § 5; Laws 1986, LB 925, § 3; Laws 1989, LB 342, § 39; Laws 1995, LB 406, § 88.

81-647 Cancer registry; certain data; confidential; access for research.

(1) All data obtained from medical records of individual patients is for the confidential use of the department and the private or public persons or entities that the department determines may view such records as provided in sections 81-663 to 81-675.

(2) The department may approve individuals or entities to obtain access to case-specific data or case-specific and patient-identifying data to assist in their research for prevention, cure, or control of cancer. Any information released from the cancer registry shall be disclosed as provided in sections 81-663 to 81-675.

(3) For purposes of protecting the public health, local health departments in Nebraska, health departments or cancer registries located outside Nebraska, and the Centers for Disease Control and Prevention and the National Cancer Institute of the United States Department of Health and Human Services or their successors may have access to the data contained in the cancer registry upon the department's approval based on the entity's written application.

Source: Laws 1982, LB 212, § 6; Laws 1986, LB 925, § 4; Laws 1991, LB 703, § 72; Laws 1992, LB 1019, § 123; Laws 1993, LB 536, § 117; Laws 2006, LB 994, § 111; Laws 2007, LB185, § 48.

81-648 Cancer registry; liability for providing information; limitation.

No hospital, medical doctor, osteopathic physician, or dentist nor any administrator, officer, or employee of such hospital or office in which any such professional practices take place who is in compliance with sections 81-642 to 81-650 and 81-663 to 81-675 shall be civilly or criminally liable for divulging the information required pursuant to such sections. The department or any of its officials or employees shall not be liable civilly or criminally for the release of information contained in the cancer registry or for the conduct or activities of any individual or entity permitted access to data of the cancer registry if done pursuant to sections 81-663 to 81-675.

Source: Laws 1982, LB 212, § 7; Laws 1989, LB 342, § 40; Laws 1991, LB 703, § 73; Laws 1993, LB 536, § 118.

81-649 Cancer registry; sections, how construed; patient and patient's family; privacy rights.

Sections 81-642 to 81-650 shall not be deemed to compel any individual to submit to any medical examination or supervision by the department, any of its authorized representatives, or an approved researcher. No person who seeks information or obtains registry data pursuant to such sections or sections 81-663 to 81-675 shall contact a patient on the registry or such patient's family unless the registry has first obtained the permission of such patient or patient's family. The registry shall coordinate its activities with the person desiring such

contact and may authorize the person desiring such contact to perform these contacts under the direction of the registry.

Source: Laws 1982, LB 212, § 8; Laws 1991, LB 703, § 74; Laws 1993, LB 536, § 119; Laws 2002, LB 1021, § 105.

81-649.01 Repealed. Laws 1993, LB 536, § 128.

81-649.02 Cancer registry; hospital; failure to report; penalty.

Any hospital which fails to make reports as provided in sections 81-642 to 81-650 shall be guilty of a Class V misdemeanor for each offense.

Source: Laws 1991, LB 703, § 76.

81-650 Cancer registry; Department of Health and Human Services; annual report.

The department shall submit electronically an annual report to the Legislature's Health and Human Services Committee with the documentation on the operation and performance of the cancer registry program established pursuant to sections 81-642 to 81-650.

Source: Laws 1982, LB 212, § 9; Laws 1992, LB 965, § 4; Laws 2012, LB782, § 168.

(j) COMMUNITY AND HOME HEALTH SERVICES

81-651 Services authorized; powers.

(1) The Department of Health and Human Services may provide visiting community nursing services or home health services to persons living in the state and may charge fees for such services. The department shall not be exempt from licensure as a home health agency under the Health Care Facility Licensure Act.

(2) The department may organize, license, and operate home health agencies to assist in providing services under subsection (1) of this section.

(3) The department (a) may employ necessary personnel, including, but not limited to, licensed nurses, physical therapists, physical therapy assistants, audiologists, speech-language pathologists, audiology or speech-language pathology assistants, occupational therapists, occupational therapy assistants, home health aides, homemakers, respiratory care practitioners, nutritionists, social workers, and supervisory personnel, and may purchase equipment and materials necessary to maintain an effective program or (b) may contract with individuals or licensed agencies to obtain such services or to assist in providing services under subsection (1) of this section.

(4) The department may contract with any public, private, for-profit, or nonprofit agency or individual to provide home health services through any licensed home health agency created under subsection (2) of this section.

Source: Laws 1987, LB 389, § 2; Laws 1988, LB 1100, § 179; Laws 1989, LB 429, § 41; Laws 1996, LB 1044, § 849; Laws 1996, LB 1155, § 78; Laws 1997, LB 608, § 25; Laws 2000, LB 819, § 155; Laws 2007, LB247, § 57.

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

81-652 Home health agency; funding authorized.

The Department of Health and Human Services may (1) charge and receive fees, (2) accept third-party reimbursements or matching funds from any federal governmental agency, private corporation, or other public or private organization or entity, and (3) accept grants or donations from any public or private agency, organization, or entity for services provided by any home health agency operated by the department. Such funds shall be paid to the state treasury and credited to the Health and Human Services Cash Fund.

Source: Laws 1987, LB 389, § 3; Laws 1996, LB 1044, § 850; Laws 2007, LB296, § 740.

(k) BRAIN INJURY REGISTRY

81-653 Act, how cited; brain injury registry; legislative intent.

(1) Sections 81-653 to 81-662 shall be known and may be cited as the Brain Injury Registry Act.

(2) The intent of the Brain Injury Registry Act is to require the establishment and maintenance of a brain injury registry in and for the State of Nebraska.

(3) The purpose of the brain injury registry is to provide a central data bank of accurate, precise, and current information to assist in the statistical identification of persons with brain or head injury, planning for the treatment and rehabilitation of such persons, and the prevention of such injury.

Source: Laws 1992, LB 308, § 1; Laws 2008, LB928, § 33.

81-654 Brain injury registry; terms, defined.

For purposes of the Brain Injury Registry Act:

(1) Brain or head injury means clinically evident neurotrauma resulting directly or indirectly from closed or penetrating brain or head trauma, infection, febrile condition, anoxia, vascular lesions, toxin, or spinal cord injury, not primarily related to congenital or degenerative conditions, chemical dependency, or aging processes, which impairs mental, cognitive, behavioral, or physical functioning; and

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

Source: Laws 1992, LB 308, § 2; Laws 1996, LB 1044, § 851; Laws 2007, LB296, § 741; Laws 2008, LB928, § 34.

81-655 Brain injury registry; Department of Health and Human Services; establish and maintain; information released.

The department shall establish and maintain the brain injury registry. The registry shall consist of information concerning persons with brain or head injury that occurs within the state. The registry shall include such information as the department deems necessary and appropriate for the statistical identification of persons with brain or head injury, planning for the treatment and rehabilitation of such persons, and the prevention of such injury. Any informa-

tion released from the registry shall be disclosed as Class I, Class II, and Class IV data as provided in sections 81-663 to 81-675.

Source: Laws 1992, LB 308, § 3; Laws 1993, LB 536, § 120; Laws 2008, LB928, § 35.

81-656 Brain injury registry; Department of Health and Human Services; duties.

In order to implement the intent and purposes of the Brain Injury Registry Act, the department shall:

(1) Adopt and promulgate necessary rules and regulations to carry out the act, including, but not limited to, a uniform system of classification of brain or head injury which is consistent with medically and clinically accepted standards and definitions for use in reporting by treating medical personnel and hospitals. In adopting and promulgating such rules and regulations, the department shall be guided by the standards and definitions of the International Classification of Disease, Clinical Modification Coding System of the World Health Organization;

(2) Execute any contracts that the department deems necessary to carry out the act; and

(3) Comply with all necessary requirements in order to obtain funds or grants.

Source: Laws 1992, LB 308, § 4; Laws 1993, LB 536, § 121; Laws 2005, LB 301, § 66; Laws 2008, LB928, § 36.

81-657 Brain injury registry; physician, psychologist, hospital, and rehabilitation center; report required; contents.

(1) If a person with brain or head injury is treated in this state in the office of a physician or psychologist licensed to practice in this state but is not admitted to a hospital within this state, the treating physician or psychologist shall provide a report of such injury to the department within thirty days after such treatment and identification of the person sustaining such injury.

(2) If a person with brain or head injury is admitted to or treated at a hospital or a rehabilitation center located within a hospital in this state, such hospital or rehabilitation center shall provide a report of such injury to the department within thirty days after the discharge of such person from the hospital or rehabilitation center.

(3) A report provided under this section shall contain the following information about the person who has sustained the brain or head injury, if known:

- (a) Name;
- (b) Date of birth;
- (c) Gender;
- (d) Residence;
- (e) Date of the injury;

(f) Final diagnosis or classification of the injury according to the International Classification of Disease, Clinical Modification Coding System of the World Health Organization, as adopted by the department;

- (g) Cause of the injury and, if practicable, whether the injury resulted from an accident involving the use of alcohol;
- (h) Place or site of occurrence of the injury;
- (i) Identification of the reporting source;
- (j) Disposition upon discharge;
- (k) Payor source; and
- (l) Any additional information the department deems necessary and appropriate to carry out the purposes of the Brain Injury Registry Act.

Source: Laws 1992, LB 308, § 5; Laws 1998, LB 1073, § 163; Laws 2001, LB 152, § 1; Laws 2006, LB 1178, § 1; Laws 2007, LB463, § 1312; Laws 2008, LB928, § 37.

81-658 Repealed. Laws 2006, LB 1178, § 4.

81-659 Brain injury registry; certain data; confidential; access; when.

No patient-identifying data as defined in section 81-664 shall be disclosed, made public, or released by the department to any public or private person or entity. All other data obtained from medical records of persons sustaining brain or head injury is for the confidential use as Class I, Class II, or Class IV data of the department and the private or public persons or entities that the department determines may view such records as provided in sections 81-663 to 81-675.

Source: Laws 1992, LB 308, § 7; Laws 1993, LB 536, § 122; Laws 2008, LB928, § 38.

81-660 Brain injury registry; liability for providing information; limitation.

No physician, psychologist, hospital, or administrator, officer, or employee of a hospital or medical professional who is in compliance with sections 81-657 and 81-663 to 81-675 shall be civilly or criminally liable for disclosing the information required under section 81-657.

Source: Laws 1992, LB 308, § 8; Laws 1993, LB 536, § 123; Laws 2006, LB 1178, § 2; Laws 2008, LB928, § 39.

81-661 Repealed. Laws 2008, LB 928, § 47.

81-662 Brain injury; department; provide information regarding services.

Within thirty days after receiving a report of brain or head injury, the department shall provide relevant and timely information to the person with such injury to assist such person in accessing necessary and appropriate services relating to such injury. The department may develop such information or utilize information developed by other sources and approved by the department. The department may provide such information directly or contract with an appropriate entity to provide such information. Costs associated with providing such information shall be paid from cash funds, gifts, and grants. No General Funds shall be used to pay such costs. Funds received by the department for the payment of such costs shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. The department shall not

be required to provide information under this section if sufficient funding is unavailable.

Source: Laws 2008, LB928, § 40.

(I) MEDICAL RECORDS AND HEALTH INFORMATION

81-663 Release of data; legislative findings.

The Legislature finds that there is a need to establish a framework for consistent release of medical record and health information from the many registries and databases the department maintains for the State of Nebraska. The purpose of the release of data is to encourage research which will protect the health and safety of the citizens of Nebraska by assisting in the prevention, cure, and control of specific diseases or injuries.

Source: Laws 1993, LB 536, § 1; Laws 1996, LB 1044, § 853; Laws 2007, LB296, § 743.

81-664 Terms, defined.

For purposes of sections 81-663 to 81-675:

(1) Aggregate data means data contained in the medical record and health information registries maintained by the department which is compiled in a statistical format and which does not include patient-identifying data;

(2) Approved researcher means an individual or entity which is approved by the department pursuant to section 81-666 to obtain access to data contained in the medical record and health information registries maintained by the department to assist in the scientific or medical research for the prevention, cure, or control of a disease or injury process;

(3) Case-specific data means data contained in the medical record and health information registries concerning a specific individual other than patient-identifying data;

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

(5) Medical record and health information registry means the system of reporting certain medical conditions occurring in this state, as prescribed by law, which are reported and recorded in order to achieve the goals of prevention, cure, and control through research and education, and includes the birth defects registry established in section 71-646, the cancer registry established in sections 81-642 to 81-650, the brain injury registry established in the Brain Injury Registry Act, the Parkinson's Disease Registry established in the Parkinson's Disease Registry Act, and the statewide stroke data registry established in the Stroke System of Care Act;

(6) Patient-identifying data means the patient's name, address, record number, symbol, or other identifying particular assigned to or related to an individual patient; and

(7) Research means study specific to the diseases or injuries for which access to data is requested and which is dedicated to the prevention, cure, or control of the diseases or injuries.

Source: Laws 1993, LB 536, § 2; Laws 1996, LB 496, § 17; Laws 1996, LB 1044, § 854; Laws 2001, LB 152, § 3; Laws 2001, LB 209, § 34; Laws 2007, LB296, § 744; Laws 2008, LB928, § 41; Laws 2021, LB476, § 3.

Cross References

Brain Injury Registry Act, see section 81-653.

Parkinson's Disease Registry Act, see section 81-697.

Stroke System of Care Act, see section 71-4201.

81-665 Department of Health and Human Services; duties.

To implement the intent and purposes of sections 81-663 to 81-675, the department shall:

- (1) Adopt and promulgate necessary rules and regulations, including rules and regulations for the frequency and form of information submitted and for standards and procedures for approving researchers;
- (2) Execute contracts that the department considers necessary; and
- (3) Receive and record the data obtained from the medical and health information records of persons with particular diseases or injuries.

Source: Laws 1993, LB 536, § 3.

81-666 Approved researcher; application; contents; Department of Health and Human Services; powers.

The department may approve an individual or entity to be an approved researcher upon application and proof satisfactory to the department that the applicant is a qualified researcher, that the data will be used for bona fide scientific or medical research for prevention, cure, or control of certain diseases or injuries, and that the applicant will maintain the confidentiality and security of data obtained. The application shall contain, but not be limited to, the following information:

- (1) The qualifications of the applicant and of the principal investigator, if other than the applicant, including education, experience, prior publications, and recommendations of professional colleagues who have knowledge and experience of scientific or medical research;
- (2) The purpose of the research project, a summary of the project, and the anticipated time of completion of such project;
- (3) The location where the research project will be conducted and the equipment, personnel, and other resources available to the applicant to carry out the project;
- (4) The identity of the individual or entity funding the research project, a description of the availability of funds for the research project, and any conditions on the receipt or continuation of such funding;
- (5) The specific data requested and a description of the use to be made of such data and, if patient-identifying data is requested, a substantiation of the need for access to such patient-identifying data;
- (6) A description of the measures to be taken to secure the data and maintain the confidentiality of such data during the research project, for disposal of the data upon completion of the study, and to assure that the results of the study will not divulge or make public information that will disclose the identity of any individual patient;
- (7) If contact with a patient or patient's family is planned or expected, substantiation of the need for such contact and a description of the method to be used to obtain permission from such patient or patient's family for such contact; and

(8) Such additional information as the department determines to be necessary to assure that release of data to the applicant is appropriate and will further the purpose of sections 81-663 to 81-675 or the laws governing the specific registry.

Source: Laws 1993, LB 536, § 4; Laws 2002, LB 1021, § 106.

81-667 Medical records; classification.

Medical records provided to the department for use in its medical record and health information registries shall be classified for release according to the following categories:

(1) Class I data shall be confidential with release only in aggregate data reports created by the department on a periodic basis, usually specified in the statutes creating the registry. These reports shall be public documents;

(2) Class II data shall be confidential with release only in aggregate data reports created by the department at the request of an individual. These reports shall be public documents;

(3) Class III data shall be confidential with release of patient-identifying data to approved researchers for specific research projects. The approved researcher shall maintain the confidentiality of the information; and

(4) Class IV data shall be confidential with release of case-specific data to approved researchers for specific research projects. The approved researcher shall maintain the confidentiality of the data.

Source: Laws 1993, LB 536, § 5.

81-668 Case-specific and patient-identifying data; confidentiality; aggregate data; cost.

All case-specific and patient-identifying data obtained from medical records of individual patients shall be for the confidential use of the department, those reporting data to the department, and the public health agencies and approved researchers that the department determines may view such records in order to carry out the intent of sections 81-663 to 81-675. Such information shall be privileged and shall not otherwise be divulged or made public so as to disclose the identity of an individual whose medical records and health information have been used for acquiring such data. Aggregate data collected shall be open and accessible to the public, and such information shall not be considered medical records pursuant to section 84-712.05. The cost of data retrieval and data processing shall be paid by the data requester.

Case-specific and patient-identifying data may be released to those individuals or entities who have reported information to the department. Such data may be released for the purpose of confirming the accuracy of the data provided and to coordinate information among sources.

Source: Laws 1993, LB 536, § 6; Laws 2006, LB 994, § 112.

81-669 Case-specific and patient-identifying data; use in legal proceeding; prohibited.

All case-specific and patient-identifying data furnished and any findings or conclusions resulting from such data shall be privileged communications which may not be used or offered or received in evidence in any legal proceeding of any kind, and any attempt to use or offer any such information, findings,

conclusions, or any part thereof, unless waived by the interested parties, shall constitute prejudicial error resulting in a mistrial in any such proceeding.

Source: Laws 1993, LB 536, § 7.

81-670 Research project; department; review.

The approved researcher shall submit the reports or results of the research project to the department. The department shall review such reports or results and shall prohibit publication of confidential information. The approved researcher shall acknowledge the department and its medical record and health information registries in any publication in which information obtained from the medical record and health information registries is used.

Source: Laws 1993, LB 536, § 8.

81-671 Release of information to public health departments and agencies; requirements.

(1) Except as otherwise provided by the law governing a specific medical record and health information registry, the department may release information contained in a registry to official public health departments and agencies as follows:

(a) Upon request by an official local health department within the State of Nebraska, the department may release such data to the requesting local health department. The official local health department shall not contact patients using data received under sections 81-663 to 81-675 without approval by the department of an application made pursuant to section 81-666; and

(b) Upon approval of an application by federal, state, or local official public health agencies made pursuant to section 81-666, the department may release such data.

(2) Except as provided in subsection (3) of this section, the receiving agency shall not further disclose such data to any third party but may publish aggregate statistical reports, except that no patient-identifying data shall be divulged, made public, or released to any public or private person or entity. The receiving agency shall comply with the patient contact provisions of sections 81-663 to 81-675. The receiving agency shall acknowledge the department and its medical record and health information registries in any publication in which information obtained from the medical record and health information registries is used.

(3) The release and acknowledgment provisions of this section do not apply to the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services, the North American Association of Central Cancer Registries, or cancer registries located outside Nebraska which receive data through approved data exchange agreements.

Source: Laws 1993, LB 536, § 9; Laws 2006, LB 994, § 113; Laws 2007, LB185, § 49; Laws 2008, LB797, § 28.

81-672 Receipt or release of information; immunity; exception.

Any person who receives or releases information in the form and manner prescribed by sections 81-663 to 81-675 and the rules and regulations adopted and promulgated pursuant to such sections shall not be civilly or criminally

liable for such receipt or release unless the receipt or release is done with actual malice, fraudulent intent, or bad faith. In an action brought against a person for wrongful receipt or release of medical record and health information registry information, the party bringing the action shall plead specifically the allegation that the immunity provided in this section does not apply because the person receiving or releasing the information did so with actual malice, fraudulent intent, or bad faith.

Source: Laws 1993, LB 536, § 10; Laws 2001, LB 152, § 4.

81-673 Patient and patient's family; privacy rights.

Nothing in sections 81-663 to 81-675 shall be deemed to compel any individual to submit to any medical examination or supervision by the department, any of its authorized representatives, or an approved researcher. No person who seeks information or obtains registry data pursuant to such sections shall contact a patient on the registry or such patient's family unless the registry has first obtained the permission of such patient or patient's family. The registry shall coordinate its activities with the person desiring such contact and may authorize the person desiring such contact to perform these contacts under the direction of the registry.

Source: Laws 1993, LB 536, § 11; Laws 2002, LB 1021, § 107.

81-674 Violations; penalty.

Any private or public entity, individual, or approved researcher who wrongfully discloses confidential data obtained from the medical record and health information registries or uses such information with the intent to deceive shall be guilty of a Class IV misdemeanor for each offense.

Source: Laws 1993, LB 536, § 12.

81-675 Rules and regulations.

The department shall adopt and promulgate rules and regulations to implement sections 81-663 to 81-674.

Source: Laws 1993, LB 536, § 13.

(m) HEALTH CARE DATA ANALYSIS

81-676 Health care data analysis section; established.

The Department of Health and Human Services shall establish a health care data analysis section to conduct data and research initiatives in order to improve the efficiency and effectiveness of health care in Nebraska.

Source: Laws 1994, LB 1223, § 122; Laws 1996, LB 1044, § 855; Laws 2007, LB296, § 745.

81-677 Health care data analysis section; duties.

The Department of Health and Human Services, through the health care data analysis section, shall:

(1) Conduct research using existing health care databases and promote applications based on existing research;

(2) Work closely with health plans and health care providers to promote improvements in health care efficiency and effectiveness;

(3) Participate as a partner or sponsor of private-sector initiatives that promote applied research on health care delivery, outcomes, costs, quality, and management; and

(4) Provide technical assistance as needed.

Source: Laws 1994, LB 1223, § 123; Laws 1996, LB 1044, § 856; Laws 2007, LB296, § 746.

81-678 Health care data analysis section; data and research initiatives; requirements.

Data and research initiatives by the health care data analysis section of the Department of Health and Human Services shall:

(1) Promote applied research on health care delivery, outcomes, costs, quality, and management;

(2) Conduct research and promote health care applications based on scientifically sound and statistically valid methods;

(3) Emphasize data that is useful and relevant and is not redundant of existing data;

(4) Be structured to minimize the administrative burden on health plans, health care providers, and the health care delivery system; and

(5) Promote continuous improvement in the efficiency and effectiveness of health care delivery.

Source: Laws 1994, LB 1223, § 124; Laws 1996, LB 1044, § 857; Laws 2007, LB296, § 747.

81-679 Health care data analysis section; public-sector health care programs; requirements.

Data and research initiatives by the health care data analysis section of the Department of Health and Human Services related to public-sector health care programs shall:

(1) Assist the state's current health care financing and delivery programs to deliver and purchase health care in a manner that promotes improvements in health care efficiency and effectiveness;

(2) Assist the state in its public health activities, including the analysis of disease prevalence and trends and the development of public health responses;

(3) Assist the state in developing and refining its overall health policy, including policy related to health care costs, quality, and access; and

(4) Provide health care information that allows the evaluation of state health care financing and delivery programs.

Source: Laws 1994, LB 1223, § 125; Laws 1996, LB 1044, § 858; Laws 2007, LB296, § 748.

81-680 Department; contracts and grants; authorized; data collection requirements.

(1) To carry out the duties assigned under sections 81-677 to 81-679, the Department of Health and Human Services may contract with or provide grants to private-sector entities.

(2) The health care data analysis section of the department shall negotiate with private-sector organizations currently collecting data on specific health conditions of interest to the section in order to obtain required data in a cost-effective manner and minimize administrative costs. The section shall support linkages between existing private-sector databases and shall consider and implement methods to streamline data collection in order to reduce public-sector and private-sector administrative costs.

(3) The health care data analysis section shall use existing public-sector databases, such as those existing for the medical assistance program and medicare, to the greatest extent possible. The section shall support linkages between existing public-sector databases and consider and implement methods to streamline public-sector data collection in order to reduce public-sector and private-sector administrative costs.

Source: Laws 1994, LB 1223, § 126; Laws 1996, LB 1044, § 859; Laws 2007, LB296, § 749.

(n) PARKINSON'S DISEASE REGISTRY ACT

81-681 Repealed. Laws 2001, LB 209, § 36.

81-682 Repealed. Laws 2001, LB 209, § 36.

81-683 Repealed. Laws 2001, LB 209, § 36.

81-684 Repealed. Laws 2001, LB 209, § 36.

81-685 Repealed. Laws 2001, LB 209, § 36.

81-686 Repealed. Laws 2001, LB 209, § 36.

81-687 Repealed. Laws 2001, LB 209, § 36.

81-688 Repealed. Laws 2001, LB 209, § 36.

81-689 Repealed. Laws 2001, LB 209, § 36.

81-690 Repealed. Laws 2001, LB 209, § 36.

81-691 Repealed. Laws 2001, LB 209, § 36.

81-692 Repealed. Laws 2001, LB 209, § 36.

81-693 Repealed. Laws 2001, LB 209, § 36.

81-694 Repealed. Laws 2001, LB 209, § 36.

81-695 Repealed. Laws 2001, LB 209, § 36.

81-696 Repealed. Laws 2001, LB 209, § 36.

81-697 Act, how cited.

Sections 81-697 to 81-6,110 shall be known and may be cited as the Parkinson's Disease Registry Act.

Source: Laws 2001, LB 152, § 5.

81-698 Purpose of registry.

The purpose of the Parkinson's Disease Registry is to provide a central data bank of accurate, historical and current information for research purposes. The Parkinson's Disease Registry Act will provide for screening and collecting patient and family data that may be useful in detecting the incidence of and possible risk factors concerning Parkinson's disease and related movement disorders. The act will also aid in planning for health care requirements and education needs.

Source: Laws 2001, LB 152, § 6.

81-699 Terms, defined.

For purposes of the Parkinson's Disease Registry Act:

(1) Approved researcher means an individual or entity who is approved by the department in accordance with section 81-666 to obtain access to data contained in the Parkinson's Disease Registry to assist in scientific or medical research for the prevention, cure, or control of Parkinson's disease;

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

(3) Parkinson's disease means a chronic, progressive disorder in which there is a lack of the chemical dopamine in the brain as a direct result of the destruction of the dopamine-producing cells in the portion of the brain called the substantia nigra. Clinical features of the disease include tremor at rest, slow movements, rigidity, and unsteady or shuffling gait and may be indicated by improvement after using medications used for Parkinson's disease; and

(4) Related movement disorder means a disorder that resembles Parkinson's disease in some way, such as another kind of tremor.

Source: Laws 2001, LB 152, § 7; Laws 2007, LB296, § 750.

81-6,100 Parkinson's Disease Registry; contents.

The department shall establish and maintain the Parkinson's Disease Registry. The registry shall consist of a compilation of the reports of cases of Parkinson's disease and related movement disorders occurring among residents of this state which are with the department. The registry shall include information the department deems necessary and appropriate for the statistical identification and planning for treatment and education of health care providers and persons diagnosed with Parkinson's disease and related movement disorders.

Source: Laws 2001, LB 152, § 8.

81-6,101 Department; duties.

The department shall:

(1) Adopt and promulgate rules and regulations, including a uniform system of classification of Parkinson's disease which is consistent with medically and clinically accepted standards and definitions for use in reporting by medical personnel treating the disease;

- (2) Execute any contracts that the department deems necessary to carry out the Parkinson's Disease Registry Act;
- (3) Receive and record the data obtained from reports filed under sections 81-6,102 and 81-6,103; and
- (4) Comply with all necessary requirements to obtain funds or grants.

Source: Laws 2001, LB 152, § 9; Laws 2005, LB 301, § 67.

81-6,102 Diagnosis; report; contents.

(1) If a resident of this state is diagnosed with Parkinson's disease or a related movement disorder within this state in the office of a physician licensed under the Uniform Credentialing Act, the physician shall file a report of the diagnosis and pertinent information with the department within sixty days after the diagnosis.

(2) An individual resident of this state who has been diagnosed with Parkinson's disease or a related movement disorder by a licensed physician may file a report with the department providing relevant information. The department shall provide for validation of individual reports.

(3) A report filed under this section shall contain the following information about the person diagnosed with Parkinson's disease or a related movement disorder:

- (a) Name;
- (b) Social security number;
- (c) Date of birth;
- (d) Gender;
- (e) Address at time of diagnosis;
- (f) Current address;
- (g) Date of diagnosis;
- (h) Physician;
- (i) Identification of reporting source; and
- (j) Any additional information the department demonstrates is reasonable to implement the Parkinson's Disease Registry Act.

Source: Laws 2001, LB 152, § 10; Laws 2007, LB463, § 1313.

Cross References

Uniform Credentialing Act, see section 38-101.

81-6,103 Pharmacist; report; department; duty.

The pharmacist in charge of each pharmacy located within the state or doing business in the state shall file a semiannual report with the department listing persons to whom the pharmacist has dispensed drugs on the list of drugs required to be reported under this section for Parkinson's disease. The report shall include the name, address, and date of birth of the person for whom the drugs were prescribed and the name and address of the prescribing physician. The department shall issue a list of drugs used for the treatment of Parkinson's disease to be reported under this section, shall review and revise the list

annually, and shall distribute the list to each pharmacy located within the state or doing business in the state.

Source: Laws 2001, LB 152, § 11; Laws 2020, LB755, § 33.

81-6,104 Release of data; other sections applicable.

All data and information developed or collected pursuant to the Parkinson's Disease Registry Act and the receipt and release of data from the Parkinson's Disease Registry is subject to and shall comply with sections 81-663 to 81-675. For purposes of the Parkinson's Disease Registry, data may be released as Class I data, Class II data, Class III data, or Class IV data as classified in section 81-667.

Source: Laws 2001, LB 152, § 12.

81-6,105 Patient and patient's family; privacy rights.

Nothing in the Parkinson's Disease Registry Act shall be deemed to compel any individual to submit to any medical examination or supervision by the department, any of its authorized representatives, or an approved researcher. No person who seeks information or obtains registry data pursuant to the act shall contact a patient on the registry or such patient's family unless the registry has first obtained the permission of such patient or patient's family. The registry shall coordinate its activities with the person desiring such contact and may authorize the person desiring such contact to perform these contacts under the direction of the registry.

Source: Laws 2001, LB 152, § 13; Laws 2002, LB 1021, § 108.

81-6,106 Refusal to provide information; effect.

Nothing in the Parkinson's Disease Registry Act requires a physician or pharmacist to deny medical treatment or services to an individual who refuses to provide the information necessary to make complete reports required under section 81-6,102 or 81-6,103.

Source: Laws 2001, LB 152, § 14.

81-6,107 Immunity from liability.

Any physician or pharmacist required to make reports under section 81-6,102 or 81-6,103 is immune from liability, civil, criminal, or otherwise, for filing an incomplete report as a result of the failure of an individual to provide the information necessary to make such report.

Source: Laws 2001, LB 152, § 15; Laws 2003, LB 667, § 23.

81-6,108 Repealed. Laws 2003, LB 667, § 26.

81-6,109 Transition from prior law.

(1) On and after May 26, 2001, for purposes of the Parkinson's Disease Registry Act:

(a) Any rules, regulations, and orders of the Department of Health and Human Services Regulation and Licensure adopted pursuant to the former Parkinson's Disease Registry Act, as such act existed prior to February 14, 2001, and in effect on February 13, 2001, shall be revived and continue in effect until revised, amended, repealed, or nullified pursuant to law;

(b) Any contracts entered into by the department prior to February 14, 2001, and in effect on February 13, 2001, in connection with the duties and functions of the former act are recognized and may be revived upon the agreement of all contract parties. If revived, the department shall succeed to all rights and obligations under such contracts;

(c) Any cash funds, custodial funds, gifts, trusts, grants, and appropriations of funds which were available for use by the department for purposes of the former act shall continue to be available for use by the department if such funds continue to exist; and

(d) Any documents created, information compiled, or property used by the department under the former act shall continue to be available to and may be used by the department.

(2) For purposes of this section, former act means the Parkinson's Disease Registry Act, as such act existed prior to February 14, 2001, which act was outright repealed in Laws 2001, LB 209.

Source: Laws 2001, LB 152, § 17.

81-6,110 Costs; how paid; termination of registry; when.

Costs associated with administration of the Parkinson's Disease Registry Act shall be paid from cash funds, contract receipts, gifts, and grants. No general funds shall be used to pay such costs. Funds received by the department for the payment of such costs shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. Notwithstanding any other provision of the act, the Parkinson's Disease Registry and all duties related to the administration of such registry and such act shall cease as of June 30 of any year in which the department has insufficient funds on hand to perform its duties under the act for the next fiscal year, after providing thirty days' written notice to each approved researcher who has contracted with the department under section 81-6,101 in the current biennium.

Source: Laws 2001, LB 152, § 18; Laws 2003, LB 667, § 24; Laws 2007, LB296, § 751.

(o) OUTPATIENT SURGICAL PROCEDURES DATA ACT

81-6,111 Act, how cited.

Sections 81-6,111 to 81-6,119 shall be known and may be cited as the Outpatient Surgical Procedures Data Act.

Source: Laws 2003, LB 73, § 1.

81-6,112 Purposes of act.

The purposes of the Outpatient Surgical Procedures Data Act are to provide for: (1) The collection and compilation of outpatient surgical procedure information from hospitals and ambulatory surgical centers; (2) the use and disclosure of such information for public health purposes; and (3) periodic reporting to the Legislature and an annual statistical report.

Source: Laws 2003, LB 73, § 2.

81-6,113 Terms, defined.

For purposes of the Outpatient Surgical Procedures Data Act:

- (1) Department means the Department of Health and Human Services;
- (2) Medicaid means the medical assistance program established pursuant to the Medical Assistance Act;
- (3) Medicare means Title XVIII of the federal Social Security Act, as such title existed on January 1, 2003;
- (4) Outpatient surgical procedure means a surgical procedure provided to patients who do not require inpatient hospitalization;
- (5) Primary payor means the public payor or private payor which is expected to be responsible for the largest percentage of the patient's current bill;
- (6) Private payor means any nongovernmental source of funding; and
- (7) Public payor means medicaid, medicare, and any other governmental source of funding.

Source: Laws 2003, LB 73, § 3; Laws 2006, LB 1248, § 88; Laws 2007, LB296, § 752.

Cross References

Medical Assistance Act, see section 68-901.

81-6,114 Hospital and ambulatory surgical center; reports required.

- (1) Every hospital or ambulatory surgical center licensed under the Health Care Facility Licensure Act shall annually report the following outpatient surgical and related information to the department no later than May 1 of each year for the preceding calendar year in a format as prescribed by the department in rule and regulation:
 - (a) The name of the reporting facility;
 - (b) The facility portion of billed charges for each patient served at such facility;
 - (c) The county and state of residence by zip code for each patient served at such facility;
 - (d) The primary outpatient surgical procedure performed for each patient at such facility;
 - (e) The primary payor for each patient served at such facility; and
 - (f) Such other outpatient surgical information as voluntarily reported by such facilities.
- (2) The department may impose a late fee for failure to report such information as required by this section.

Source: Laws 2003, LB 73, § 4.

Cross References

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

81-6,115 Information; confidentiality.

All information reported to the department pursuant to section 81-6,114 shall be privileged communications, shall not be discoverable or subject to subpoena, and may not be used or offered or received in evidence in any legal proceeding of any kind or character. Such information shall remain confidential with the

department and shall not be disclosed except as provided in sections 81-6,116 and 81-6,117.

Source: Laws 2003, LB 73, § 5.

81-6,116 Information; use.

(1) Information reported under section 81-6,114 may be used by the department for statistical and public health planning purposes and for other public health purposes as identified by the department in rule and regulation.

(2) The department shall periodically review information collected under section 81-6,114 for the purpose of identifying potential policies or practices of any reporting facility which may be detrimental to the public health, including, but not limited to, policies and practices which may have the effect of limiting access to needed health care services for Nebraska residents. The department shall provide electronically recommendations to the Health and Human Services Committee of the Legislature relating to appropriate administrative and legislative responses to such policies and practices and shall provide electronically an annual report to the chairperson of such committee of its findings and its current or planned activities under this section, if any.

Source: Laws 2003, LB 73, § 6; Laws 2012, LB782, § 169.

81-6,117 Department; annual statistical report.

The department shall publish an annual statistical report from information collected under section 81-6,114 which shall include: (1) The twenty most frequently performed outpatient surgical procedures by type of procedure; (2) the total number of persons served for each listed procedure; (3) the total number of persons served by county and state of residence and region of service; and (4) the average billed charges for such procedures by county and state of residence. The department shall designate service regions for the purpose of aggregating and reporting information as required by this section. No information shall be published or disclosed by the department under this section in a manner that identifies or may be used to identify any individual hospital or ambulatory surgical center.

Source: Laws 2003, LB 73, § 7.

81-6,118 Costs; use in establishing licensure fees.

Costs associated with implementation of the Outpatient Surgical Procedures Data Act may be considered by the department in determining variable costs for purposes of establishing licensure fees under section 71-434 and shall not require an appropriation of General Funds.

Source: Laws 2003, LB 73, § 8.

81-6,119 Rules and regulations.

The department shall adopt and promulgate rules and regulations to implement the Outpatient Surgical Procedures Data Act. Such rules and regulations shall comply with all applicable provisions of federal law and shall minimize the imposition of additional costs to reporting facilities.

Source: Laws 2003, LB 73, § 9.

(p) TRANSPORTATION SERVICES

81-6,120 Transportation services; restrictions on providers; criminal history record information check required; fingerprinting; costs; release of results; violation; penalty.

(1) No individual who has been convicted of a felony or of any crime involving moral turpitude, or who has been charged with or indicted for a felony or crime involving moral turpitude and there has been no final resolution of the prosecution of the crime, shall provide transportation services under contract with the Department of Health and Human Services, whether as an employee or as a volunteer, for vulnerable adults as defined in section 28-371 or for persons under nineteen years of age.

(2) In order to assure compliance with subsection (1) of this section, any individual who will be providing such transportation services to such vulnerable adults or persons under nineteen years of age and any individual who is providing such services on August 30, 2009, shall be subject to a national criminal history record information check by the Department of Health and Human Services through the Nebraska State Patrol.

(3) In addition to the national criminal history record information check required in subsection (2) of this section, all individuals employed to provide transportation services under contract with the Department of Health and Human Services to vulnerable adults or persons under nineteen years of age shall submit to a national criminal history record information check every two years during the period of such employment.

(4) Individuals shall submit two full sets of fingerprints to the Nebraska State Patrol to be submitted to the Federal Bureau of Investigation for the national criminal history record information check required under this section. The individual shall pay the actual cost of fingerprinting and the national criminal history record information check.

(5)(a) Individuals shall authorize release of the results and contents of a national criminal history record information check under this section to the employer and the Department of Health and Human Services as provided in this section.

(b) The Nebraska State Patrol shall not release the contents of a national criminal history record information check under this section to the employer or the individual but shall only indicate in writing to the employer and the individual whether the individual has a criminal record.

(c) The Nebraska State Patrol shall release the results and the contents of a national criminal history record information check under this section in writing to the department in accordance with applicable federal law.

(6) The Department of Health and Human Services may develop and implement policies that provide for administrative exceptions to the prohibition in subsection (1) of this section, including, but not limited to, situations in which relatives of the vulnerable adult or person under nineteen years of age provide transportation services for such vulnerable adult or person under nineteen years of age or situations in which the circumstances of the crime or the elapsed time since the commission of the crime do not warrant the prohibition. Any decision made by the department regarding an administrative exception under this section is discretionary and is not appealable.

(7) An individual who does not comply with this section is guilty of a Class V misdemeanor.

Source: Laws 2009, LB97, § 30.

(q) PERSONS WITH DISABILITIES

81-6,121 Persons with disabilities; legislative findings and declarations.

The Legislature finds and declares that:

(1) In 1999 the United States Supreme Court held in the case of *Olmstead v. L.C.*, 527 U.S. 581, that unjustified segregation of persons with disabilities constitutes discrimination in violation of Title II of the federal Americans with Disabilities Act of 1990. The court held that public entities must provide community-based services to persons with disabilities when (a) such services are appropriate, (b) the affected persons do not oppose community-based services, and (c) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity. The court stated that institutional placement of persons who can handle and benefit from community-based services perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life and that confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment;

(2) Many Nebraskans with disabilities live in institutional placements and settings where they are segregated and isolated with diminished opportunities to participate in community life; and

(3) The United States Supreme Court further stated in the *Olmstead* decision that development of (a) a comprehensive, effective working plan for providing services to qualified persons with disabilities in the most integrated community-based settings and (b) a waiting list that moves at a reasonable pace could be important ways for a state to demonstrate its commitment to achieving compliance with the federal Americans with Disabilities Act of 1990.

Source: Laws 2016, LB1033, § 1; Laws 2019, LB570, § 2.

81-6,122 Strategic plan for providing services; department; duties; advisory committee; analysis and report.

(1) The Department of Health and Human Services shall, in collaboration with the Department of Correctional Services, the Department of Economic Development, the Department of Labor, the Department of Transportation, the Department of Veterans' Affairs, the State Department of Education, the University of Nebraska, and the Equal Opportunity Commission, develop a comprehensive strategic plan for providing services to qualified persons with disabilities in the most integrated community-based settings pursuant to the *Olmstead* decision.

(2) The chief executive officer of the Department of Health and Human Services shall convene a team to:

(a) Develop the strategic plan described in subsection (1) of this section;

(b) Appoint and convene a stakeholder advisory committee to assist in the review and development of the strategic plan, such committee members to

include a representative from the State Advisory Committee on Mental Health Services, the Advisory Committee on Developmental Disabilities, the Nebraska Statewide Independent Living Council, the Nebraska Planning Council on Developmental Disabilities, the Division of Rehabilitation Services in the State Department of Education, the Public Service Commission, the Commission for the Deaf and Hard of Hearing, the Commission for the Blind and Visually Impaired, a housing authority in a city of the first or second class and a housing authority in a city of the primary or metropolitan class, the Assistive Technology Partnership, the protection and advocacy system for Nebraska, an assisted-living organization, the behavioral health regions, mental health practitioners, developmental disability service providers, an organization that advocates for persons with developmental disabilities, an organization that advocates for persons with mental illness, an organization that advocates for persons with brain injuries, and an area agency on aging, and including two persons with disabilities representing self-advocacy organizations, and, at the department's discretion, other persons with expertise in programs serving persons with disabilities;

(c) Arrange for consultation with an independent consultant to assist with the continued analysis and revision of the strategic plan and determine whether the benchmarks, deadlines, and timeframes are in substantial compliance with the strategic plan;

(d) Provide continuing analysis of the strategic plan and a report on the progress of the strategic plan and changes or revisions to the Legislature by December 15, 2021, and every three years thereafter; and

(e) Provide the completed strategic plan to the Legislature and the Governor by December 15, 2019.

(3) The reports and completed plan shall be submitted electronically to the Legislature.

Source: Laws 2016, LB1033, § 2; Laws 2019, LB570, § 3.

(r) POPULATION HEALTH INFORMATION

81-6,123 Population Health Information Act; act, how cited.

Sections 81-6,123 to 81-6,126 shall be known and may be cited as the Population Health Information Act.

Source: Laws 2020, LB1183, § 1.

81-6,124 Terms, defined.

For purposes of the Population Health Information Act:

(1) Clinical information means information related to the diagnosis and treatment of health conditions or services provided for health conditions;

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

(3) Designated health information exchange means the statewide health information exchange described in section 71-2455;

(4) Health care entity means a health care facility as defined in section 71-413, a home health agency as defined in section 71-417, an urgent care treatment center, a laboratory, a medicaid managed care organization, a federally qualified health center, a health care practitioner facility as defined in

section 71-414, a dental facility, a local public health department, a health insurance carrier, or any other organization or entity providing health care services in Nebraska;

(5) Health care provider means a person practicing as a health care professional under the Uniform Credentialing Act; and

(6) Prescription drug monitoring program means the program created under section 71-2454.

Source: Laws 2020, LB1183, § 2.

Cross References

Uniform Credentialing Act, see section 38-101.

81-6,125 Act; purpose; designated health information exchange; duties; health care facility; health insurance plan; participation required; terms and conditions; individuals; opt out.

(1) The purpose of the Population Health Information Act is to designate a health information exchange to provide the data infrastructure needed to assist in creating a healthier Nebraska and operating the electronic health records initiative.

(2) The designated health information exchange shall:

(a) Aggregate clinical information from health care entities needed to support the operation of the medical assistance program under the Medical Assistance Act;

(b) Act as the designated entity for purposes of access to and analysis of health data;

(c) Collect and analyze data for purposes of informing the Legislature, the department, health care providers, and health care entities as to the cost of, access to, and quality of health care in Nebraska;

(d) Act as a collector and reporter of public health data for registry submissions, electronic laboratory reporting, immunization reporting, and syndromic surveillance from an electronic health record, which does not include claims data; and

(e) Enable any health care provider or health care entity to access information available within the designated health information exchange to evaluate and monitor care and treatment of a patient in accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

(3)(a) On or before September 30, 2021, each health care facility listed in subdivision (b) of this subsection shall participate in the designated health information exchange through sharing of clinical information. Such clinical information shall include the clinical data that the health care facility captured in its existing electronic health record as permitted by state and federal laws, rules, and regulations. Any patient health information shared with the designated health information exchange as determined by policies adopted by the Health Information Technology Board shall be provided in accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996 and regulations adopted under the act.

(b) This subsection applies to an ambulatory surgical center, a critical access hospital, a general acute hospital, a health clinic, a hospital, an intermediate care facility, a long-term care hospital, a mental health substance use treatment center, a PACE center, a pharmacy, a psychiatric or mental hospital, a public health clinic, or a rehabilitation hospital, as such terms are defined in the Health Care Facility Licensure Act, or a diagnostic, laboratory, or imaging center.

(c) This subsection does not apply to (i) a state-owned or state-operated facility or (ii) an assisted-living facility, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act.

(d) Any connection established by July 1, 2021, between a health care facility and the designated health information exchange to facilitate such participation shall be at no cost to the participating health care facility.

(e) A health care facility may apply to the board for a waiver from the requirement to participate under this subsection due to a technological burden. The board shall review the application and determine whether to waive the requirement. If the board waives the requirement for a health care facility, the board shall review the waiver annually to determine if the health care facility continues to qualify for the waiver.

(f) The board shall not require a health care facility to purchase or contract for an electronic records management system or service.

(4)(a) On or before January 1, 2022, each health insurance plan shall participate in the designated health information exchange through sharing of information. Subject to subsection (5) of this section, such information shall be determined by policies adopted by the Health Information Technology Board.

(b) For purposes of this subsection:

(i) Health insurance plan includes any group or individual sickness and accident insurance policy, health maintenance organization contract, subscriber contract, employee medical, surgical, or hospital care benefit plan, or self-funded employee benefit plan to the extent not preempted by federal law; and

(ii) Health insurance plan does not include (A) accident-only, disability-income, hospital confinement indemnity, dental, hearing, vision, or credit insurance, (B) coverage issued as a supplement to liability insurance, (C) insurance provided as a supplement to medicare, (D) insurance arising from workers' compensation provisions, (E) automobile medical payment insurance, (F) insurance policies that provide coverage for a specified disease or any other limited benefit coverage, or (G) insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy.

(5) The designated health information exchange and the department shall enter into an agreement to allow the designated health information exchange to collect, aggregate, analyze, report, and release de-identified data, as defined by the federal Health Insurance Portability and Accountability Act of 1996, that is derived from the administration of the medical assistance program. Such written agreement shall be executed no later than September 30, 2021.

(6) In addition to the right to opt out as provided in section 71-2454, an individual shall have the right to opt out of the designated health information exchange or the sharing of information required under subsections (3) and (4) of this section. The designated health information exchange shall adopt a

patient opt-out policy consistent with the federal Health Insurance Portability and Accountability Act of 1996 and other applicable federal requirements. Such policy shall not apply to mandatory public health reporting requirements.

Source: Laws 2020, LB1183, § 3; Laws 2021, LB411, § 1.

Cross References

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

Medical Assistance Act, see section 68-901.

81-6,126 Federal funding; department; duties.

(1) The department shall work collaboratively with the designated health information exchange to access funding through federal programs, which shall include, but not be limited to, the Centers for Medicare and Medicaid Services, the Centers for Disease Control and Prevention, and the Health Resources and Services Administration of the United States Department of Health and Human Services, and other federal programs related to health information, technology, population health, and health care delivery system initiatives, for purposes of supporting the designated health information exchange and the prescription drug monitoring program.

(2) Nothing in the Population Health Information Act shall preclude the department from working collaboratively with other entities for purposes of collecting and analyzing data to inform the Legislature, the department, health care providers, and health care entities regarding the cost of, access to, and quality of health care in Nebraska.

Source: Laws 2020, LB1183, § 4.

(s) HEALTH INFORMATION TECHNOLOGY BOARD

81-6,127 Health Information Technology Board; created; members; expenses; quorum.

(1) The Health Information Technology Board is created. The board shall have seventeen members. Except for members designated in subdivision (2)(o) of this section, the members shall be appointed by the Governor with the approval of a majority of the members of the Legislature. The members may begin to serve immediately following appointment and prior to approval by the Legislature. The members shall be appointed by February 1, 2021, and the board shall begin meeting on or before April 1, 2021.

(2) Members designated under subdivisions (b), (c), (d), (e), (g), (h), and (i) of this subsection shall hold a credential under the Uniform Credentialing Act. Except as otherwise provided in subsection (4) of this section, the board shall consist of:

(a) One individual who has experience in operating the prescription drug monitoring program created under section 71-2454;

(b) Two physicians, one of whom shall be a family practice physician, who are in active practice and in good standing with the Department of Health and Human Services appointed from a list of physicians provided by a statewide organization representing physicians;

(c) One pharmacist who is in active practice and in good standing with the department appointed from a list of pharmacists provided by a statewide organization representing pharmacists;

(d) One alcohol and drug counselor providing services for a state-licensed alcohol and drug abuse addiction treatment program;

(e) One health care provider who is board-certified in pain management;

(f) One hospital administrator appointed from a list of hospital administrators provided by a statewide organization representing hospital administrators;

(g) One dentist who is in active practice and in good standing with the department appointed from a list of dentists provided by a statewide organization representing dentists;

(h) One nurse practitioner who is in active practice and in good standing with the department authorized to prescribe medication appointed from a list of nurse practitioners authorized to prescribe medication provided by a statewide organization representing such nurse practitioners;

(i) One veterinarian who is in active practice and in good standing with the department appointed from a list of veterinarians provided by a statewide organization representing veterinarians;

(j) One representative of the Department of Health and Human Services;

(k) One representative of a delegate as defined in section 71-2454;

(l) One health care payor as defined in section 25-21,247 or an employee of a health care payor;

(m) One credentialed health information management professional appointed from a list of such professionals provided by a statewide organization representing such professionals;

(n) One representative of the statewide health information exchange described in section 71-2455; and

(o) The chairperson of the Health and Human Services Committee of the Legislature and the chairperson of the Appropriations Committee of the Legislature, both of whom are nonvoting, ex officio members.

(3) Except for members designated in subdivisions (2)(a) and (o) of this section:

(a) A minimum of three members shall be appointed from each congressional district;

(b) Each member shall be appointed for a five-year term beginning on April 1, 2021, and may serve for any number of such terms;

(c) Any member appointed prior to April 1, 2021, shall begin to serve immediately upon appointment and continue serving for the term beginning on April 1, 2021; and

(d) Any vacancy in membership, other than by expiration of a term, shall be filled within ninety days by the Governor by appointment for the vacant position as provided in subsection (2) of this section.

(4) If, after appointment, the classification of a member's credential changes or a member's credential classification is terminated and if such credential was a qualification for appointment, the member shall be permitted to continue to serve as a member of the board until the expiration of the term for which appointed unless the member loses the credential due to disciplinary action.

(5) The members shall be reimbursed for their actual and necessary expenses incurred in serving on the board as provided in section 71-2455.

(6) A simple majority of members shall constitute a quorum for the transaction of all business.

Source: Laws 2020, LB1183, § 5.

Cross References

Uniform Credentialing Act, see section 38-101.

81-6,128 Health Information Technology Board; duties; meetings; annual report.

(1) The Health Information Technology Board shall:

(a) Establish criteria for data collection and disbursement by the statewide health information exchange described in section 71-2455 and the prescription drug monitoring program created under section 71-2454 to improve the quality of information provided to clinicians;

(b) Evaluate and ensure that the statewide health information exchange is meeting technological standards for reporting of data for the prescription drug monitoring program, including the data to be collected and reported and the frequency of data collection and disbursement;

(c) Provide the governance oversight necessary to ensure that any health information in the statewide health information exchange and the prescription drug monitoring program may be accessed, used, or disclosed only in accordance with the privacy and security protections set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder. All protected health information is privileged, is not a public record, and may be withheld from the public pursuant to section 84-712.05; and

(d) Provide recommendations to the statewide health information exchange on any other matters referred to the board.

(2) The board shall adopt policies and procedures necessary to carry out its duties.

(3) The authority of the board to direct the use or release of data under this section or section 71-2454 shall apply only to requests submitted to the board after September 1, 2021.

(4) The board may hold meetings by telecommunication or electronic communication subject to the Open Meetings Act. Any official action or vote of the members of the board shall be preserved in the records of the board.

(5) By November 15, 2021, and November 15 of each year thereafter, the board shall develop and submit an annual report to the Governor and the Health and Human Services Committee of the Legislature regarding considerations undertaken, decisions made, accomplishments, and other relevant information. The report submitted to the Legislature shall be submitted electronically.

Source: Laws 2020, LB1183, § 6; Laws 2021, LB411, § 2.

Cross References

Open Meetings Act, see section 84-1407.

STATE ADMINISTRATIVE DEPARTMENTS

ARTICLE 7

DEPARTMENT OF TRANSPORTATION

Cross References

- Build Nebraska Act**, see section 39-2701.
- Department of Aeronautics**, contract for maintenance of airports and engineering service, see section 3-116.
- Electrical and other utility facilities along state or federal highways**, see sections 39-1304.02, 70-309, and 86-707.
- Gasohol use**, see sections 66-821 to 66-824.
- Highway Cash Fund**, allocation and use, see section 66-4,100.
- Highway Trust Fund**, see section 39-2215.
- Highways and bridges**, generally, see Chapter 39.
- Historical markers**, duties, see section 82-120.
- Political subdivisions**, agreements with, see section 39-1307.
- Public lettings**, see Chapter 73.
- Public transportation assistance program**, see section 13-1209 et seq.
- Railroad grade crossings**, see Chapter 74, article 13.
- Real property**, sale provisions, see section 39-1325 et seq.
- Relocation Assistance Act**, see section 76-1214.
- Roads Operations Cash Fund**, see section 66-4,100.
- Rules of the Road, Nebraska**, see section 60-601.
- School bus routes**, duty to post signs, see section 79-604.
- School lands**, acquisition for highways, see section 72-221.
- State Highway Capital Improvement Fund**, see section 39-2703.
- State Highway Commission**, see section 39-1101 et seq.
- State institutions**, highways adjacent to, improvement, see section 83-137.
- State Patrol, Nebraska**, see section 81-2001 et seq.
- State sales tax revenue**, allocated for roads, see section 77-27,132.
- Telecommunications lines along state or federal highways**, see sections 39-1304.02 and 86-707.
- Weighing stations**, see section 60-1301 et seq.

(a) GENERAL POWERS

Section

- 81-701. Repealed. Laws 1955, c. 148, § 63.
- 81-701.01. Department of Transportation; Director-State Engineer; control, management, supervision, administration.
- 81-701.02. Director-State Engineer; powers; duties.
- 81-701.03. Department of Transportation; assume highway safety program of Department of Motor Vehicles; reference to Department of Roads in contracts or other documents; actions and proceedings; how treated; provisions of law; how construed.
- 81-701.04. Department of Transportation; fees; deposited with State Treasurer; credited to Highway Cash Fund.
- 81-701.05. Nebraska Railway Council agreement with railroad; oversight.
- 81-701.06. Repealed. Laws 1995, LB 15, § 6.
- 81-702. Nebraska Broadband Office; office space; administrative and budgetary support; Department of Transportation; duties; technology infrastructure projects on state highway property; powers.
- 81-703. Department of Transportation Aeronautics Capital Improvement Fund; created; use; investment.

(b) NATURAL LAKES

- 81-704. Transferred to section 46-803.
- 81-705. Transferred to section 46-804.
- 81-706. Transferred to section 46-805.
- 81-707. Transferred to section 46-806.
- 81-708. Transferred to section 46-807.

(c) HIGHWAYS; SALVAGED MATERIAL

- 81-709. Repealed. Laws 1955, c. 148, § 63.

(d) STATE WAYSIDE AREAS

- 81-710. State wayside areas; powers and duties of department; rules and regulations; contracts authorized.
- 81-711. State wayside areas; requirements.

(a) GENERAL POWERS

81-701 Repealed. Laws 1955, c. 148, § 63.**81-701.01 Department of Transportation; Director-State Engineer; control, management, supervision, administration.**

The Director-State Engineer shall have full control, management, supervision, administration, and direction of the Department of Transportation. All powers and duties lawfully conferred upon the department shall be exercised under the direction of the Director-State Engineer.

Source: Laws 1955, c. 338, § 1, p. 1050; Laws 1957, c. 365, § 11, p. 1238; Laws 2017, LB339, § 276.

81-701.02 Director-State Engineer; powers; duties.

The Director-State Engineer, for the Department of Transportation, shall:

- (1) Have charge of the records of the department;
- (2) Cause accurate and complete books of account to be kept;
- (3) Supervise the signing of vouchers and orders for supplies, materials, and any other expenditures;
- (4) Contract for consulting services;
- (5) Employ all engineers, assistants, clerks, agents, and other employees required for the proper transaction of the business of the office or of the department and fix their titles, determine their duties and compensation, and discharge them in his or her discretion; and
- (6) Sign and execute or supervise the signing and executing of all documents and papers, including contracts and agreements for highway construction and the purchase of machinery, materials, and supplies.

Source: Laws 1955, c. 338, § 2, p. 1050; Laws 1957, c. 365, § 12, p. 1238; Laws 2017, LB339, § 277.

Cross References

Geographic Information Systems Council, member of, see section 86-570.

Salary, see section 81-103.

State Emergency Response Commission, member of, see section 81-15,210.

State Highway Commission, member of, see section 39-1101.

81-701.03 Department of Transportation; assume highway safety program of Department of Motor Vehicles; reference to Department of Roads in contracts or other documents; actions and proceedings; how treated; provisions of law; how construed.

(1) The Department of Transportation shall assume responsibility for the powers and duties of the highway safety program of the Department of Motor Vehicles, except that the Department of Motor Vehicles shall retain jurisdiction over the Motorcycle Safety Education Act.

(2) On and after July 1, 2017, whenever the Department of Roads is referred to or designated by any contract or other document in connection with the duties and functions of the Department of Transportation, such reference or designation shall apply to the Department of Transportation. All contracts entered into by the Department of Roads prior to July 1, 2017, are hereby recognized, with the Department of Transportation retaining all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts,

grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be appropriated to the Department of Transportation for the payments of such obligations. All documents and records transferred, or copies of the same, may be authenticated or certified by the Department of Transportation for all legal purposes.

(3) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2017, or which could have been commenced prior to that date, by or against the Department of Roads, or the Director-State Engineer or any employee thereof in such Director-State Engineer's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the change of name of the Department of Roads to the Department of Transportation.

(4) On and after July 1, 2017, unless otherwise specified, whenever any provision of law refers to the Department of Roads in connection with duties and functions of the Department of Transportation, such law shall be construed as referring to the Department of Transportation.

Source: Laws 2009, LB219, § 2; Laws 2017, LB339, § 278.

Cross References

Motorcycle Safety Education Act, see section 60-2120.

81-701.04 Department of Transportation; fees; deposited with State Treasurer; credited to Highway Cash Fund.

There shall be paid to the Department of Transportation in advance for the services of the department, or any officer or employee thereof by the party demanding or necessitating the service, the following fees: For typing a transcript or copy of any instrument recorded or filed in any office of the department, fifteen cents for each one hundred words; for blueprint copy of any map or drawing, or photostatic copy of any record, a reasonable sum to be fixed by the department in an amount estimated to cover the actual cost of preparing such a reproduction; for other copies of drawing, two dollars per hour for the time actually employed; and for certificate and seal, one dollar. The Director-State Engineer shall keep a record of all fees received. Such fees shall be currently deposited with the State Treasurer by the Director-State Engineer for the use of the Highway Cash Fund and the Director-State Engineer shall take his or her receipt therefor and file the same with the records of his or her office.

Source: Laws 1957, c. 365, § 23, p. 1241; Laws 1961, c. 181, § 12, p. 543; Laws 2017, LB339, § 279.

Cross References

For other provisions for fees, see section 25-1280.

81-701.05 Nebraska Railway Council agreement with railroad; oversight.

The Department of Transportation shall oversee any outstanding agreement between a railroad and the Nebraska Railway Council as of August 27, 2011, including making any outstanding payment due to a railroad.

Source: Laws 2011, LB259, § 2; Laws 2017, LB339, § 280.

81-701.06 Repealed. Laws 1995, LB 15, § 6.

81-702 Nebraska Broadband Office; office space; administrative and budgetary support; Department of Transportation; duties; technology infrastructure projects on state highway property; powers.

(1) The Department of Transportation shall furnish the Nebraska Broadband Office with necessary office space, furniture, equipment, and supplies along with administrative and budgetary support, including salaries for professional, technical, and clerical assistants, except as limited in subsection (2) of this section. The Department of Transportation and the Nebraska Broadband Office shall, whenever practicable, seek reimbursement of such costs from federal-aid funds to the extent such costs are eligible for reimbursement.

(2) Broadband installation, operation, or maintenance projects of the Nebraska Broadband Office shall not be funded by the Department of Transportation, except as provided in subsection (3) of this section. Such restriction shall not apply to any fund or appropriation of the Legislature that has been specifically designated for projects of the Nebraska Broadband Office.

(3) The Department of Transportation may use state highway funds for projects to install, operate, and maintain fiber optic, broadband, or other similar technology infrastructure on state highway property solely to meet the state's present and future transportation technology needs along the state highway system. The department is further authorized to enter into public-private partnerships or to use other alternative project delivery methods set out in the Transportation Innovation Act. The department is authorized to work with the Nebraska Broadband Office for such projects and to seek or solicit the use of eligible federal highway funds to pay some or all of the state's costs for such projects. Nothing in this subsection authorizes the department to own, operate, manage, construct, or maintain fiber optic, broadband, or other similar technology outside of state highway property.

Source: Laws 2023, LB683, § 3.

Cross References

Transportation Innovation Act, see section 39-2801.

81-703 Department of Transportation Aeronautics Capital Improvement Fund; created; use; investment.

The Department of Transportation Aeronautics Capital Improvement Fund is created. The fund shall consist of money credited to the fund pursuant to section 77-27,132, transfers authorized by the Legislature, and any gifts, grants, bequests, or donations to the fund. The fund shall be administered by the Department of Transportation and shall be used to build, repair, renovate, rehabilitate, restore, modify, or improve any infrastructure at any public-use airport licensed by the Division of Aeronautics of the Department of Transportation. 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 2023, LB727, § 100.

Cross References

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

(b) NATURAL LAKES

81-704 Transferred to section 46-803.

81-705 Transferred to section 46-804.

81-706 Transferred to section 46-805.

81-707 Transferred to section 46-806.

81-708 Transferred to section 46-807.

(c) HIGHWAYS; SALVAGED MATERIAL

81-709 Repealed. Laws 1955, c. 148, § 63.

(d) STATE WAYSIDE AREAS

81-710 State wayside areas; powers and duties of department; rules and regulations; contracts authorized.

The Department of Transportation shall establish, operate, and maintain state wayside areas. Pursuant to the Administrative Procedure Act, the department may adopt and promulgate rules and regulations necessary to govern the use of state wayside areas and may establish fees for services, including overnight camping.

The department may contract with public or private entities for the operation and maintenance of state wayside areas.

If the department determines that an area is no longer suited or needed as a state wayside area, the department may close such area or any part thereof and declare such area or facilities as surplus. The department shall offer to convey the surplus land or facilities to all local political subdivisions in the vicinity, and if such offers are rejected, the department may sell such lands and facilities.

Source: Laws 1983, LB 610, § 7; Laws 2014, LB757, § 2; Laws 2017, LB339, § 281.

Cross References

Administrative Procedure Act, see section 84-920.

81-711 State wayside areas; requirements.

State wayside areas shall be areas appropriate in size and located at strategic intervals adjacent to main traveled highways to provide safe rest and picnic stops for travelers, which sites shall be selected for scenic or historical interest when possible, equipped with safe approach and departure lanes, and be developed in a manner and with such facilities as are appropriate to their purpose, including overnight camping.

Source: Laws 1983, LB 610, § 6.

ARTICLE 8

INDEPENDENT BOARDS AND COMMISSIONS

(a) GAME AND PARKS COMMISSION

Section
81-801. Transferred to section 37-101.

INDEPENDENT BOARDS AND COMMISSIONS

Section	
81-801.01.	Transferred to section 37-102.
81-802.	Transferred to section 37-103.
81-803.	Repealed. Laws 1969, c. 776, § 2.
81-803.01.	Transferred to section 37-104.
81-804.	Transferred to section 37-105.
81-805.	Transferred to section 37-301.
81-805.01.	Repealed. Laws 1998, LB 922, § 415.
81-805.02.	Transferred to section 37-331.
81-805.03.	Transferred to section 37-328.
81-805.04.	Transferred to section 37-624.
81-805.05.	Repealed. Laws 1969, c. 793, § 1.
81-805.06.	Repealed. Laws 1969, c. 793, § 1.
81-805.07.	Repealed. Laws 1969, c. 793, § 1.
81-805.08.	Repealed. Laws 1969, c. 793, § 1.
81-805.09.	Repealed. Laws 1969, c. 793, § 1.
81-805.10.	Repealed. Laws 1969, c. 793, § 1.
81-805.11.	Repealed. Laws 1969, c. 793, § 1.
81-805.12.	Repealed. Laws 1969, c. 793, § 1.
81-805.13.	Repealed. Laws 1969, c. 793, § 1.
81-805.14.	Repealed. Laws 1969, c. 793, § 1.
81-805.15.	Repealed. Laws 1969, c. 793, § 1.
81-805.16.	Repealed. Laws 1969, c. 793, § 1.
81-805.17.	Repealed. Laws 1969, c. 793, § 1.
81-805.18.	Repealed. Laws 1969, c. 793, § 1.
81-805.19.	Repealed. Laws 1969, c. 793, § 1.
81-805.20.	Repealed. Laws 1969, c. 793, § 1.
81-805.21.	Repealed. Laws 1969, c. 793, § 1.
81-805.22.	Repealed. Laws 1969, c. 793, § 1.
81-805.23.	Repealed. Laws 1969, c. 793, § 1.
81-805.24.	Repealed. Laws 1969, c. 793, § 1.
81-805.25.	Repealed. Laws 1969, c. 793, § 1.
81-805.26.	Repealed. Laws 1969, c. 793, § 1.
81-805.27.	Repealed. Laws 1969, c. 793, § 1.
81-805.28.	Repealed. Laws 1969, c. 793, § 1.
81-805.29.	Repealed. Laws 1969, c. 793, § 1.
81-805.30.	Repealed. Laws 1969, c. 793, § 1.
81-806.	Repealed. Laws 1981, LB 545, § 52.
81-807.	Transferred to section 37-106.
81-808.	Transferred to section 37-107.
81-809.	Transferred to section 37-108.
81-809.01.	Repealed. Laws 1972, LB 1334, § 9.
81-810.	Transferred to section 37-109.
81-811.	Transferred to section 37-110.
81-812.	Transferred to section 37-346.
81-812.01.	Repealed. Laws 1981, LB 497, § 1.
81-812.02.	Repealed. Laws 1981, LB 497, § 1.
81-812.03.	Repealed. Laws 1981, LB 497, § 1.
81-812.04.	Repealed. Laws 1981, LB 497, § 1.
81-813.	Repealed. Laws 1967, c. 585, § 13.
81-814.	Transferred to section 37-325.
81-814.01.	Transferred to section 37-326.
81-814.02.	Transferred to section 37-327.
81-815.	Transferred to section 37-349.
81-815.01.	Repealed. Laws 1978, LB 21, § 76.
81-815.02.	Repealed. Laws 1978, LB 21, § 76.
81-815.03.	Repealed. Laws 1978, LB 21, § 76.
81-815.04.	Repealed. Laws 1978, LB 21, § 76.
81-815.05.	Repealed. Laws 1978, LB 21, § 76.
81-815.06.	Repealed. Laws 1978, LB 21, § 76.
81-815.07.	Repealed. Laws 1978, LB 21, § 76.
81-815.08.	Repealed. Laws 1978, LB 21, § 76.

STATE ADMINISTRATIVE DEPARTMENTS

Section	
81-815.09.	Repealed. Laws 1978, LB 21, § 76.
81-815.10.	Repealed. Laws 1978, LB 21, § 76.
81-815.11.	Repealed. Laws 1978, LB 21, § 76.
81-815.12.	Repealed. Laws 1978, LB 21, § 76.
81-815.13.	Repealed. Laws 1978, LB 21, § 76.
81-815.14.	Repealed. Laws 1978, LB 21, § 76.
81-815.15.	Repealed. Laws 1978, LB 21, § 76.
81-815.16.	Repealed. Laws 1978, LB 21, § 76.
81-815.17.	Repealed. Laws 1978, LB 21, § 76.
81-815.18.	Repealed. Laws 1978, LB 21, § 76.
81-815.19.	Repealed. Laws 1978, LB 21, § 76.
81-815.20.	Repealed. Laws 1978, LB 21, § 76.
81-815.21.	Transferred to section 37-337.
81-815.22.	Transferred to section 37-338.
81-815.23.	Transferred to section 37-339.
81-815.24.	Transferred to section 37-340.
81-815.25.	Transferred to section 37-341.
81-815.26.	Transferred to section 37-329.
81-815.27.	Transferred to section 37-342.
81-815.28.	Transferred to section 37-343.
81-815.29.	Transferred to section 37-344.
81-815.30.	Transferred to section 37-345.
81-815.31.	Transferred to section 37-347.
81-815.32.	Transferred to section 37-336.
81-815.33.	Transferred to section 37-348.
81-815.34.	Repealed. Laws 1979, LB 187, § 263.
81-815.35.	Repealed. Laws 1982, LB 592, § 2.
81-815.36.	Transferred to section 37-1218.01.
81-815.37.	Repealed. Laws 1972, LB 1169, § 6.
81-815.38.	Repealed. Laws 1972, LB 1169, § 6.
81-815.39.	Repealed. Laws 1972, LB 1169, § 6; Laws 1972, LB 1465, § 2.
81-815.40.	Transferred to section 90-212.
81-815.41.	Repealed. Laws 1987, LB 32, § 3.
81-815.42.	Repealed. Laws 1987, LB 32, § 3.
81-815.43.	Repealed. Laws 1987, LB 32, § 3.
81-815.44.	Repealed. Laws 1987, LB 32, § 3.
81-815.45.	Transferred to section 81-1211.
81-815.46.	Transferred to section 90-213.
81-815.47.	Transferred to section 90-214.
81-815.48.	Transferred to section 90-215.
81-815.49.	Transferred to section 90-216.
81-815.50.	Transferred to section 37-908.
81-815.51.	Transferred to section 37-909.
81-815.52.	Repealed. Laws 1998, LB 922, § 415.
81-815.53.	Transferred to section 37-907.
81-815.54.	Repealed. Laws 1995, LB 15, § 6.
81-815.55.	Transferred to section 37-910.
81-815.56.	Transferred to section 37-911.
81-815.57.	Repealed. Laws 1996, LB 296, § 4.
81-815.58.	Transferred to section 37-1010.
81-815.59.	Transferred to section 37-912.
81-815.60.	Transferred to section 37-1011.
81-815.61.	Transferred to section 37-1012.
81-815.62.	Transferred to section 37-1013.
81-815.63.	Transferred to section 37-1014.
81-815.64.	Transferred to section 37-1015.
81-815.65.	Transferred to section 37-914.

(b) COUNCIL OF STATE GOVERNMENTS

81-816.	Repealed. Laws 2011, LB 326, § 1.
81-817.	Repealed. Laws 2011, LB 326, § 1.

INDEPENDENT BOARDS AND COMMISSIONS

Section	
81-818.	Repealed. Laws 2000, LB 1135, § 34.
81-819.	Repealed. Laws 2011, LB 326, § 1.
81-820.	Repealed. Laws 2000, LB 1135, § 34.
81-821.	Repealed. Laws 2000, LB 1135, § 34.
81-822.	Repealed. Laws 2000, LB 1135, § 34.
81-823.	Repealed. Laws 2000, LB 1135, § 34.
81-824.	Council of State Governments declared a joint governmental agency.
	(c) EMERGENCY MANAGEMENT
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.
81-828.01.	Wildland Fire Response Act, how cited.
81-828.02.	Wildland Incident Response Assistance Team; created; administration; powers; emergency proclamation; assistance provided.
81-828.03.	Coordinator; duties.
81-828.04.	Squad leader; squad member; employment; operations; responsibilities.
81-828.05.	Squad leader; squad member; compensation; expenses.
81-828.06.	Equipment; rental.
81-828.07.	Rules and regulations.
81-829.	Critical Infrastructure Utility Worker Protection Act; act, how cited.
81-829.01.	Terms, defined.
81-829.02.	Act, purposes.
81-829.03.	Utilities; critical infrastructure utility workers; list; confidential.
81-829.04.	Critical infrastructure utility workers; civil defense emergency, disaster, or emergency; Governor, duties.
81-829.05.	Chemical facility; legislative findings; security program; requirements.
81-829.06.	Nebraska Nonprofit Security Grant Program Act, how cited.
81-829.07.	Terms, defined.
81-829.08.	Nebraska Nonprofit Security Grant Program; created; administration; grant; application; purpose; issuance; working group.
81-829.09.	Grant funds; prohibited use.
81-829.10.	Appropriations; legislative intent.
81-829.11.	Rules and regulations.
81-829.12.	Repealed. Laws 1973, LB 494, § 34.
81-829.13.	Transferred to section 81-829.52.
81-829.14.	Transferred to section 81-829.53.
81-829.15.	Transferred to section 81-829.54.
81-829.16.	Repealed. Laws 1953, c. 336, § 5.
81-829.17.	Repealed. Laws 1953, c. 336, § 5.
81-829.18.	Transferred to section 81-829.46.
81-829.19.	Transferred to section 81-829.48.
81-829.20.	Repealed. Laws 1973, LB 494, § 34.
81-829.21.	Transferred to section 81-829.55.
81-829.22.	Transferred to section 81-829.49.
81-829.23.	Transferred to section 81-829.51.
81-829.24.	Transferred to section 81-829.58.
81-829.25.	Transferred to section 81-829.59.
81-829.26.	Transferred to section 81-829.60.
81-829.27.	Transferred to section 81-829.61.
81-829.28.	Transferred to section 81-829.62.
81-829.29.	Transferred to section 81-829.63.
81-829.30.	Transferred to section 81-829.64.
81-829.31.	Adjutant General; Emergency Management Act; administer.
81-829.32.	Transferred to section 81-829.65.
81-829.33.	Governor's Emergency Cash Fund; created; use; investment.
81-829.34.	Repealed. Laws 1971, LB 105, § 1.
81-829.35.	Transferred to section 81-829.66.
81-829.36.	Act, how cited.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
- 81-829.37. Purposes of act.
- 81-829.38. Act, how construed.
- 81-829.39. Terms, defined.
- 81-829.40. Governor; powers and duties.
- 81-829.41. Agency; Adjutant General; powers and duties.
- 81-829.42. Governor's Emergency Program; established.
- 81-829.43. Prevention measures; procedure.
- 81-829.44. Repealed. Laws 1996, LB 43, § 54.
- 81-829.45. Agency; weather conditions; continuously apprise.
- 81-829.46. Local government; Governor; powers; duties; performance of functions.
- 81-829.47. Interjurisdictional emergency management arrangement; Governor findings.
- 81-829.48. Emergency management aid and assistance; mutual aid arrangements; interjurisdictional emergency management agreement.
- 81-829.49. Local government, school district, or educational service unit appropriations.
- 81-829.50. Local emergency; declared; principal executive officer of a local government; effect; interjurisdictional emergency management organization.
- 81-829.51. Local government; school district; educational service unit; emergency expenditures; vote of governing body; when.
- 81-829.52. State emergency response teams; establish; team leader; appointment; duties.
- 81-829.53. State emergency response teams; personnel; powers; duties; rights; immunities; compensation; expenses.
- 81-829.54. State emergency response teams; employees; expenses; political subdivisions; reimbursement by state; rental of equipment; payment; damages.
- 81-829.55. Immunity from liability for activities; covered by Nebraska Workers' Compensation Act; licenses, not required; emergency management worker; powers, duties, immunities, privileges.
- 81-829.56. Interstate Civil Defense and Disaster Compact; withdrawal; recognition of credential, when; other agreements or compacts; approval.
- 81-829.57. Persons within the state; conduct; personal services; compensation for property; claim; file.
- 81-829.58. Emergency management; supplies and services from federal government; funds; disposition.
- 81-829.59. Emergency management; supplies and services from private entities; funds; disposition.
- 81-829.60. Emergency management; utilization of services, equipment, supplies, and facilities of existing departments and agencies of state.
- 81-829.61. Emergency management organizations; political activities prohibited.
- 81-829.62. Emergency management; personnel; advocacy of subversive activities against government; prohibited.
- 81-829.63. Repealed. Laws 1996, LB 43, § 54.
- 81-829.64. Emergency management organizations; enforce orders, rules, and regulations.
- 81-829.65. Emergency operations; moving of equipment outside limits of local government; law enforcement personnel; powers; insurance.
- 81-829.66. Emergency operations; immunity from liability for licensors of shelter space.
- 81-829.67. Storm spotter or emergency management worker; training, identification, and credentialing.
- 81-829.68. Repealed. Laws 1976, LB 847, § 2.
- 81-829.69. State of emergency; proclaimed by Governor; powers.
- 81-829.70. Temporary housing units; powers of local governments.
- 81-829.71. Major disaster; powers of Governor; apply for federal community disaster loans; cancellation of repayment; when.
- 81-829.72. State of emergency; powers of Governor; Adjutant General; duty.
- 81-829.73. Misstatement concerning financial assistance; penalty.
- 81-829.74. Repealed. Laws 1996, LB 43, § 54.

INDEPENDENT BOARDS AND COMMISSIONS

- Section
81-829.75. References to prior act and agency; how construed.
- (d) HOMELAND SECURITY
- 81-830. Office of Homeland Security; created; Director of State Homeland Security; Homeland Security Policy Group; created; members; duties.
- 81-831. Pacific Conflict Stress Test Act, how cited.
- 81-832. Act, purpose.
- 81-833. Terms, defined.
- 81-834. Critical procurements; review; report; confidential; unauthorized public disclosure, penalty.
- 81-835. State-managed funds; audit; report; confidential; unauthorized public disclosure, penalty.
- 81-836. Policy of the state; Committee on Pacific Conflict; created; members; meetings; powers; Governor; annual state threat assessment.
- 81-837. Repealed. Laws 1957, c. 381, § 4.
- 81-838. Repealed. Laws 1957, c. 381, § 4.
- (e) BOARD OF EXAMINERS FOR PROFESSIONAL ENGINEERS AND ARCHITECTS
- 81-839. Repealed. Laws 1997, LB 622, § 137.
- 81-840. Repealed. Laws 1997, LB 622, § 137.
- 81-841. Repealed. Laws 1997, LB 622, § 137.
- 81-842. Repealed. Laws 1997, LB 622, § 137.
- 81-843. Repealed. Laws 1997, LB 622, § 137.
- 81-844. Repealed. Laws 1997, LB 622, § 137.
- 81-845. Repealed. Laws 1997, LB 622, § 137.
- 81-846. Repealed. Laws 1997, LB 622, § 137.
- 81-846.01. Repealed. Laws 1997, LB 622, § 137.
- 81-847. Repealed. Laws 1997, LB 622, § 137.
- 81-848. Repealed. Laws 1997, LB 622, § 137.
- 81-849. Repealed. Laws 1997, LB 622, § 137.
- 81-850. Repealed. Laws 1997, LB 622, § 137.
- 81-851. Repealed. Laws 1997, LB 622, § 137.
- 81-852. Repealed. Laws 1997, LB 622, § 137.
- 81-853. Repealed. Laws 1997, LB 622, § 137.
- 81-854. Repealed. Laws 1997, LB 622, § 137.
- 81-855. Repealed. Laws 1997, LB 622, § 137.
- 81-856. Repealed. Laws 1997, LB 622, § 137.
- (f) SUNDRY CLAIMS BOARD
- 81-857. Transferred to section 81-8,220.
- 81-858. Transferred to section 81-8,236.
- 81-859. Transferred to section 81-8,237.
- 81-860. Transferred to section 81-8,238.
- 81-861. Transferred to section 81-8,239.
- (g) REAL ESTATE COMMISSION
- 81-862. Repealed. Laws 1973, LB 68, § 49.
- 81-863. Repealed. Laws 1973, LB 68, § 49.
- 81-864. Repealed. Laws 1973, LB 68, § 49.
- 81-865. Repealed. Laws 1973, LB 68, § 49.
- 81-866. Repealed. Laws 1973, LB 68, § 49.
- 81-867. Repealed. Laws 1973, LB 68, § 49.
- 81-868. Repealed. Laws 1973, LB 68, § 49.
- 81-869. Repealed. Laws 1973, LB 68, § 49.
- 81-870. Repealed. Laws 1973, LB 68, § 49.
- 81-871. Repealed. Laws 1973, LB 68, § 49.
- 81-872. Repealed. Laws 1973, LB 68, § 49.
- 81-873. Repealed. Laws 1973, LB 68, § 49.
- 81-874. Repealed. Laws 1973, LB 68, § 49.
- 81-875. Repealed. Laws 1973, LB 68, § 49.
- 81-875.01. Repealed. Laws 1973, LB 68, § 49.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
- 81-875.02. Repealed. Laws 1973, LB 68, § 49.
 - 81-875.03. Repealed. Laws 1973, LB 68, § 49.
 - 81-876. Repealed. Laws 1973, LB 68, § 49.
 - 81-877. Repealed. Laws 1973, LB 68, § 49.
 - 81-877.01. Repealed. Laws 1973, LB 68, § 49.
 - 81-878. Repealed. Laws 1973, LB 68, § 49.
 - 81-879. Repealed. Laws 1973, LB 68, § 49.
 - 81-880. Repealed. Laws 1973, LB 68, § 49.
 - 81-881. Repealed. Laws 1973, LB 68, § 49.
 - 81-882. Repealed. Laws 1973, LB 68, § 49.
 - 81-883. Repealed. Laws 1973, LB 68, § 49.
 - 81-884. Repealed. Laws 1973, LB 68, § 49.
 - 81-884.01. Repealed. Laws 1973, LB 68, § 49.
 - 81-884.02. Repealed. Laws 1973, LB 68, § 49.
 - 81-884.03. Repealed. Laws 1959, c. 439, § 7.
 - 81-885. Act, how cited.
 - 81-885.01. Terms, defined.
 - 81-885.02. Broker, associate broker, real estate salesperson; license required; exemption; activities included.
 - 81-885.03. Broker, associate broker, salesperson, defined; license required; cease and desist order; violation; fine; procedure.
 - 81-885.04. Act; exceptions; restrictions on unlicensed persons.
 - 81-885.05. Railroads; public utilities; applicability of act.
 - 81-885.06. Action for recovery of compensation; prohibited, except to licensed brokers, associate brokers, or salespersons.
 - 81-885.07. State Real Estate Commission; created; members; appointment; qualifications; compensation; expenses; director; rules and regulations; conduct real estate institutes and seminars; fees.
 - 81-885.08. Seal; adopt; use.
 - 81-885.09. Attorney General; opinions on questions of law; act as attorney; fees and expenses; paid from State Real Estate Commission's Fund.
 - 81-885.10. Commission; powers; licensing; sanctions; consent decrees; civil fine.
 - 81-885.11. Broker or salesperson; application for license; contents; expiration.
 - 81-885.12. License; when granted.
 - 81-885.13. License; conditions for issuance; enumerated; examination; fingerprinting; criminal history record information check; courses of study; duty of licensee.
 - 81-885.14. Fees; license; renewal; procedure.
 - 81-885.15. Fees; deposited in State Real Estate Commission's Fund; investment.
 - 81-885.16. Real Property Appraiser Act; applicability; broker's price opinion or comparative market analysis; requirements.
 - 81-885.17. Nonresident broker's license; nonresident salesperson's license; issuance; requirements; fingerprinting; criminal history record information check; reciprocal agreements.
 - 81-885.18. Application; refusal; hearing; decision.
 - 81-885.19. License; form; broker's branch office; license; fee.
 - 81-885.20. Broker, salesperson; change in place of business or status; notify commission; fee.
 - 81-885.21. Broker; separate trust account; notify commission where maintained; examination by representative of commission; exemption.
 - 81-885.22. Broker, failure to comply with separate bank accounts and trust account provisions; report to Attorney General; action by Attorney General; receiver.
 - 81-885.23. Attorney General; special counsel; appoint; fees allowed; taxed as costs.
 - 81-885.24. Commission; investigative powers; disciplinary powers; civil fine; violations of unfair trade practices.
 - 81-885.25. Censure, revoke, or suspend license; impose civil fine; cease and desist order; hearing; notice; contents.
 - 81-885.26. Answer to complaint; when.
 - 81-885.27. Hearing; witnesses; subpoenas; depositions.
 - 81-885.28. Refusal of witness to attend or testify; proceedings in district court.

INDEPENDENT BOARDS AND COMMISSIONS

- Section
- 81-885.29. Findings and determination by commission; license revoked or suspended; when; censure; civil fine; stay of execution; probation.
- 81-885.30. Appeal; procedure.
- 81-885.31. Civil fines; distribution; collection procedure.
- 81-885.32. Repealed. Laws 1978, LB 361, § 14.
- 81-885.33. Subdivision real estate; sale or offer to sell; requirements.
- 81-885.34. Subdivision real estate; sale; subdivision certificate; application; contents; fee.
- 81-885.35. Subdivision real estate; investigation; expenses; certificate; conditions.
- 81-885.36. Subdivision real estate; application for certificate; approval; fee; renewal.
- 81-885.37. Subdivision real estate; instrument conveying an interest; recordable form; recording.
- 81-885.38. Subdivision real estate; representations that commission has inspected and approved; unlawful.
- 81-885.39. Subdivision real estate; cease and desist orders.
- 81-885.40. Subdivision real estate; failure to comply with sections; contract void; repayment of money with interest.
- 81-885.41. Subdivision real estate; industrial or commercial properties.
- 81-885.42. Subdivision real estate; sales of twenty-five or more lots.
- 81-885.43. Violations; Attorney General; maintain action.
- 81-885.44. Complaint for violations of act.
- 81-885.45. Acting without license or certificate; penalty.
- 81-885.46. License or certificate under prior law; renewal.
- 81-885.47. Repealed. Laws 2009, LB 30, § 17.
- 81-885.48. Terms, how construed.
- 81-885.49. Continuing education and training; purpose.
- 81-885.50. Continuing education and training; terms, defined.
- 81-885.51. Continuing education and training; evidence of completion.
- 81-885.52. Continuing education and training; certify activities.
- 81-885.53. Continuing education and training; licensee; requirements.
- 81-885.54. Continuing education and training; rules and regulations.
- 81-885.55. Errors and omissions insurance; commission; duties; certificate of coverage; required; when; group policy unavailable at a reasonable premium; effect.
- 81-885.56. Team leader.
- 81-886. Repealed. Laws 1973, LB 68, § 49.
- 81-886.01. Repealed. Laws 1973, LB 68, § 49.
- 81-886.02. Repealed. Laws 1973, LB 68, § 49.
- 81-886.03. Repealed. Laws 1973, LB 68, § 49.
- 81-886.04. Repealed. Laws 1973, LB 68, § 49.
- 81-886.05. Repealed. Laws 1973, LB 68, § 49.
- 81-886.06. Repealed. Laws 1973, LB 68, § 49.
- 81-886.07. Repealed. Laws 1973, LB 68, § 49.
- 81-887. Repealed. Laws 1973, LB 68, § 49.
- 81-887.01. Repealed. Laws 2022, LB707, § 66.
- 81-887.02. Repealed. Laws 2022, LB707, § 66.
- 81-887.03. Auctioneers; compliance with Nebraska Real Estate License Act; required.

(h) NEBRASKA MERIT SYSTEM

- 81-888. Repealed. Laws 1951, c. 311, § 11.
- 81-889. Repealed. Laws 1951, c. 311, § 11.
- 81-890. Repealed. Laws 1951, c. 311, § 11.
- 81-891. Repealed. Laws 1951, c. 311, § 11.
- 81-892. Repealed. Laws 1951, c. 311, § 11.
- 81-893. Repealed. Laws 1951, c. 311, § 11.
- 81-894. Repealed. Laws 1951, c. 311, § 11.
- 81-895. Repealed. Laws 1951, c. 311, § 11.
- 81-896. Repealed. Laws 1951, c. 311, § 11.
- 81-897. Repealed. Laws 1951, c. 311, § 11.
- 81-898. Repealed. Laws 1951, c. 311, § 11.
- 81-899. Repealed. Laws 1951, c. 311, § 11.

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-8,100. Repealed. Laws 1951, c. 311, § 11.
- 81-8,101. Repealed. Laws 1951, c. 311, § 11.
- 81-8,102. Repealed. Laws 1951, c. 311, § 11.
- 81-8,103. Repealed. Laws 1951, c. 311, § 11.
- 81-8,104. Repealed. Laws 1951, c. 311, § 11.
- 81-8,105. Repealed. Laws 1951, c. 311, § 11.
- 81-8,106. Repealed. Laws 1997, LB 5, § 5.
- 81-8,107. Repealed. Laws 1997, LB 5, § 5.

(i) LAND SURVEYING

- 81-8,108. Land surveying; declaration of policy; prohibited acts.
- 81-8,108.01. Land Surveyors Regulation Act; act, how cited.
- 81-8,109. Land surveying; definitions.
- 81-8,110. Land surveying; examining board; duties.
- 81-8,110.01. Examining board; members; terms; qualifications; removal; vacancies.
- 81-8,110.02. Examining board; members; residence; qualifications.
- 81-8,110.03. State Surveyor; ex officio secretary of examining board.
- 81-8,110.04. Examining board; meetings.
- 81-8,110.05. Examining board; meetings; notice.
- 81-8,110.06. Examining board; officers; election; duties.
- 81-8,110.07. Examining board; secretary; duties; Land Surveyor Examiner's Fund; created; purpose; investment.
- 81-8,110.08. Examining board; rules and regulations; publication.
- 81-8,110.09. Repealed. Laws 1994, LB 874, § 25.
- 81-8,110.10. Repealed. Laws 1994, LB 874, § 25.
- 81-8,110.11. Examining board; members; expenses.
- 81-8,110.12. Examining board; seal; adopt.
- 81-8,110.13. Examining board; license; issuance; replacement license, when; fee.
- 81-8,110.14. Examining board; record of proceedings and applications for licensure; confidential.
- 81-8,110.15. Examining board; sue and be sued; liability of members.
- 81-8,111. Code of practice; contents; board; powers.
- 81-8,112. Repealed. Laws 1971, LB 442, § 24.
- 81-8,113. Examining board; record of proceedings; roster of professional land surveyors.
- 81-8,114. Land surveying; application for licensure.
- 81-8,115. Land surveying; examination of applicants.
- 81-8,116. Repealed. Laws 1994, LB 874, § 25.
- 81-8,117. Land surveying; eligibility for licensure; requirements.
- 81-8,118. Land surveying; application and license fees; examination fee; failure to pay fees, effect.
- 81-8,119. Repealed. Laws 1971, LB 442, § 24.
- 81-8,119.01. License; renewal; professional development requirements; inactive status.
- 81-8,119.02. Professional development programs; rules and regulations.
- 81-8,120. Land surveying; nonresident; license; fee; service of process.
- 81-8,121. Land surveying; professional land surveyor; rights and privileges; seal.
- 81-8,121.01. Land surveying; entry upon land; authorized; liability for damages.
- 81-8,121.02. Land surveying; organizational practice; certificate of authorization; application; fee; renewal.
- 81-8,122. Land survey; where filed.
- 81-8,122.01. Land survey; official record of survey; filing; contents.
- 81-8,122.02. Land survey; failure to file record; effect.
- 81-8,123. Professional land surveyor; complaint; investigation; disciplinary actions.
- 81-8,124. Professional land surveyor; disciplinary action; hearing; notice.
- 81-8,125. Professional land surveyor; disciplinary action; hearing; attendance of witnesses; record; findings; order; effect.
- 81-8,126. Act; applicability.
- 81-8,127. Land surveying; unlawful practice or use of title; penalty.

INDEPENDENT BOARDS AND COMMISSIONS

Section

(j) STATE ATHLETIC COMMISSIONER

- 81-8,128. State Athletic Commissioner; appointment; term; salary; bond or insurance; assistants.
- 81-8,128.01. State Athletic Commissioner; salary increase; when effective.
- 81-8,129. State Athletic Commissioner; jurisdiction; activities covered.
- 81-8,129.01. State Athletic Commissioner's Cash Fund; created; receipts; disbursements.
- 81-8,130. Amateur mixed martial arts matches or exhibitions; license; fee.
- 81-8,130.01. Professional matches; promoters; licenses and permits; fee.
- 81-8,131. Mixed martial arts, defined.
- 81-8,132. Licensee; bond; conditions.
- 81-8,133. Referees; license; duties; fee.
- 81-8,133.01. Other officials and contestants; license required; fees; revocation of license.
- 81-8,134. Boxing, mixed martial arts, kickboxing, bare-knuckle boxing, or sparring matches; rules governing.
- 81-8,135. Licensee; reports; contents; gross receipts tax; amounts.
- 81-8,136. Tickets; sale; commissioner may supervise.
- 81-8,137. License; revocation or suspension; grounds.
- 81-8,138. Contestants; compensation; when payable; fake contests.
- 81-8,139. State Athletic Commissioner; rules and regulations; powers; suspension of contestant from competition; fine; hearing; notice.
- 81-8,139.01. Repealed. Laws 2013, LB 78, § 23.
- 81-8,140. Repealed. Laws 1981, LB 545, § 52.
- 81-8,141. Licensee; reports; failure to make; investigation; determination of tax; failure to pay; effect.
- 81-8,142. Violations; penalty.
- 81-8,142.01. Violations; Attorney General; duties.

(k) CENTENNIAL COMMISSION

- 81-8,143. Repealed. Laws 1969, c. 411, § 1.
- 81-8,144. Repealed. Laws 1969, c. 411, § 1.
- 81-8,145. Repealed. Laws 1969, c. 411, § 1.
- 81-8,145.01. Repealed. Laws 1969, c. 411, § 1.
- 81-8,145.02. Repealed. Laws 1969, c. 411, § 1.
- 81-8,145.03. Repealed. Laws 1969, c. 411, § 1.

(l) NEBRASKA SONG COMMITTEE

- 81-8,146. Repealed. Laws 1969, c. 411, § 1.
- 81-8,147. Repealed. Laws 1969, c. 411, § 1.
- 81-8,148. Repealed. Laws 1969, c. 411, § 1.

(m) NEBRASKA INDUSTRIAL RESEARCH INSTITUTE

- 81-8,149. Repealed. Laws 1967, c. 566, § 15.
- 81-8,150. Repealed. Laws 1967, c. 566, § 15.
- 81-8,151. Repealed. Laws 1967, c. 566, § 15.
- 81-8,152. Repealed. Laws 1967, c. 566, § 15.
- 81-8,153. Repealed. Laws 1967, c. 566, § 15.
- 81-8,154. Repealed. Laws 1967, c. 566, § 15.
- 81-8,155. Repealed. Laws 1967, c. 566, § 15.
- 81-8,156. Repealed. Laws 1967, c. 566, § 15.
- 81-8,157. Repealed. Laws 1967, c. 566, § 15.

(n) COLLECTION AGENCY

- 81-8,158. Transferred to section 45-601.
- 81-8,159. Transferred to section 45-602.
- 81-8,160. Repealed. Laws 1984, LB 471, § 24.
- 81-8,161. Repealed. Laws 1984, LB 471, § 24.
- 81-8,162. Transferred to section 45-603.
- 81-8,163. Repealed. Laws 1984, LB 471, § 24.
- 81-8,164. Repealed. Laws 1984, LB 471, § 24.

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-8,165. Transferred to section 45-604.
- 81-8,166. Transferred to section 45-605.
- 81-8,167. Transferred to section 45-606.
- 81-8,168. Transferred to section 45-607.
- 81-8,169. Transferred to section 45-608.
- 81-8,170. Transferred to section 45-609.
- 81-8,171. Transferred to section 45-610.
- 81-8,172. Transferred to section 45-611.
- 81-8,173. Transferred to section 45-612.
- 81-8,174. Transferred to section 45-613.
- 81-8,175. Transferred to section 45-614.
- 81-8,176. Transferred to section 45-615.
- 81-8,177. Transferred to section 45-616.
- 81-8,178. Transferred to section 45-617.
- 81-8,179. Transferred to section 45-618.
- 81-8,180. Transferred to section 45-619.
- 81-8,181. Transferred to section 45-620.
- 81-8,182. Transferred to section 45-621.
- 81-8,183. Transferred to section 45-622.

(o) PROFESSIONAL LANDSCAPE ARCHITECTS

- 81-8,183.01. Professional Landscape Architects Act, how cited.
- 81-8,184. Terms, defined.
- 81-8,184.01. Repealed. Laws 2020, LB30, § 21.
- 81-8,184.02. Act; regulation of landscape architecture; prohibited acts.
- 81-8,185. Repealed. Laws 2020, LB30, § 21.
- 81-8,186. State Board of Landscape Architects; members; appointment; qualifications; terms; removal.
- 81-8,187. Repealed. Laws 2020, LB30, § 21.
- 81-8,188. Repealed. Laws 2020, LB30, § 21.
- 81-8,189. Board; members; compensation; expenses.
- 81-8,190. Board; chairperson; meetings; quorum; personnel; employ.
- 81-8,191. Board; committee; powers; Attorney General; legal advisor.
- 81-8,191.01. Board; powers; rules and regulations; code of professional conduct; content.
- 81-8,192. Board; roster; duties.
- 81-8,193. Board; seal; adopt.
- 81-8,194. Board; fees; disposition; State Board of Landscape Architects Cash Fund; created; investment.
- 81-8,195. Repealed. Laws 2020, LB30, § 21.
- 81-8,196. Licensure applicants; examination; eligibility; requirements.
- 81-8,197. Repealed. Laws 2020, LB30, § 21.
- 81-8,198. Licensee; seal; use; effect; prohibited acts; qualifications to perform professional services.
- 81-8,198.01. Coordinating professional; designation; duties.
- 81-8,199. Certificate of licensure; issuance; use; new or duplicate certificate, fee.
- 81-8,200. Certificate of licensure; expiration; notice; renewal.
- 81-8,200.01. Repealed. Laws 2020, LB30, § 21.
- 81-8,200.02. Repealed. Laws 2020, LB30, § 21.
- 81-8,201. Repealed. Laws 2020, LB30, § 21.
- 81-8,202. Act; enforcement; procedure.
- 81-8,203. Repealed. Laws 2020, LB30, § 21.
- 81-8,204. Use of title; unlawful practice.
- 81-8,205. Prohibited acts; penalties.
- 81-8,206. Persons exempt from act.
- 81-8,207. Complaint; enforcement; procedures.
- 81-8,208. Disciplinary actions authorized; civil penalties.

(p) TORT CLAIMS, STATE CLAIMS BOARD, AND RISK MANAGEMENT PROGRAM

- 81-8,209. State Tort Claims Act; purpose.
- 81-8,210. Terms, defined.

INDEPENDENT BOARDS AND COMMISSIONS

- Section
- 81-8,211. Risk Manager; State Claims Board; authority; procedure; fees.
- 81-8,212. Tort claims; filing; Risk Manager; Attorney General; duty; service of process.
- 81-8,213. Suit; final disposition by Risk Manager or State Claims Board required; exception.
- 81-8,214. District court; jurisdiction; venue.
- 81-8,215. Liability of state.
- 81-8,215.01. Vehicular pursuit by law enforcement officer; liability to third parties; reimbursement.
- 81-8,216. Rules of civil procedure; costs; judgment; appeal.
- 81-8,217. Judgment; effect.
- 81-8,218. Attorney General; authority.
- 81-8,219. State Tort Claims Act; claims exempt.
- 81-8,220. State Claims Board; members; legal advisor; hire secretary; expenses.
- 81-8,221. State Claims Board; rules and regulations; adopt.
- 81-8,222. Department of Justice; Claims Division; assistant attorney general; duties.
- 81-8,223. Award; acceptance; effect.
- 81-8,224. Award; certification; payment; review, when.
- 81-8,225. Tort Claims Fund; established; amount; investment; appropriation.
- 81-8,226. Report to Clerk of the Legislature; contents.
- 81-8,227. Tort claim; limitation of action.
- 81-8,228. Attorney's fees; expenses; allowance.
- 81-8,229. Tort claims; remedy of State Tort Claims Act; exclusive.
- 81-8,230. State agency; payment of claims; construction of act.
- 81-8,231. Claim under act; insurance coverage; effect.
- 81-8,232. Action against employee; act or omission of employee.
- 81-8,233. Employee; report property damage, injury, or death; cooperation in investigation.
- 81-8,234. Skatepark and bicycle motocross park; sign required; warning notice.
- 81-8,235. Act, how cited.
- 81-8,236. Correctional institution incident; costs of prosecution; claim by county; Risk Manager; powers and duties.
- 81-8,237. Transferred to section 81-8,298.
- 81-8,238. Transferred to section 81-8,299.
- 81-8,239. Transferred to section 81-8,300.
- 81-8,239.01. Risk Management Program; risk management and state claims division of the Department of Administrative Services; established; Risk Manager; powers and duties.
- 81-8,239.02. State Insurance Fund; State Self-Insured Property Fund; State Self-Insured Indemnification Fund; State Self-Insured Liability Fund; created; purposes; report; attorney's fees.
- 81-8,239.03. Risk Manager; present budget request; contents; deficiency appropriation; procedure; investment.
- 81-8,239.04. Money or property recovered by state; disposition.
- 81-8,239.05. Indemnification of state officials and employees; when; Attorney General; duties; attorney's fees; report.
- 81-8,239.06. Civil action against state officer or employee; Attorney General; represent; cooperation required; payment for defense; when required.
- 81-8,239.07. Risk Manager; self-insure; risk management services; procure insurance; amount of protection; premium; payments.
- 81-8,239.08. Civil action against provider of medical or dental services; Attorney General; represent; indemnification of provider.
- 81-8,239.09. Risk Management Administration Cash Fund; created; use; investment.
- 81-8,239.10. Repealed. Laws 2001, LB 3, § 4.
- 81-8,239.11. Settlements and judgments; state agency; Attorney General; filing required; insufficient funds; Risk Manager; duties.
- (q) PUBLIC COUNSEL
- 81-8,240. Terms, defined.
- 81-8,241. Public Counsel; established; powers and duties; appointment.
- 81-8,242. Public Counsel; qualifications.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
81-8,243. Public Counsel; term; removal; vacancy; salary.
81-8,244. Public Counsel; personnel; appointment; compensation; authority; appoint
Inspector General of Nebraska Child Welfare; appoint Inspector
General of the Nebraska Correctional System.
81-8,245. Public Counsel; powers; enumerated.
81-8,246. Public Counsel; particular administrative acts; review.
81-8,247. Public Counsel; complaint; investigation; decision; notify complainant.
81-8,248. Public Counsel; complaint; conclusion or recommendation; consult with
agency or person.
81-8,249. Public Counsel; agency; information; recommendations.
81-8,250. Public Counsel; conclusions; report; inclusions.
81-8,251. Public Counsel; reports; time; contents.
81-8,252. Public Counsel; public officer or employee; acted to warrant criminal
proceedings; refer to proper authorities.
81-8,253. Public Counsel; proceedings, opinion, expression; not reviewable by court;
not subject to testify or produce evidence.
81-8,254. Violations; penalty; state employee; complaint; effect.

(r) COMMISSION ON THE STATUS OF WOMEN

- 81-8,255. Repealed. Laws 2009, LB 154, § 27.
81-8,256. Repealed. Laws 2009, LB 154, § 27.
81-8,257. Repealed. Laws 2009, LB 154, § 27.
81-8,258. Repealed. Laws 2009, LB 154, § 27.
81-8,259. Repealed. Laws 2009, LB 154, § 27.
81-8,260. Repealed. Laws 2009, LB 154, § 27.
81-8,260.01. Repealed. Laws 2009, LB 154, § 27.
81-8,260.02. Repealed. Laws 2009, LB 154, § 27.
81-8,261. Repealed. Laws 1981, LB 545, § 52.

(s) COMMISSION ON LATINO-AMERICANS

- 81-8,262. Commission on Latino-Americans; created; term, defined.
81-8,263. Commission; members; appointment; term.
81-8,264. Commission; officers.
81-8,265. Commission; functions.
81-8,266. Commission; meetings; quorum.
81-8,267. Commission; members; compensation; expenses.
81-8,268. Commission; director; qualifications; employ.
81-8,269. Director; duties.
81-8,270. Director; employ personnel.
81-8,271. Commission; powers.
81-8,271.01. Commission on Latino-Americans Cash Fund; created; use; investment.

(t) NEBRASKA AMERICAN REVOLUTION BICENTENNIAL COMMISSION

- 81-8,272. Repealed. Laws 1985, LB 8, § 1.
81-8,273. Repealed. Laws 1985, LB 8, § 1.
81-8,274. Repealed. Laws 1985, LB 8, § 1.
81-8,275. Repealed. Laws 1985, LB 8, § 1.

(u) REAL ESTATE APPRAISERS

- 81-8,276. Repealed. Laws 1990, LB 1153, § 67.
81-8,277. Repealed. Laws 1990, LB 1153, § 67.
81-8,278. Repealed. Laws 1990, LB 1153, § 67.
81-8,279. Repealed. Laws 1990, LB 1153, § 67.
81-8,280. Repealed. Laws 1990, LB 1153, § 67.
81-8,281. Repealed. Laws 1978, LB 659, § 5.
81-8,282. Repealed. Laws 1990, LB 1153, § 67.
81-8,283. Repealed. Laws 1990, LB 1153, § 67.
81-8,284. Repealed. Laws 1990, LB 1153, § 67.
81-8,285. Repealed. Laws 1990, LB 1153, § 67.
81-8,286. Repealed. Laws 1990, LB 1153, § 67.
81-8,287. Repealed. Laws 1990, LB 1153, § 67.
81-8,288. Repealed. Laws 1990, LB 1153, § 67.

Section

- 81-8,289. Repealed. Laws 1990, LB 1153, § 67.
 81-8,290. Repealed. Laws 1990, LB 1153, § 67.
 81-8,291. Repealed. Laws 1990, LB 1153, § 67.
 81-8,292. Repealed. Laws 1990, LB 1153, § 67.
 81-8,293. Repealed. Laws 1990, LB 1153, § 67.

(v) STATE MISCELLANEOUS CLAIMS ACT

- 81-8,294. Act, how cited.
 81-8,295. Miscellaneous claim, defined.
 81-8,296. State Claims Board; miscellaneous claims; powers.
 81-8,297. State Claims Board; general powers.
 81-8,298. State Claims Board; meetings; hearings; notice.
 81-8,299. State Claims Board; powers; duties.
 81-8,300. Risk Manager; State Claims Board; claims; filing; investigation; duties; review by Legislature; payment.
 81-8,300.01. Statute of limitation.
 81-8,301. Acceptance of award; effect.

(w) STATE CONTRACT CLAIMS ACT

- 81-8,302. Act, how cited.
 81-8,303. Terms, defined.
 81-8,304. Contract claims; filing procedure.
 81-8,305. State Claims Board; submission of claim; procedure; action in district court; when.
 81-8,306. Claims; when barred; exclusive remedy.

(x) NEBRASKA LEWIS AND CLARK BICENTENNIAL COMMISSION

- 81-8,307. Repealed. Laws 2009, LB 154, § 27.
 81-8,308. Repealed. Laws 2009, LB 154, § 27.

(y) NEBRASKA SESQUICENTENNIAL COMMISSION

- 81-8,309. Nebraska Sesquicentennial Commission; members; vacancy; termination.
 81-8,310. Nebraska Sesquicentennial Commission; duties; powers; report.

(z) SEMIQUINCENTENNIAL COMMISSION

- 81-8,311. Semiquincentennial Commission; members; vacancy; termination.
 81-8,312. Semiquincentennial Commission; meeting; officers; expenses; powers and duties.
 81-8,313. Semiquincentennial; point of contact; official observance; cooperation required.
 81-8,314. Semiquincentennial Commission Fund; created; use; investment; termination.

(aa) IN THE LINE OF DUTY COMPENSATION ACT

- 81-8,315. Act, how cited.
 81-8,316. Terms, defined.
 81-8,317. Compensation; when paid; amount; treatment; payment to public safety officer's designee or heir; procedure; effect on employer.
 81-8,318. Compensation; claim; requirements; Risk Manager; State Claims Board; powers and duties.
 81-8,319. Rules and regulations.

(a) GAME AND PARKS COMMISSION

81-801 Transferred to section 37-101.

81-801.01 Transferred to section 37-102.

81-802 Transferred to section 37-103.

81-803 Repealed. Laws 1969, c. 776, § 2.

81-803.01 Transferred to section 37-104.

81-804 Transferred to section 37-105.

81-805 Transferred to section 37-301.

81-805.01 Repealed. Laws 1998, LB 922, § 415.

81-805.02 Transferred to section 37-331.

81-805.03 Transferred to section 37-328.

81-805.04 Transferred to section 37-624.

81-805.05 Repealed. Laws 1969, c. 793, § 1.

81-805.06 Repealed. Laws 1969, c. 793, § 1.

81-805.07 Repealed. Laws 1969, c. 793, § 1.

81-805.08 Repealed. Laws 1969, c. 793, § 1.

81-805.09 Repealed. Laws 1969, c. 793, § 1.

81-805.10 Repealed. Laws 1969, c. 793, § 1.

81-805.11 Repealed. Laws 1969, c. 793, § 1.

81-805.12 Repealed. Laws 1969, c. 793, § 1.

81-805.13 Repealed. Laws 1969, c. 793, § 1.

81-805.14 Repealed. Laws 1969, c. 793, § 1.

81-805.15 Repealed. Laws 1969, c. 793, § 1.

81-805.16 Repealed. Laws 1969, c. 793, § 1.

81-805.17 Repealed. Laws 1969, c. 793, § 1.

81-805.18 Repealed. Laws 1969, c. 793, § 1.

81-805.19 Repealed. Laws 1969, c. 793, § 1.

81-805.20 Repealed. Laws 1969, c. 793, § 1.

81-805.21 Repealed. Laws 1969, c. 793, § 1.

81-805.22 Repealed. Laws 1969, c. 793, § 1.

81-805.23 Repealed. Laws 1969, c. 793, § 1.

81-805.24 Repealed. Laws 1969, c. 793, § 1.

81-805.25 Repealed. Laws 1969, c. 793, § 1.

81-805.26 Repealed. Laws 1969, c. 793, § 1.

81-805.27 Repealed. Laws 1969, c. 793, § 1.

81-805.28 Repealed. Laws 1969, c. 793, § 1.

- 81-805.29 Repealed. Laws 1969, c. 793, § 1.
- 81-805.30 Repealed. Laws 1969, c. 793, § 1.
- 81-806 Repealed. Laws 1981, LB 545, § 52.
- 81-807 Transferred to section 37-106.
- 81-808 Transferred to section 37-107.
- 81-809 Transferred to section 37-108.
- 81-809.01 Repealed. Laws 1972, LB 1334, § 9.
- 81-810 Transferred to section 37-109.
- 81-811 Transferred to section 37-110.
- 81-812 Transferred to section 37-346.
- 81-812.01 Repealed. Laws 1981, LB 497, § 1.
- 81-812.02 Repealed. Laws 1981, LB 497, § 1.
- 81-812.03 Repealed. Laws 1981, LB 497, § 1.
- 81-812.04 Repealed. Laws 1981, LB 497, § 1.
- 81-813 Repealed. Laws 1967, c. 585, § 13.
- 81-814 Transferred to section 37-325.
- 81-814.01 Transferred to section 37-326.
- 81-814.02 Transferred to section 37-327.
- 81-815 Transferred to section 37-349.
- 81-815.01 Repealed. Laws 1978, LB 21, § 76.
- 81-815.02 Repealed. Laws 1978, LB 21, § 76.
- 81-815.03 Repealed. Laws 1978, LB 21, § 76.
- 81-815.04 Repealed. Laws 1978, LB 21, § 76.
- 81-815.05 Repealed. Laws 1978, LB 21, § 76.
- 81-815.06 Repealed. Laws 1978, LB 21, § 76.
- 81-815.07 Repealed. Laws 1978, LB 21, § 76.
- 81-815.08 Repealed. Laws 1978, LB 21, § 76.
- 81-815.09 Repealed. Laws 1978, LB 21, § 76.
- 81-815.10 Repealed. Laws 1978, LB 21, § 76.
- 81-815.11 Repealed. Laws 1978, LB 21, § 76.
- 81-815.12 Repealed. Laws 1978, LB 21, § 76.

- 81-815.13 Repealed. Laws 1978, LB 21, § 76.
- 81-815.14 Repealed. Laws 1978, LB 21, § 76.
- 81-815.15 Repealed. Laws 1978, LB 21, § 76.
- 81-815.16 Repealed. Laws 1978, LB 21, § 76.
- 81-815.17 Repealed. Laws 1978, LB 21, § 76.
- 81-815.18 Repealed. Laws 1978, LB 21, § 76.
- 81-815.19 Repealed. Laws 1978, LB 21, § 76.
- 81-815.20 Repealed. Laws 1978, LB 21, § 76.
- 81-815.21 Transferred to section 37-337.
- 81-815.22 Transferred to section 37-338.
- 81-815.23 Transferred to section 37-339.
- 81-815.24 Transferred to section 37-340.
- 81-815.25 Transferred to section 37-341.
- 81-815.26 Transferred to section 37-329.
- 81-815.27 Transferred to section 37-342.
- 81-815.28 Transferred to section 37-343.
- 81-815.29 Transferred to section 37-344.
- 81-815.30 Transferred to section 37-345.
- 81-815.31 Transferred to section 37-347.
- 81-815.32 Transferred to section 37-336.
- 81-815.33 Transferred to section 37-348.
- 81-815.34 Repealed. Laws 1979, LB 187, § 263.
- 81-815.35 Repealed. Laws 1982, LB 592, § 2.
- 81-815.36 Transferred to section 37-1218.01.
- 81-815.37 Repealed. Laws 1972, LB 1169, § 6.
- 81-815.38 Repealed. Laws 1972, LB 1169, § 6.
- 81-815.39 Repealed. Laws 1972, LB 1169, § 6; Laws 1972, LB 1465, § 2.
- 81-815.40 Transferred to section 90-212.
- 81-815.41 Repealed. Laws 1987, LB 32, § 3.
- 81-815.42 Repealed. Laws 1987, LB 32, § 3.
- 81-815.43 Repealed. Laws 1987, LB 32, § 3.

- 81-815.44 Repealed. Laws 1987, LB 32, § 3.
- 81-815.45 Transferred to section 81-1211.
- 81-815.46 Transferred to section 90-213.
- 81-815.47 Transferred to section 90-214.
- 81-815.48 Transferred to section 90-215.
- 81-815.49 Transferred to section 90-216.
- 81-815.50 Transferred to section 37-908.
- 81-815.51 Transferred to section 37-909.
- 81-815.52 Repealed. Laws 1998, LB 922, § 415.
- 81-815.53 Transferred to section 37-907.
- 81-815.54 Repealed. Laws 1995, LB 15, § 6.
- 81-815.55 Transferred to section 37-910.
- 81-815.56 Transferred to section 37-911.
- 81-815.57 Repealed. Laws 1996, LB 296, § 4.
- 81-815.58 Transferred to section 37-1010.
- 81-815.59 Transferred to section 37-912.
- 81-815.60 Transferred to section 37-1011.
- 81-815.61 Transferred to section 37-1012.
- 81-815.62 Transferred to section 37-1013.
- 81-815.63 Transferred to section 37-1014.
- 81-815.64 Transferred to section 37-1015.
- 81-815.65 Transferred to section 37-914.

(b) COUNCIL OF STATE GOVERNMENTS

- 81-816 Repealed. Laws 2011, LB 326, § 1.
- 81-817 Repealed. Laws 2011, LB 326, § 1.
- 81-818 Repealed. Laws 2000, LB 1135, § 34.
- 81-819 Repealed. Laws 2011, LB 326, § 1.
- 81-820 Repealed. Laws 2000, LB 1135, § 34.
- 81-821 Repealed. Laws 2000, LB 1135, § 34.
- 81-822 Repealed. Laws 2000, LB 1135, § 34.
- 81-823 Repealed. Laws 2000, LB 1135, § 34.

81-824 Council of State Governments declared a joint governmental agency.

The Council of State Governments is declared to be a joint governmental agency of this state and of the other states which cooperate through it.

Source: Laws 1937, c. 110, § 9, p. 409; C.S.Supp.,1941, § 81-7309; R.S.1943, § 81-824.

(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.

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.

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.

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.

81-828.01 Wildland Fire Response Act, how cited.

Sections 81-828.01 to 81-828.07 shall be known and may be cited as the Wildland Fire Response Act.

Source: Laws 2024, LB1300, § 20.

Operative date July 19, 2024.

81-828.02 Wildland Incident Response Assistance Team; created; administration; powers; emergency proclamation; assistance provided.

(1) The Wildland Incident Response Assistance Team is created and for administrative purposes is part of the office of the State Fire Marshal.

(2) The Wildland Incident Response Assistance Team may provide assistance or guidance to any individual who or entity that is attempting to prevent, control, suppress, or otherwise mitigate a wildland fire, as determined by the State Fire Marshal or his or her designee. Such assistance or guidance may be provided regardless of a state of emergency proclamation issued by the Governor relating to a wildland fire incident.

(3) Pursuant to the Emergency Management Act, the Adjutant General and the Nebraska Emergency Management Agency may provide assistance to the Wildland Incident Response Assistance Team following a state of emergency proclamation issued by the Governor relating to a wildland fire incident.

Source: Laws 2024, LB1300, § 21.

Operative date July 19, 2024.

Cross References

Emergency Management Act, see section 81-829.36.

81-828.03 Coordinator; duties.

The State Fire Marshal shall serve as the coordinator of the Wildland Incident Response Assistance Team and shall:

(1) Establish squads within the team and select a squad leader and squad members for each squad. The State Fire Marshal may consult with the State Forester when establishing a squad, selecting a squad leader, or selecting a squad member. The State Fire Marshal is limited to selecting squad leaders and

squad members from employees of the State Fire Marshal and employees of the Nebraska Forest Service;

(2) Maintain a roster of all individuals who are a part of the Wildland Incident Response Assistance Team; and

(3) Establish standards for the operation, training, equipment, and administration of the Wildland Incident Response Assistance Team. It is the intent of the Legislature that such standards should comply with the standards established by the National Wildfire Coordinating Group or its successor.

Source: Laws 2024, LB1300, § 22.

Operative date July 19, 2024.

81-828.04 Squad leader; squad member; employment; operations; responsibilities.

(1) A squad leader or squad member of the Wildland Incident Response Assistance Team shall have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to employment of such leader or member by the State Fire Marshal or the Nebraska Forest Service.

(2) Each squad leader is responsible for the organization, administration, and operation of the squad to which the squad leader is assigned.

(3) While operating under the Wildland Incident Response Assistance Team, each squad leader and squad member are subject to the operational control of the State Fire Marshal.

(4) While operating under the Wildland Incident Response Assistance Team, each squad member assigned to a wildland fire incident is subject to the operational control of the squad leader assigned to such wildland fire incident.

Source: Laws 2024, LB1300, § 23.

Operative date July 19, 2024.

81-828.05 Squad leader; squad member; compensation; expenses.

(1) The office of the State Fire Marshal is responsible for paying the compensation of any squad leader or squad member who is an employee of the State Fire Marshal while such squad leader or squad member is assigned to a wildland fire incident, including any overtime worked by such squad leader or squad member.

(2) The Nebraska Forest Service is responsible for paying the compensation of any squad leader or squad member who is an employee of the Nebraska Forest Service while such squad leader or squad member is assigned to a wildland fire incident, including any overtime worked by such squad leader or squad member.

(3) Each squad leader and squad member shall be reimbursed as provided in sections 81-1174 to 81-1177 for expenses incurred as a result of being assigned to a wildland fire incident.

(4) The State Fire Marshal and the Nebraska Forest Service shall be responsible for requesting adequate appropriations each fiscal year to pay the expenses of any employee who is selected to be a squad leader or squad member of the

Wildland Incident Response Assistance Team, including expenses predicted to be incurred pursuant to this section and section 81-828.06.

Source: Laws 2024, LB1300, § 24.
Operative date July 19, 2024.

81-828.06 Equipment; rental.

The Wildland Incident Response Assistance Team may rent equipment that is needed to respond to a wildland fire incident and shall pay a reasonable rental fee for the use of such equipment. The Wildland Incident Response Assistance Team is responsible for any loss or damage to the rented equipment caused due to the negligent use or misuse of such rented equipment by the Wildland Incident Response Assistance Team.

Source: Laws 2024, LB1300, § 25.
Operative date July 19, 2024.

81-828.07 Rules and regulations.

The State Fire Marshal may adopt and promulgate rules and regulations to carry out the Wildland Fire Response Act.

Source: Laws 2024, LB1300, § 26.
Operative date July 19, 2024.

81-829 Critical Infrastructure Utility Worker Protection Act; act, how cited.

Sections 81-829 to 81-829.04 shall be known and may be cited as the Critical Infrastructure Utility Worker Protection Act.

Source: Laws 2023, LB191, § 1.

81-829.01 Terms, defined.

For purposes of the Critical Infrastructure Utility Worker Protection Act, unless the context otherwise requires:

- (1) Civil defense emergency has the same meaning as in section 81-829.39;
- (2) Critical infrastructure utility worker means an essential critical infrastructure worker identified in the Guidance on the Essential Critical Infrastructure Workforce, Version 4.1, as released on August 5, 2021, by the United States Department of Homeland Security Cybersecurity and Infrastructure Security Agency;
- (3) Disaster has the same meaning as in section 81-829.39;
- (4) Emergency has the same meaning as in section 81-829.39;
- (5) Priority access means access at least equal to that provided to hospital and medical personnel, law enforcement personnel, or other emergency responders;
- (6) Utility means any legal entity, including a political subdivision, that owns or operates a utility system, or any part thereof, in this state; and
- (7) Utility system means the physical and cyber assets and infrastructure used in providing utility services to wholesale or retail customers. Utility system includes electrical, gas, water, steam, sewage, and telecommunications services.

Source: Laws 2023, LB191, § 2.

81-829.02 Act, purposes.

The purposes of the Critical Infrastructure Utility Worker Protection Act are to:

- (1) Provide for protection of critical infrastructure utility workers during any civil defense emergency, disaster, or emergency;
- (2) Provide priority access to personal protective equipment; medical screening, testing, and preventative health services; medical treatment; and the administration of vaccines for critical infrastructure utility workers in the event of an emergency involving a severe threat to human health; and
- (3) Authorize federal and state financial aid for critical infrastructure utility workers during any civil defense emergency, disaster, or emergency involving a severe threat to human health.

Source: Laws 2023, LB191, § 3.

81-829.03 Utilities; critical infrastructure utility workers; list; confidential.

Utilities shall maintain a list of critical infrastructure utility workers by position description without listing individual names. The list shall not be deemed a public record subject to disclosure pursuant to sections 84-712 to 84-712.09, but shall be made available to the Nebraska Emergency Management Agency upon request. The list shall be kept confidential by the agency.

Source: Laws 2023, LB191, § 4.

81-829.04 Critical infrastructure utility workers; civil defense emergency, disaster, or emergency; Governor, duties.

In the event of any civil defense emergency, disaster, or emergency involving a severe threat to human health, the Governor shall:

- (1) Ensure that critical infrastructure utility workers are provided priority access to personal protective equipment, medical screening, testing, preventive health services, medical treatment, and the administration of vaccines approved by the federal Food and Drug Administration; and
- (2) Take all necessary measures to provide available federal funding for the adequate protection and care of critical infrastructure utility workers in accordance with federal law and regulations regarding eligibility for such funding.

Source: Laws 2023, LB191, § 5.

81-829.05 Chemical facility; legislative findings; security program; requirements.

- (1) For purposes of this section:
 - (a) Chemical facility has the same meaning as in 6 C.F.R. 27.105;
 - (b) Federal agency means the Cybersecurity and Infrastructure Security Agency of the United States Department of Homeland Security;
 - (c) Federal standards means the federal Chemical Facility Anti-Terrorism Standards under 6 C.F.R. part 27, as such standards existed on July 1, 2023; and
 - (d) Program means the voluntary and publicly available chemical security program provided by the federal agency as an alternative to the federal standards.

(2) The Legislature finds that:

(a) The federal standards were created after the September 11, 2001, terrorist attacks to identify and regulate high-risk chemical facilities to ensure security measures are in place to reduce the risk of certain dangerous chemicals being weaponized by terrorists;

(b) The United States Congress allowed the statutory authority for continuing regulation of the federal standards to expire on July 27, 2023;

(c) With the expiration of such statutory authority and without reauthorization by Congress, the federal agency can no longer enforce compliance with the federal standards;

(d) The lack of enforcement means that chemical facilities will no longer be required to report their chemicals of interest, submit to inspections, provide compliance assistance, or implement any security plan or program; and

(e) The federal agency has encouraged chemical facilities to maintain security measures and offers a voluntary and publicly available alternative chemical security program that provides facilities that possess dangerous chemicals no-cost services and tools to identify risks and improve chemical security.

(3) Beginning on July 19, 2024, a chemical facility shall utilize the federal agency's program if such chemical facility was required on or before July 27, 2023, to have a chemical facility security program pursuant to 6 C.F.R. 27.200 et seq., as such regulations existed on such date.

(4) The Nebraska Emergency Management Agency and the Department of Environment and Energy shall publish the requirements of this section and post a link to the program on their agency websites.

(5) This section is preempted when the federal standards are in effect if Congress reauthorizes such federal standards.

Source: Laws 2024, LB1300, § 27.

Operative date July 19, 2024.

81-829.06 Nebraska Nonprofit Security Grant Program Act, how cited.

Sections 81-829.06 to 81-829.11 shall be known and may be cited as the Nebraska Nonprofit Security Grant Program Act.

Source: Laws 2024, LB1300, § 14.

Operative date July 19, 2024.

81-829.07 Terms, defined.

For purposes of the Nebraska Nonprofit Security Grant Program Act:

(1) Agency means the Nebraska Emergency Management Agency;

(2) Equipment means security equipment installed on real property, including any building or improvement, that is owned or leased by the nonprofit organization, including reinforced doors and gates, perimeter lighting, exterior and interior door locking systems, alarm systems, camera-based security systems, access-control systems, blast-resistant film for windows or shatter-resistant glass, lock-down systems, public-address systems, high-intensity lighting and alarms, and inspection and screening systems;

(3) Planning means those activities that are related to protecting a facility, the people within the facility, and the people with access to the facility and providing for their functional needs. The term includes developing and enhanc-

ing a nonprofit organization's security plans and protocols, emergency contingency plans, and evacuation or shelter-in-place plans and the materials that are required to conduct planning activities;

(4) Program means the Nebraska Nonprofit Security Grant Program created in section 81-829.08;

(5)(a) Qualified nonprofit organization means an organization that:

(i) Is exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1986, including any nonprofit organization created exclusively for religious purposes;

(ii) Is at high risk of a terrorist attack or at risk for hate crimes or attacks because of the nonprofit organization's ideology, beliefs, or mission; and

(iii)(A) Has applied for a federal nonprofit security grant and has not received funding for the same year the applicant is applying for a state grant under the program;

(B) Has been unable to apply for a federal nonprofit security grant; or

(C) Has a documented barrier or hardship related to the application for a federal nonprofit security grant; and

(b) Qualified nonprofit organization does not include:

(i) A hospital as defined in section 71-419;

(ii) A rural emergency hospital as defined in section 71-428.01; or

(iii) An institution of postsecondary education;

(6) Security personnel includes personnel who are contracted with or employed by the nonprofit organization; and

(7) Training means training that addresses a specific security threat or vulnerability. The term includes:

(a) Attendance and travel fees for training the nonprofit organization's staff or members;

(b) Security training and exercises or drills, including active shooter and shelter-in-place training, for the nonprofit organization's staff, members, and visitors; and

(c) Training-related expenses, including supplies, materials, and training equipment.

Source: Laws 2024, LB1300, § 15.

Operative date July 19, 2024.

81-829.08 Nebraska Nonprofit Security Grant Program; created; administration; grant; application; purpose; issuance; working group.

(1) The Nebraska Nonprofit Security Grant Program is created. The program shall be administered by the Nebraska Emergency Management Agency.

(2) In order to receive a grant under the program, a qualified nonprofit organization shall submit an application to the agency on a form prescribed by the agency. The agency may accept an application submitted to the federal government for a federal nonprofit security grant instead of the state application prescribed by the agency.

(3) Grants may be issued to qualified nonprofit organizations to reimburse such organizations for the costs of target hardening and other safety and

security projects intended to mitigate vulnerabilities identified in a vulnerability assessment completed by the qualified nonprofit organization or by a vendor with whom the qualified nonprofit organization has contracted, including projects involving:

- (a) Planning;
- (b) Equipment;
- (c) Training; or
- (d) Security personnel.

(4) The agency may prescribe requirements for vulnerability assessments and may allow other target hardening and safety and security projects to qualify for grant funding in addition to those activities described in subsection (3) of this section.

(5) The agency may begin issuing grants under the program on January 1, 2025.

(6) The agency shall establish a working group of stakeholders to review and evaluate applications. The working group shall make recommendations on funding decisions and shall provide such recommendations to the agency.

(7) The agency may award up to five hundred thousand dollars in grants per year. A qualified nonprofit organization shall not receive more than fifty thousand dollars in grants in any one year.

(8) A qualified nonprofit organization shall not be eligible for a grant under the program if:

(a) The qualified nonprofit organization applied for a grant under the program and received the full amount of its funding request in the previous year; or

(b) The qualified nonprofit organization received a federal nonprofit security grant within the previous five years.

Source: Laws 2024, LB1300, § 16.
Operative date July 19, 2024.

81-829.09 Grant funds; prohibited use.

A qualified nonprofit organization shall not use grant funds to purchase equipment for security personnel.

Source: Laws 2024, LB1300, § 17.
Operative date July 19, 2024.

81-829.10 Appropriations; legislative intent.

It is the intent of the Legislature to appropriate five hundred thousand dollars from the General Fund for each of fiscal years 2024-25 through 2028-29 to carry out the Nebraska Nonprofit Security Grant Program Act.

Source: Laws 2024, LB1300, § 18.
Operative date July 19, 2024.

81-829.11 Rules and regulations.

The agency may adopt and promulgate rules and regulations to carry out the Nebraska Nonprofit Security Grant Program Act.

Source: Laws 2024, LB1300, § 19.
Operative date July 19, 2024.

81-829.12 Repealed. Laws 1973, LB 494, § 34.

81-829.13 Transferred to section 81-829.52.

81-829.14 Transferred to section 81-829.53.

81-829.15 Transferred to section 81-829.54.

81-829.16 Repealed. Laws 1953, c. 336, § 5.

81-829.17 Repealed. Laws 1953, c. 336, § 5.

81-829.18 Transferred to section 81-829.46.

81-829.19 Transferred to section 81-829.48.

81-829.20 Repealed. Laws 1973, LB 494, § 34.

81-829.21 Transferred to section 81-829.55.

81-829.22 Transferred to section 81-829.49.

81-829.23 Transferred to section 81-829.51.

81-829.24 Transferred to section 81-829.58.

81-829.25 Transferred to section 81-829.59.

81-829.26 Transferred to section 81-829.60.

81-829.27 Transferred to section 81-829.61.

81-829.28 Transferred to section 81-829.62.

81-829.29 Transferred to section 81-829.63.

81-829.30 Transferred to section 81-829.64.

81-829.31 Adjutant General; Emergency Management Act; administer.

There is hereby created in the office of the Adjutant General the Nebraska Emergency Management Agency. The Adjutant General shall administer the Emergency Management Act.

Source: Laws 1953, c. 336, § 2, p. 1106; Laws 1996, LB 43, § 16.

Cross References

Emergency Management Act, see section 81-829.36.

For provisions relating to the Adjutant General, see section 55-101 et seq.

Vital resource emergency, see sections 84-162 to 84-167.

81-829.32 Transferred to section 81-829.65.

81-829.33 Governor's Emergency Cash Fund; created; use; investment.

The Governor's Emergency Cash Fund is created. The fund shall consist of federal reimbursements received by the state for eligible state administrative costs incurred by the Nebraska Emergency Management Agency for administering federal emergency disaster declarations and revenue from all other nonfederal government sources. Except as provided in section 90-270, the fund shall be used to pay eligible costs related to state emergency disaster declarations. The fund shall be administered by the State Administrator of the Nebraska Emergency Management Agency. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Transfers may be made from the Governor's Emergency Cash Fund to the Cash Reserve Fund and General Fund at the direction of the Legislature. The State Treasurer shall transfer zero dollars from the Governor's Emergency Cash Fund to the Cash Reserve Fund by June 30, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2003, LB 403, § 5; Laws 2020, LB1009, § 6; Laws 2022, LB1012, § 13; Laws 2024, First Spec. Sess., LB3, § 32.
Effective date August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-829.34 Repealed. Laws 1971, LB 105, § 1.

81-829.35 Transferred to section 81-829.66.

81-829.36 Act, how cited.

Sections 81-829.36 to 81-829.75 shall be known and may be cited as the Emergency Management Act.

Source: Laws 1951, c. 315, § 1, p. 1073; R.R.S.1943, § 81-829.05; Laws 1973, LB 494, § 1; Laws 1996, LB 43, § 17; Laws 2011, LB573, § 2.

Cross References

Facilitating Business Rapid Response to State Declared Disasters Act, see section 48-3201.

81-829.37 Purposes of act.

The purposes of the Emergency Management Act and the policy of the state are to:

- (1) Reduce the vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, technological, or manmade disasters and emergencies, civil disturbances, or hostile military or paramilitary action;
- (2) Provide an emergency management system embodying all aspects of preparedness, response, recovery, and mitigation;
- (3) Clarify and strengthen the roles of the Governor, state agencies, and local governments in the mitigation of, prevention of, preparation for, response to, and recovery from disasters, emergencies, or civil defense emergencies;

(4) Authorize and provide for cooperation and coordination of activities relating to mitigation of, prevention of, preparedness for, response to, and recovery from disasters, emergencies, and civil defense emergencies by agencies and officers of this state and its political subdivisions and similar state, local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;

(5) Assist in mitigation and prevention of disasters, emergencies, and civil defense emergencies caused or aggravated by inadequate planning for and regulation of public and private facilities and land use; and

(6) Provide for the funding of activities incidental to carrying out the purposes of the act.

Source: Laws 1951, c. 315, § 2(1), p. 1074; R.R.S.1943, § 81-829.06; Laws 1973, LB 494, § 2; Laws 1996, LB 43, § 18.

81-829.38 Act, how construed.

Nothing in the Emergency Management Act shall be construed to:

(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by the act or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(2) Interfere with the dissemination of news or comment on public affairs, but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster, emergency, or civil defense emergency;

(3) Affect the jurisdiction or responsibilities of police forces, firefighting forces, units of the armed forces of the United States, or any personnel thereof, when on active duty, but state, city, village, county, and interjurisdictional emergency operations plans shall place reliance upon the forces available for performance of functions related to disasters, emergencies, or civil defense emergencies; or

(4) Limit, modify, or abridge the authority of the Governor to proclaim martial law or exercise any other powers vested in him or her under the Constitution of Nebraska or the statutes or common law of this state independent of or in conjunction with any provisions of the Emergency Management Act.

Source: Laws 1951, c. 315, § 2(2), p. 1074; R.R.S.1943, § 81-829.07; Laws 1973, LB 494, § 3; Laws 1996, LB 43, § 19.

81-829.39 Terms, defined.

For purposes of the Emergency Management Act, unless the context otherwise requires:

(1) Civil defense emergency means an emergency declared by the President of the United States or Congress pursuant to applicable federal law finding that an attack upon the United States has occurred or is anticipated and that the national safety therefor requires the invocation of the emergency authority provided for by federal law. Civil defense emergency also means an enemy attack or other hostile action within the State of Nebraska or a determination by the President of the United States that any attack has been made upon or is anticipated within a designated geographic area which includes all or a part of

the State of Nebraska. Any such emergency shall terminate in the manner provided by federal law or by proclamation of the Governor or resolution of the Legislature terminating such emergency;

(2) Disaster means any event or the imminent threat thereof causing widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause;

(3) Emergency means any event or the imminent threat thereof causing serious damage, injury, or loss of life or property resulting from any natural or manmade cause which, in the determination of the Governor or the principal executive officer of a local government, requires immediate action to accomplish the purposes of the Emergency Management Act and to effectively respond to the event or threat of the event;

(4) Emergency management means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to mitigate, prevent, minimize, respond to, and recover from injury and damage resulting from disasters, emergencies, or civil defense emergencies. Emergency management functions include, but need not be limited to, firefighting services, police services, medical and health services, search and rescue services, engineering services, communications and warning systems, radiological preparedness, hazardous materials response, evacuation of persons from stricken areas, emergency welfare services, emergency transportation services, restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the functions listed in this subdivision;

(5) Emergency management worker includes any full-time or part-time paid, volunteer, or auxiliary employee of this state or other states, territories, or possessions of the federal government or any neighboring country or of any political subdivision thereof, of the District of Columbia, or of any agency or organization performing emergency management services at any place in this state subject to the order or control of or pursuant to a request of the state government or any political subdivision thereof and also includes instructors and students in emergency management educational programs approved by the Nebraska Emergency Management Agency or otherwise under the provisions of the Emergency Management Act;

(6) Hazard mitigation means measures which will eliminate or reduce the potential for damage to an area or facility from the effects of a future disaster, emergency, or civil defense emergency;

(7) Local government means a county, village, or city of any class;

(8) Political subdivision means a city, village, county, school district, public power district, natural resources district, and any other unit of government below the state level, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act;

(9) Principal executive officer means the mayor in a city of any class or the elected chairperson of the governing body of a village or county;

(10) State emergency response team means an organization for emergency management established in accordance with the provisions of sections 81-829.52 to 81-829.54 by state authority to supplement city, village, county, or

interjurisdictional emergency management organizations in a stricken area; and

(11) Technological hazard means a hazard emanating from the manufacture, transportation, and use of such substances as radioactive materials, chemicals, explosives, flammables, agricultural pesticides, herbicides, disease agents, oil spills, and debris from space.

Source: Laws 1951, c. 315, § 3, p. 1074; R.R.S.1943, § 81-829.08; Laws 1973, LB 494, § 4; Laws 1996, LB 43, § 20; Laws 1999, LB 87, § 91.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

A snow emergency declaration, the purpose of which is to notify citizens about snow removal activities and the need to refrain from parking on designated routes, does not rise to the level of an emergency under the Emergency Management Act. *Stinson v. City of Lincoln*, 9 Neb. App. 642, 617 N.W.2d 456 (2000).

81-829.40 Governor; powers and duties.

(1) The Governor shall be responsible for meeting the dangers to the state and people presented by disasters, emergencies, and civil defense emergencies, and in the event of disaster, emergency, or civil defense emergency beyond local control, he or she may assume direct operational control over all or any part of the emergency management functions within this state. He or she shall have general direction and control of emergency management and the Nebraska Emergency Management Agency and shall be responsible for carrying out the provisions of the Emergency Management Act.

(2) In order to effect the policy and purposes of the act, the Governor may issue proclamations and make, amend, and rescind the necessary orders, rules, and regulations to carry out the act.

(3) A state of emergency proclamation shall be issued by the Governor if he or she finds that a disaster, emergency, or civil defense emergency has occurred or that the occurrence or threat thereof is imminent. All proclamations issued under this subsection shall indicate the nature of the disaster, emergency, or civil defense emergency, the area or areas threatened, and the conditions which have brought about the state of emergency. All proclamations shall be disseminated promptly by means calculated to bring the contents to the attention of the general public and shall be promptly filed with the Nebraska Emergency Management Agency, the Secretary of State, and the clerks of the local governments in the area to which it applies. The proclamation shall continue in effect until the Governor finds that the threat or danger has passed or the disaster, emergency, or civil defense emergency has been dealt with to the extent that those conditions no longer exist and terminates the proclamation by letter of notice to such agency, the Secretary of State, and the clerks of the local governments in the area to which it applies. The Legislature by resolution may terminate a state of emergency proclamation at any time, whereupon the Governor shall terminate the proclamation by letter of notice to such agency, the Secretary of State, and the clerks of the local governments in the area to which it applies.

(4) A state of emergency proclamation shall activate state, city, village, county, and interjurisdictional emergency management organizations and emergency operations plans applicable to the local government or area in

question and shall be the authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to the act or any other provision of law relating to disasters, emergencies, or civil defense emergencies.

(5) During the continuance of any state of emergency, the Governor shall be commander in chief of the organized and unorganized militia and of all other forces available for emergency management duty. To the greatest extent practicable, the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate proclamations, orders, rules, and regulations, but nothing shall restrict his or her authority to do so by orders issued at the time of the disaster, emergency, or civil defense emergency.

(6) In addition to any other powers conferred upon the Governor by law, he or she may:

(a) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders, rules, or regulations of any state agency if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the disaster, emergency, or civil defense emergency;

(b) Utilize all available resources of the state government and of each political subdivision of the state as are reasonably necessary to cope with the disaster, emergency, or civil defense emergency;

(c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management;

(d) Subject to any applicable requirements for compensation under section 81-829.57, commandeer or utilize any private property if he or she finds this necessary to cope with the disaster, emergency, or civil defense emergency;

(e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he or she deems this action necessary for the preservation of life or other emergency management;

(f) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(g) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises in the area;

(h) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles; and

(i) Make provisions for the availability and use of temporary emergency housing.

(7) In the event of a civil defense emergency, the Governor shall assume direct operational control over all or any part of the emergency management functions within this state.

Source: Laws 1951, c. 315, § 4(1), p. 1076; R.R.S.1943, § 81-829.09; Laws 1973, LB 494, § 5; Laws 1996, LB 43, § 21; Laws 2014, LB390, § 2.

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.

81-829.42 Governor's Emergency Program; established.

(1) The Legislature recognizes that, while appropriations are adequate to meet the normal needs, the necessity exists for anticipating and making advance provision to care for the unusual and extraordinary burdens imposed on the state and its political subdivisions by disasters, emergencies, or civil defense emergencies. To meet such situations, it is the intention of the Legislature to confer emergency powers on the Governor, acting through the Adjutant General and the Nebraska Emergency Management Agency, and to vest him or her with adequate power and authority within the limitation of available funds appropriated to the Governor's Emergency Program to meet any disaster, emergency, or civil defense emergency.

(2) There is hereby established the Governor's Emergency Program. Funds appropriated to the program shall be expended, upon direction of the Governor, for any state of emergency. The state of emergency proclamation shall set forth the emergency and shall state that it requires the expenditure of public funds to furnish immediate aid and relief. The Adjutant General shall administer the funds appropriated to the program.

(3) It is the intent of the Legislature that the first recourse shall be to funds regularly appropriated to state and local agencies. If the Governor finds that the demands placed upon these funds are unreasonably great, he or she may make funds available from the Governor's Emergency Program. Expenditures may be made upon the direction of the Governor for any or all emergency management functions or to meet the intent of the state emergency operations plans as outlined in section 81-829.41. Expenditures may also be made to state and federal agencies to meet the matching requirement of any applicable assistance programs.

(4) Assistance shall be provided from the funds appropriated to the Governor's Emergency Program to political subdivisions of this state which have suffered from a disaster, emergency, or civil defense emergency to such an extent as to impose a severe financial burden exceeding the ordinary capacity

of the subdivision affected. Applications for aid under this section shall be made to the Nebraska Emergency Management Agency on such forms as shall be prescribed and furnished by the agency. The forms shall require the furnishing of sufficient information to determine eligibility for aid and the extent of the financial burden incurred. The agency may call upon other agencies of the state in evaluating such applications. The Adjutant General shall review each application for aid under this section and recommend its approval or disapproval, in whole or in part, to the Governor. If the Governor approves, he or she shall determine and certify to the Adjutant General the amount of aid to be furnished. The Adjutant General shall thereupon issue his or her voucher to the Director of Administrative Services who shall issue his or her warrants therefor to the applicant.

(5) When a state of emergency has been proclaimed by the Governor, the Adjutant General, upon order of the Governor, shall have authority to expend funds for purposes including, but not limited to:

(a) The purposes of the Emergency Management Act, including emergency management functions and the responsibilities of the Governor as outlined in the act;

(b) Employing for the duration of the state of emergency additional personnel and contracting or otherwise procuring all necessary appliances, supplies, and equipment;

(c) Performing services for and furnishing materials and supplies to state government agencies and local governments with respect to performance of any duties enjoined by law upon such agencies and local governments which they are unable to perform because of extreme climatic phenomena and receiving reimbursement in whole or in part from such agencies and local governments able to pay therefor under such terms and conditions as may be agreed upon by the Adjutant General and any such agency or local government;

(d) Performing services for and furnishing materials to any individual in connection with alleviating hardship and distress growing out of extreme climatic phenomena and receiving reimbursement in whole or in part from such individual under such terms as may be agreed upon by the Adjutant General and such individual;

(e) Opening up, repairing, and restoring roads and highways;

(f) Repairing and restoring bridges;

(g) Furnishing transportation for supplies to alleviate suffering and distress;

(h) Restoring means of communication;

(i) Furnishing medical services and supplies to prevent the spread of disease and epidemics;

(j) Quelling riots and civil disturbances;

(k) Training individuals or governmental agencies for the purpose of perfecting the performance of emergency management duties as provided in the Nebraska emergency operations plans;

(l) Procurement and storage of special emergency supplies or equipment, determined by the Adjutant General to be required to provide rapid response by state government to assist local governments in impending or actual disasters, emergencies, or civil defense emergencies;

(m) Clearing or removing debris and wreckage which may threaten public health or safety from publicly owned or privately owned land or water; and

(n) Such other measures as are customarily necessary to furnish adequate relief in cases of disaster, emergency, or civil defense emergency.

(6) If response to a disaster or emergency is immediately required, the Adjutant General may make expenditures of up to twenty-five thousand dollars per event without a state of emergency proclamation issued by the Governor. Such expenditures shall be used for the purposes as provided in subsection (5) of this section.

(7) The Governor may receive such voluntary contributions as may be made from any nonfederal source to aid in carrying out the purposes of this section and shall credit the same to the Governor's Emergency Cash Fund.

(8) All obligations and expenses incurred by the Governor in the exercise of the powers and duties vested in the Governor by this section shall be paid by the State Treasurer out of available funds appropriated to the Governor's Emergency Program, and the Director of Administrative Services shall draw his or her warrants upon the State Treasurer for the payment of such sum, or so much thereof as may be required, upon receipt by him or her of proper vouchers duly approved by the Adjutant General.

(9) This section shall be liberally construed in order to accomplish the purposes of the Emergency Management Act and to permit the Governor to adequately cope with any disaster, emergency, or civil defense emergency which may arise, and the powers vested in the Governor by this section shall be construed as being in addition to all other powers presently vested in him or her and not in derogation of any existing powers.

(10) Such funds as may be made available by the government of the United States for the purpose of alleviating distress from disasters, emergencies, and civil defense emergencies may be accepted by the State Treasurer and shall be credited to a separate and distinct fund unless otherwise specifically provided in the act of Congress making such funds available or as otherwise allowed and provided by state law.

(11) It is the intent of the Legislature that the four million dollars saved due to the elimination of funding for the Angel Investment Tax Credit Act be used to increase the appropriation to the Military Department for the Governor's Emergency Program by four million dollars for fiscal year 2020-21.

Source: Laws 1973, LB 494, § 7; Laws 1975, LB 612, § 2; Laws 1986, LB 258, § 34; Laws 1995, LB 7, § 107; Laws 1996, LB 43, § 23; Laws 2003, LB 403, § 8; Laws 2012, LB766, § 1; Laws 2014, LB390, § 3; Laws 2015, LB55, § 1; Laws 2019, LB334, § 7.

Cross References

Angel Investment Tax Credit Act, see section 77-6301.

81-829.43 Prevention measures; procedure.

(1) In addition to prevention measures included in the state, city, village, county, and interjurisdictional emergency operations plans, the Governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters, emergencies, and civil defense emergencies. At his or her direction and pursuant to any other authority and competence they have, state agencies, including, but not limited to, those charged

with responsibilities in connection with flood plain management, stream encroachment and flow regulation, fire prevention and control, air quality, public works, land use and land-use planning, and construction standards, shall make studies of prevention-related matters. The Governor, from time to time, shall make such recommendations to the Legislature, local governments, and other appropriate public and private entities as may facilitate measures for prevention or mitigation of the harmful consequences of disasters, emergencies, and civil defense emergencies. The recommendations submitted to the Legislature shall be submitted electronically.

(2) The appropriate state agencies, in conjunction with the Nebraska Emergency Management Agency, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection shall concentrate on means of mitigating or avoiding the dangers caused by any such occurrence or the consequences thereof.

(3) If the agency believes on the basis of the studies or other competent evidence that an area is susceptible to a disaster, emergency, or civil defense emergency of catastrophic proportions without adequate warning, that existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude thereof, and that changes in zoning regulations, other land-use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor. If the Governor upon review of the recommendation finds after public hearing that the changes are essential, he or she shall so recommend to the agencies or local governments with jurisdiction over the area and subject matter. If no action or insufficient action pursuant to his or her recommendations is taken within the time specified by the Governor, he or she shall so inform the Legislature electronically and request appropriate legislative action to mitigate the impact of a disaster, emergency, or civil defense emergency.

(4) The Governor, at the same time that he or she makes recommendations pursuant to subsection (3) of this section, may suspend the standard or control which he or she finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control shall remain in effect until rejected by resolution of the Legislature or amended by the Governor. During the time it is in effect, the standard or control contained in the Governor's regulation shall be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies. The Governor's action shall be subject to judicial review but shall not be subject to temporary stay pending litigation.

Source: Laws 1973, LB 494, § 8; Laws 1988, LB 352, § 168; Laws 1996, LB 43, § 24; Laws 1996, LB 966, § 1; Laws 2012, LB782, § 170.

81-829.44 Repealed. Laws 1996, LB 43, § 54.

81-829.45 Agency; weather conditions; continuously apprise.

The Nebraska Emergency Management Agency shall keep continuously apprised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a disaster or emergency.

Source: Laws 1973, LB 494, § 10; Laws 1996, LB 43, § 25; Laws 1996, LB 966, § 2.

81-829.46 Local government; Governor; powers; duties; performance of functions.

(1) The elected officers of local governments shall be responsible for ensuring that emergency management services are provided to their citizens and for coordinating emergency operations in their respective jurisdictions.

(2) Each local government shall be within the jurisdiction of and served by the Nebraska Emergency Management Agency and shall participate in a city, village, county, or interjurisdictional emergency management organization. Each county or interjurisdictional emergency management organization shall cooperate with and perform emergency management functions for the local governments located within the organization's boundaries but shall not have responsibility for emergency management services within a city or village having its own emergency management organization. Each city or village may maintain a city or village emergency management organization which, if formed, shall be the primary organization for emergency management serving that city or village. Any county or interjurisdictional emergency management organization may assist in emergency management functions for that city or village if approved by the city or village emergency management organization. Each county may maintain a county emergency management organization which shall be the primary organization for emergency management for that county. Any city, village, or interjurisdictional emergency management organization may assist in emergency management functions for that county if approved by the county emergency management organization.

(3) Each city, village, county, or interjurisdictional emergency management organization, if formed, shall have either (a) a full-time director or (b) a full-time deputy director and such additional personnel as may be needed, appointed in accordance with the agreement establishing the organization. Such director shall have direct responsibility for the organization, administration, and operation of such emergency management organization subject to the direction and control of the principal executive officer for the local government or in accordance with such agreement. A person may serve as a director for more than one emergency management organization serving an area.

(4) The Governor may determine that some cities need emergency management organizations of their own. The Governor shall, after making such determination, require that such emergency management organizations be established and maintained by issuing a directive in the form of a rule or regulation. The Governor shall make the determination on the basis of a city's vulnerability and capability of response related to population size and concentration. The Nebraska Emergency Management Agency shall publish and keep current a list of cities required to have an emergency management organization.

(5) Any provision of the Emergency Management Act or other law to the contrary notwithstanding, the Governor may require a local government to establish and maintain an emergency management organization jointly with one or more contiguous local governments if he or she finds that the establishment and maintenance of or participation in such an organization is made necessary by circumstances or conditions that make it unusually difficult to provide disaster prevention, preparedness, response, or recovery services or emergency management functions under other provisions of the act. Such interjurisdictional organizations shall be organized generally in accord with the

Interlocal Cooperation Act and the planning and development regions created in section 13-1901.

(6) City, village, county, or interjurisdictional emergency management directors or coordinators or their assistants or deputies, who are required by the Emergency Management Act or rules and regulations of the Governor to devote full time to their duties, shall be qualified and certified in accord with criteria established for the state by the Nebraska Emergency Management Agency. Such directors or coordinators shall be paid for their services in an amount comparable to other officers of local governments.

(7) Each local government shall have a liaison officer designated to facilitate cooperation with emergency management organizations and to ensure that emergency management services are provided to the citizens of that local government. The liaison officers of local governments and the directors of the emergency management organizations shall communicate frequently to facilitate joint emergency preparedness efforts. For local governments which maintain an emergency management organization, the director or coordinator may serve as the liaison officer.

(8) The principal executive officer of each local government of the state shall notify the Nebraska Emergency Management Agency of the manner in which the local government is providing or securing emergency management services, identify the person who heads the entity from which the service is obtained, and furnish such additional information as the agency requires.

(9) Each city, village, county, or interjurisdictional emergency management organization shall prepare and keep current a city, village, county, or interjurisdictional emergency operations plan for its jurisdiction. Such plans shall be in conformance with the requirements established in the act.

(10) Each city, village, county, or interjurisdictional emergency management organization shall prepare, keep current, and distribute to all appropriate officials in written form a clear and complete statement of the disaster and emergency management responsibilities of all local entities and officials and of the emergency response chain of command.

Source: Laws 1951, c. 315, § 7, p. 1079; Laws 1963, c. 516, § 1, p. 1632; R.R.S.1943, § 81-829.18; Laws 1973, LB 494, § 11; Laws 1992, LB 573, § 11; Laws 1996, LB 43, § 26.

Cross References

Interlocal Cooperation Act, see section 13-801.

It is a reasonable construction of the joint resolution authorized by this section that either of the parties may discharge employees. *Heinzman v. County of Hall*, 213 Neb. 268, 328 N.W.2d 764 (1983).

81-829.47 Interjurisdictional emergency management arrangement; Governor findings.

(1) If the Governor finds that two or more adjoining counties would be better served by an interjurisdictional emergency management arrangement than by maintaining separate emergency management organizations and services, the Governor may delineate by order or regulation an interjurisdictional area adequate to plan for, prevent, or respond to a disaster, emergency, or civil defense emergency in that area and direct such steps to be taken as are necessary, including the creation of an interjurisdictional emergency management relationship, a joint emergency operations plan, mutual aid, or an

interjurisdictional emergency management organization. A finding of the Governor pursuant to this subsection shall be based on one or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, mitigation, preparedness, response, and recovery and emergency management system without such interjurisdictional arrangement, such as:

- (a) Small or sparse population;
- (b) Limitations on public financial resources severe enough to make maintenance of separate emergency management organizations and services unreasonably burdensome;
- (c) Unusual vulnerability to disaster, emergency, or civil defense emergency as evidenced by past history, topographical features, drainage characteristics, potential for disaster, emergency, or civil defense emergency, and presence of facilities or operations prone to disaster, emergency, or civil defense emergency;
- (d) The interrelated character of the counties in a multicounty area; or
- (e) Other relevant conditions or circumstances.

(2) If the Governor finds that a vulnerable area lies only partly within this state and includes territory in another state or states and that it would be desirable to establish an interstate relationship, mutual aid, or an interstate emergency management organization, the Governor shall take steps to that end as desirable. If this action is taken with jurisdictions that have enacted the Emergency Management Assistance Compact, any resulting agreements may be considered supplementary agreements pursuant to Article VII of that compact.

(3) If the other jurisdictions with which the Governor proposes to cooperate pursuant to subsection (2) of this section have not enacted the compact, the Governor may negotiate special agreements with the jurisdictions. Any agreement, if sufficient authority for the making thereof does not otherwise exist, shall become effective only after its text has been communicated electronically to the Legislature and if the Legislature has not disapproved it prior to adjournment of the next session competent to consider it or within thirty days of its submission, whichever is later.

Source: Laws 1973, LB 494, § 12; Laws 1996, LB 43, § 27; Laws 2012, LB782, § 171; Laws 2024, LB847, § 1.
Effective date July 19, 2024.

Cross References

Emergency Management Assistance Compact, see section 1-124, Appendix, Nebraska Revised Statutes, Volume 2A.

81-829.48 Emergency management aid and assistance; mutual aid arrangements; interjurisdictional emergency management agreement.

(1) The director or coordinator of each city, village, county, or interjurisdictional emergency management organization shall, in collaboration with other public and private entities within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster, emergency, or civil defense emergency too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency operations plan, and in time of emergency it shall be the duty of each city, village, county, or interjurisdictional emergency management organization to render assistance in accordance with the provisions of such mutual aid arrangements.

(2) The director or coordinator of each city, village, county, or interjurisdictional emergency management organization may, subject to the approval of the Governor, enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of disaster, emergency, or civil defense emergency too great to be dealt with unassisted.

(3) It shall be a sufficient reason for the Governor to require an interjurisdictional emergency management agreement or arrangement pursuant to section 81-829.47 if the area and local governments involved have available equipment, supplies, and forces necessary to provide mutual aid on a regional basis and that the local governments have not already made adequate provision for mutual aid, but in requiring the making of an interjurisdictional emergency management arrangement to accomplish the purposes of this section, the Governor need not require establishment and maintenance of an interjurisdictional emergency management organization or arrangement for any other disaster, emergency, or civil defense emergency purposes.

Source: Laws 1951, c. 315, § 8(1), p. 1080; R.R.S.1943, § 81-829.19; Laws 1973, LB 494, § 13; Laws 1996, LB 43, § 28.

81-829.49 Local government, school district, or educational service unit appropriations.

Each local government, school district, or educational service unit shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such local government, school district, or educational service unit for the payment of expenses of its city, village, county, school district, educational service unit, or interjurisdictional emergency management organization and in furthering the purposes of the Emergency Management Act.

Source: Laws 1951, c. 315, § 10(1), p. 1081; R.R.S.1943, § 81-829.22; Laws 1973, LB 494, § 14; Laws 1996, LB 43, § 29; Laws 2015, LB283, § 4.

81-829.50 Local emergency; declared; principal executive officer of a local government; effect; interjurisdictional emergency management organization.

(1) A local emergency may be declared only by the principal executive officer of a local government who finds that conditions defined as a disaster or an emergency exist or by a person who by resolution has been authorized and designated by the governing board of a local government to determine that an emergency within the scope of his or her authorization exists. A copy of the resolution shall be filed with the Nebraska Emergency Management Agency to be effective. The proclamation shall continue in effect until the principal executive officer finds that the disaster or emergency has been dealt with to the extent that those conditions no longer exist. The local governing body by resolution may terminate a local state of emergency proclamation at any time, and upon such termination the principal executive officer shall terminate the proclamation. Any order or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed promptly with the clerk of the local government and the Nebraska Emergency Management Agency.

(2) The effect of a declaration of a local emergency shall be to activate the response and recovery aspects of any and all applicable city, village, county, or interjurisdictional emergency operations plans and to authorize the furnishing of aid and assistance under such plans.

(3) No interjurisdictional emergency management organization or official thereof may declare a local emergency unless expressly authorized by the agreement pursuant to which the organization functions, but an interjurisdictional emergency management organization shall provide aid and services in accordance with the agreement and emergency operations plan pursuant to which it functions.

Source: Laws 1973, LB 494, § 15; Laws 1996, LB 43, § 30.

81-829.51 Local government; school district; educational service unit; emergency expenditures; vote of governing body; when.

(1)(a) In the event of a disaster, emergency, or civil defense emergency, each local government may make emergency expenditures, enter into contracts, and incur obligations for emergency management purposes regardless of existing statutory limitations and requirements pertaining to appropriation, budgeting, levies, or the manner of entering into contracts.

(b) In the event of a disaster, emergency, or civil defense emergency, each school district or educational service unit may make emergency expenditures, enter into contracts, and incur obligations for emergency management purposes and to minimize the disruption to education services regardless of existing statutory limitations and requirements pertaining to appropriation, budgeting, or the manner of entering into contracts.

(2) If any such expenditure, contract, or obligation will be in excess of or in violation of existing statutory limitations or requirements, then before any such expenditure, contract, or obligation is undertaken it shall be approved by a vote of the governing body of such local government, school district, or educational service unit. The governing body may not vote its approval unless it has secured a copy of the proclamation as provided in section 81-829.50 from the city, village, county, or interjurisdictional emergency management director serving such local government, school district, or educational service unit. For school districts and educational service units, the proclamation shall be secured from the county in which the school district or principal office of the educational service unit is located.

Source: Laws 1951, c. 315, § 10(2), p. 1081; R.R.S.1943, § 81-829.23; Laws 1973, LB 494, § 16; Laws 1996, LB 43, § 31; Laws 2015, LB283, § 5.

81-829.52 State emergency response teams; establish; team leader; appointment; duties.

Upon orders of the Governor, the Adjutant General is authorized to establish such number of state emergency response teams as may be necessary to reinforce emergency management organizations in stricken areas and with due consideration of the plans of the federal government and of other states. The Adjutant General shall appoint a team leader for each team who shall have primary responsibility for the organization, administration, and operation of such team. The team leader shall keep and maintain a roster of members of the team, and only such persons whose names appear on the roster shall be

deemed members of such team and entitled to the benefits provided by section 81-829.53. No political subdivision shall be entitled to reimbursement as provided in section 81-829.54 unless the individual on whose behalf reimbursement is sought was duly enrolled on the roster as provided in this section at the time the obligation was incurred. State emergency response teams shall perform their functions in any part of the state or, upon the conditions specified in mutual aid plans and emergency management agreements, in accordance with the Emergency Management Assistance Compact, and in this section, in other states.

Source: Laws 1951, c. 315, § 6(1), p. 1077; R.R.S.1943, § 81-829.13; Laws 1973, LB 494, § 17; Laws 1996, LB 43, § 32; Laws 2024, LB847, § 2.

Effective date July 19, 2024.

Cross References

Emergency Management Assistance Compact, see section 1-124, Appendix, Nebraska Revised Statutes, Volume 2A.

81-829.53 State emergency response teams; personnel; powers; duties; rights; immunities; compensation; expenses.

Personnel of state emergency response teams while on duty, whether within or without the state, shall: (1) If they are employees of the state, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment; (2) if they are employees of a political subdivision of the state, and whether serving within or without such political subdivision, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment; and (3) if they are not employees of the state or a political subdivision thereof, be entitled to compensation by the state at rates to be established by the Governor and shall be entitled to the same rights and immunities as are provided by law for the employees of this state. State emergency response teams shall, while on duty, be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving and shall be reimbursed for expenses in accordance with sections 81-1174 to 81-1177.

Source: Laws 1951, c. 315, § 6(2), p. 1078; R.R.S.1943, § 81-829.14; Laws 1973, LB 494, § 18; Laws 1981, LB 204, § 176; Laws 1996, LB 43, § 33; Laws 2020, LB381, § 104.

81-829.54 State emergency response teams; employees; expenses; political subdivisions; reimbursement by state; rental of equipment; payment; damages.

(1) The state shall reimburse a political subdivision for (a) the compensation paid and expenses of employees of such political subdivision while serving as members of a state emergency response team as provided in sections 81-1174 to 81-1177, (b) all payments for death, disability, or injury of such employees incurred in the course of such duty as provided in the Nebraska Workers' Compensation Act, and (c) all losses of or damage to supplies and equipment of such political subdivision resulting from the operation of such state emergency response team.

(2) The state shall pay a fee for rental of privately owned equipment used in the operation of a state emergency response team and shall also pay for any loss or damage to privately owned equipment used in emergency response. The fee for rental of such privately owned equipment shall be fixed, and any loss or

damage to such equipment shall be assessed by a board consisting of three persons to be appointed by the Governor, one of whom shall be the materiel administrator of the materiel division of the Department of Administrative Services.

Source: Laws 1951, c. 315, § 6(3), p. 1078; Laws 1953, c. 336, § 3, p. 1107; R.R.S.1943, § 81-829.15; Laws 1973, LB 494, § 19; Laws 1981, LB 204, § 177; Laws 1996, LB 43, § 34; Laws 2020, LB381, § 105.

Cross References

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

81-829.55 Immunity from liability for activities; covered by Nebraska Workers' Compensation Act; licenses, not required; emergency management worker; powers, duties, immunities, privileges.

(1) All functions provided for in the Emergency Management Act and all other activities relating to emergency management are hereby declared to be governmental functions. The United States, the state, any political subdivision thereof, any other agencies of the United States, the state, or a political subdivision thereof, and, except in cases of willful misconduct, gross negligence, or bad faith, any emergency management worker complying with or reasonably attempting to comply with the provisions of the act, any emergency management act of Congress, or any order, rule, or regulation promulgated pursuant to the act or any emergency management act of Congress or acting pursuant to any ordinance relating to black-out or other precautionary measures enacted by any political subdivision of the state shall not be liable for the death of or injury to persons or for damage to property as a result of any such activity. This section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under the Emergency Management Act, under the Nebraska Workers' Compensation Act, or under any pension law or the right of any person to receive any benefits or compensation under any act of Congress.

(2) Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker who in the course of performing duties as such practices such professional, mechanical, or other skill during a civil defense emergency or declared state of emergency.

(3) Any emergency management worker performing emergency management services at any place in this state pursuant to agreements, compacts, or arrangements for mutual aid and assistance to which the state or a political subdivision thereof is a party shall possess the same powers, duties, immunities, and privileges he or she would ordinarily possess if performing such duties in the state, province, or political subdivision thereof in which normally employed or rendering services.

Source: Laws 1951, c. 315, § 9, p. 1080; Laws 1963, c. 517, § 1, p. 1633; R.R.S.1943, § 81-829.21; Laws 1973, LB 494, § 29; Laws 1975, LB 612, § 3; Laws 1996, LB 43, § 35.

Cross References

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

In order for the district court to have subject matter jurisdiction under the disaster and civil defense statutes, the plaintiff must allege facts which show either (1) that the political subdivision's actions were not undertaken when complying with or reasonably attempting to comply with the provisions relating to civil defense set forth in this section or an order, rule, or

regulation promulgated thereunder and therefore the general immunity does not apply, or (2) that the political subdivision's actions constituted willful misconduct, gross negligence, or bad faith so as to fall within an exception to the general immunity. *Lawry v. County of Sarpy*, 254 Neb. 193, 575 N.W.2d 605 (1998).

81-829.56 Interstate Civil Defense and Disaster Compact; withdrawal; recognition of credential, when; other agreements or compacts; approval.

(1) The State of Nebraska hereby withdraws from the Interstate Civil Defense and Disaster Compact pursuant to Article 13 of such compact.

(2) If any person holds a license, certificate, or other permit issued by any state or political subdivision thereof evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving that skill in this state to meet an emergency or disaster, and the State of Nebraska shall give due recognition to the license, certificate, or other permit.

(3) The Governor may enter into, and execute on behalf of the State of Nebraska, mutual aid agreements or emergency preparedness compacts with other states. Any such agreement or compact shall provide for reimbursement of all costs incurred by the State of Nebraska for actions taken in another state, for indemnification of the State of Nebraska and its employees against all claims, costs, or fees arising from actions taken in another state, and for termination of the agreement or assistance as necessary to meet disasters, emergencies, or other needs of the State of Nebraska. Any mutual aid agreement or emergency preparedness compact other than the Emergency Management Assistance Compact that does not meet the requirements specified in this subsection shall be submitted electronically to the Legislature for approval by the Legislature before such agreement or compact can become effective.

Source: Laws 1973, LB 494, § 21; Laws 1996, LB 43, § 36; Laws 2012, LB782, § 172; Laws 2024, LB847, § 3.
Effective date July 19, 2024.

Cross References

Emergency Management Assistance Compact, see section 1-124, Appendix, Nebraska Revised Statutes, Volume 2A.

81-829.57 Persons within the state; conduct; personal services; compensation for property; claim; file.

(1) Each person within this state shall conduct himself or herself and keep and manage his or her affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to meet disasters, emergencies, or civil defense emergencies. This obligation shall include appropriate personal service and use or restriction on the use of property in time of disaster, emergency, or civil defense emergency. The Emergency Management Act shall not be construed to increase or decrease these obligations, but the act recognizes their existence under the Constitution of Nebraska and statutes of this state and the common law. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this subsection are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his or her services or property without compensation.

(2) No personal services may be compensated by the state or any subdivision or agency thereof, except pursuant to statute or local law, resolution, or ordinance.

(3) Compensation for property shall be made only if the property was commandeered or otherwise used in coping with a disaster, emergency, or civil defense emergency and its use or destruction was ordered by the Governor or a member of the emergency management forces of this state to whom the Governor has duly delegated such authority.

(4) Any person claiming compensation for the use, damage, loss, or destruction of property under the act shall file a claim therefor with the Nebraska Emergency Management Agency in the form and manner the agency provides.

(5) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed upon between the claimant and the agency, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

(6) Nothing in this section shall apply to or authorize compensation for the destruction or damaging of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

Source: Laws 1973, LB 494, § 22; Laws 1996, LB 43, § 37.

Cross References

For eminent domain procedures, see section 76-701 et seq.

81-829.58 Emergency management; supplies and services from federal government; funds; disposition.

Whenever the federal government or any agency or officer thereof offers to the state or, through the state, to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of disaster response and emergency management, the state, acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its principal executive officer or governing body, may accept such offer. Upon such acceptance the Governor of the state or principal executive officer or governing body of such political subdivision may authorize any officer of the state or such political subdivision to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. All such funds received on behalf of the state shall be remitted to the State Treasurer for credit to a separate and distinct fund unless otherwise specifically provided in the act of Congress making such funds available, or as otherwise allowed and provided by state law.

Source: Laws 1951, c. 315, § 10(3), p. 1081; Laws 1965, c. 342, § 2, p. 973; R.R.S.1943, § 81-829.24; Laws 1973, LB 494, § 23; Laws 1996, LB 43, § 38; Laws 2003, LB 403, § 9.

81-829.59 Emergency management; supplies and services from private entities; funds; disposition.

Whenever any person, firm, or corporation offers to the state or to any political subdivision thereof services, equipment, supplies, materials, or funds

by way of gift, grant, or loan for purposes of disaster response and emergency management, the state, acting through the Governor, or such political subdivision, acting through its principal executive officer or governing body, may accept such offer. Upon such acceptance the Governor of the state or principal executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, subject to the terms of the offer. All such funds received on behalf of the state shall be remitted to the State Treasurer for credit to the Governor's Emergency Cash Fund.

Source: Laws 1951, c. 315, § 10(4), p. 1082; Laws 1965, c. 342, § 3, p. 974; R.R.S.1943, § 81-829.25; Laws 1973, LB 494, § 24; Laws 1996, LB 43, § 39; Laws 2003, LB 403, § 10.

81-829.60 Emergency management; utilization of services, equipment, supplies, and facilities of existing departments and agencies of state.

In carrying out the Emergency Management Act, the Governor and the principal executive officers or governing bodies of the political subdivisions of the state shall utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and its political subdivisions to the maximum extent practicable. The officers and personnel of all such departments, offices, and agencies shall cooperate with and extend such services and facilities to the Governor and to the disaster response and emergency management organizations of the state upon request.

Source: Laws 1951, c. 315, § 11, p. 1082; R.R.S.1943, § 81-829.26; Laws 1973, LB 494, § 25; Laws 1996, LB 43, § 40.

81-829.61 Emergency management organizations; political activities prohibited.

No emergency management organization established under the Emergency Management Act shall participate in any form of political activity nor shall it be employed directly or indirectly for political purposes.

Source: Laws 1951, c. 315, § 12, p. 1082; R.R.S.1943, § 81-829.27; Laws 1973, LB 494, § 26; Laws 1996, LB 43, § 41.

81-829.62 Emergency management; personnel; advocacy of subversive activities against government; prohibited.

No person shall be employed or associated in any capacity in any emergency management organization established under the Emergency Management Act who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence or who has been convicted of or is under indictment or information charging any subversive act against the United States.

Source: Laws 1951, c. 315, § 13, p. 1082; Laws 1953, c. 336, § 4, p. 1108; R.R.S.1943, § 81-829.28; Laws 1973, LB 494, § 27; Laws 1996, LB 43, § 42.

81-829.63 Repealed. Laws 1996, LB 43, § 54.

81-829.64 Emergency management organizations; enforce orders, rules, and regulations.

Every emergency management organization established pursuant to the Emergency Management Act and the officers thereof shall execute and enforce such orders, rules, and regulations as may be made by the Governor under the act. Each such organization shall have available for inspection at its office all orders, rules, and regulations made by the Governor or under his or her authority.

Source: Laws 1951, c. 315, § 15, p. 1083; R.R.S.1943, § 81-829.30; Laws 1973, LB 494, § 29; Laws 1996, LB 43, § 43.

81-829.65 Emergency operations; moving of equipment outside limits of local government; law enforcement personnel; powers; insurance.

The governing body of each local government of this state shall take the necessary action to permit the movement of its emergency equipment and personnel, utility equipment and personnel, or such equipment and personnel as defined in the state, city, village, county, or interjurisdictional emergency operations plans outside the limits of such local government in order to render aid in the event of disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such disaster, emergency, or civil defense emergency when such program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program. If such personnel includes law enforcement personnel rendering aid in their law enforcement capacity, the law enforcement personnel shall have the power and authority to enforce the laws of this state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within the territorial limits of their primary jurisdiction. Such movement may be to any point in this state or may be into any adjoining state when mutual aid arrangements have been entered into on behalf of this state with such other state as authorized by section 81-829.56. Each local government shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement made pursuant to this section.

Source: Laws 1957, c. 380, § 1, p. 1323; R.R.S.1943, § 81-829.32; Laws 1973, LB 494, § 30; Laws 1988, LB 961, § 1; Laws 1996, LB 43, § 44; Laws 1997, LB 546, § 1.

81-829.66 Emergency operations; immunity from liability for licensors of shelter space.

Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock or practice attack or disaster shall, together with his successors in interest, if any, not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises, or loss of, or

damage to, the property of such person, at any time such real estate or premises are actually used for such purpose.

Source: Laws 1963, c. 499, § 1, p. 1591; R.R.S.1943, § 81-829.35; Laws 1973, LB 494, § 31.

81-829.67 Storm spotter or emergency management worker; training, identification, and credentialing.

(1) The Nebraska Emergency Management Agency shall develop training, identification, and credentialing standards for a storm spotter or emergency management worker.

(2) For purposes of this section, storm spotter means an individual who performs weather spotting services as an employee or a volunteer of a local emergency management organization and who has been credentialed by the Nebraska Emergency Management Agency under this section.

Source: Laws 2011, LB573, § 3.

81-829.68 Repealed. Laws 1976, LB 847, § 2.

81-829.69 State of emergency; proclaimed by Governor; powers.

Whenever the Governor has proclaimed a state of emergency pursuant to section 81-829.40, the Governor shall be authorized:

(1) To enter into purchase, lease, or other arrangements with any agency of the United States for temporary housing units to be occupied by disaster, emergency, or civil defense emergency victims and to make such units available to any local government of the state;

(2) To assist any local government of the state which is the location of temporary housing for victims to acquire sites necessary for such temporary housing and to do all things required to prepare such sites to receive and utilize temporary housing units; and

(3) Under such regulations as he or she shall prescribe, to temporarily suspend or modify for not to exceed sixty days any public health, safety, zoning, transportation, or other requirement of law or regulation within this state when by proclamation he or she deems such suspension or modification essential to provide temporary housing for victims.

Source: Laws 1975, LB 612, § 4; Laws 1996, LB 43, § 45.

81-829.70 Temporary housing units; powers of local governments.

Any local government of this state is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster, emergency, or civil defense emergency victims and to enter into whatever arrangements are necessary to prepare or equip such sites to utilize the housing units.

Source: Laws 1975, LB 612, § 5; Laws 1996, LB 43, § 46.

81-829.71 Major disaster; powers of Governor; apply for federal community disaster loans; cancellation of repayment; when.

Whenever a major disaster has been declared to exist in this state, the Governor shall be authorized:

(1) Upon his determination that a local government of the state will suffer a substantial loss of tax and other revenue from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the federal government, on behalf of the local government, for a loan, and to receive and disburse the proceeds of any approved loan to any applicant local government subject to the terms of the loan. The Governor shall determine the amount needed by any applicant local government to restore or resume its governmental functions, and certify such amount to the federal government; and

(2) To recommend to the federal government, based upon his review, the cancellation of all or any part of repayment when, in the first three full fiscal years following the major disaster, the revenue of the local government is insufficient to meet its operating expenses, including additional disaster-related expenses of municipal operation.

Source: Laws 1975, LB 612, § 6.

81-829.72 State of emergency; powers of Governor; Adjutant General; duty.

(1) Whenever a state of emergency has been declared to exist in this state, the Governor is authorized, upon his or her determination that financial assistance is essential to meet related necessary expenses or serious needs of individuals or families adversely affected by a disaster, emergency, or civil defense emergency that may not be otherwise met from other means of assistance, to (a) accept a grant by the federal government to provide such financial assistance, subject to such terms and conditions as may be imposed upon the grant, and (b) provide assistance from funds appropriated to the Governor's Emergency Program to such individual assistance programs as may be required by terms and conditions of the federal program.

(2) The Adjutant General shall establish such individual assistance programs as shall be necessary to carry out the purposes of subsection (1) of this section.

Source: Laws 1975, LB 612, § 7; Laws 1996, LB 43, § 47; Laws 2003, LB 403, § 11.

81-829.73 Misstatement concerning financial assistance; penalty.

Any person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under the Emergency Management Act shall, upon conviction of each offense, be guilty of a Class I misdemeanor.

Source: Laws 1975, LB 612, § 8; Laws 1996, LB 43, § 48; Laws 1996, LB 1044, § 860.

81-829.74 Repealed. Laws 1996, LB 43, § 54.

81-829.75 References to prior act and agency; how construed.

On and after July 19, 1996, all references in statutes, rules, regulations, ordinances, resolutions, and other documents to the Nebraska Disaster and Civil Defense Act of 1973 shall be construed to mean the Emergency Management Act and all references in statutes, rules, regulations, ordinances, resolutions, and other documents to the civil defense agency in the Adjutant General's

office shall be construed to mean the Nebraska Emergency Management Agency.

Source: Laws 1996, LB 43, § 49.

(d) HOMELAND SECURITY

81-830 Office of Homeland Security; created; Director of State Homeland Security; Homeland Security Policy Group; created; members; duties.

(1) The Office of Homeland Security is created. The Governor shall appoint the Director of State Homeland Security who shall serve at the pleasure of the Governor.

(2) The purpose of the office is to ensure preparedness by the State of Nebraska in response to or in mitigation of terrorist acts or threats from foreign adversaries. The office shall coordinate efforts regarding domestic security issues with the United States Department of Homeland Security. The Director of State Homeland Security shall serve as the contact between the state and the United States Department of Homeland Security.

(3)(a) The Homeland Security Policy Group is created. The Director of State Homeland Security shall serve as chairperson of the policy group. The policy group is charged with assessing state homeland security risks, threats, and hazards and recommending strategic alternatives and broad courses of action for the development of comprehensive strategies to eliminate or mitigate such risks, threats, and hazards.

(b) The Governor shall appoint other members of the policy group who shall serve at the will of the Governor.

(c) The Executive Board of the Legislative Council shall select one member of the Government, Military and Veterans Affairs Committee and one member of the Appropriations Committee of the Legislature to serve as ex officio nonvoting members of the policy group.

(d) The policy group shall report electronically by March 1 of each year to the executive board identifying federal funds sent to the state in support of its preparedness activities and indicating the use of federal funds received by the state for homeland security, including specific amounts allocated to any unit of state or local government and the use to which the unit shall apply the funds.

(e) The policy group shall not be subject to the Open Meetings Act or to sections 84-712 to 84-712.09.

Source: Laws 2006, LB 940, § 5; Laws 2012, LB782, § 173; Laws 2024, LB1300, § 49.

Operative date April 17, 2024.

Cross References

Open Meetings Act, see section 84-1407.

81-831 Pacific Conflict Stress Test Act, how cited.

Sections 81-831 to 81-836 shall be known and may be cited as the Pacific Conflict Stress Test Act.

Source: Laws 2024, LB1300, § 1.

Operative date April 17, 2024.

81-832 Act, purpose.

The purpose of the Pacific Conflict Stress Test Act is to prepare and secure the State of Nebraska in order to minimize the disruptive impact of a potential conflict precipitated by foreign adversaries against allies, democratic countries, and the United States Armed Forces in the Pacific theater.

Source: Laws 2024, LB1300, § 2.
Operative date April 17, 2024.

81-833 Terms, defined.

For purposes of the Pacific Conflict Stress Test Act:

(1) Critical infrastructure means systems and assets, whether physical or virtual, so vital to this state or the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on state or national security, state or national economic security, state or national public health, or any combination of such matters. Critical infrastructure may be publicly or privately owned and includes, but is not limited to:

- (a) Fossil fuel production, storage, or delivery systems;
- (b) Water supply, refinement, storage, or delivery systems;
- (c) Telecommunications networks;
- (d) Electrical power delivery systems, including power generation, transmission, and distribution systems;
- (e) Emergency services; and
- (f) Transportation systems and services;

(2) Critical procurement means those acquisitions made by the state or any agency of the state that are critical to the proper functioning of critical infrastructure or to the health, safety, or security of the State of Nebraska or the United States;

(3) Divestment means the sale, forfeiture, or otherwise contractual end of any current or planned ownership or control of assets;

(4) Investment means any transfer of funds into any active or passive, direct or indirect, structure which seeks to generate revenue or accomplish any other gain, including nonmonetary gains;

(5)(a) Pacific conflict means a declared war or armed conflict between the United States or any of its allies and another nation that occurs in the land, sea, or air area of the Pacific Ocean and threatens or could reasonably escalate to threaten the supply chains, critical infrastructure, safety, or security of the State of Nebraska or the United States.

(b) Pacific conflict includes a serious deterioration of diplomatic ties or economic engagement between the United States or its allies and another nation that threatens the status quo of Pacific trade, travel, and military operations or exercises;

(6)(a) State-managed fund means any short-term or long-term investment structure that is state-managed, state-run, state-controlled, or otherwise overseen by the State of Nebraska, a state agency, a political subdivision of this state, or any agency controlled by such a political subdivision. This subdivision shall apply only to any fund that is subject to the purview or direction of the state or applicable political subdivision and is populated, wholly or in part, with

state funds, including, but not limited to, any such fund managed by a third-party entity, such as a fiduciary.

(b) State-managed fund includes, but is not limited to, public pension funds, public retirement funds, or other state-sponsored funds, that are sponsored, maintained, or contributed to or required to be contributed to by this state or any subsidiary of the state;

(7) State supply chain means the end-to-end process for shipping goods, purchased by the state, to the State of Nebraska, beginning at the point of origin through a point or points of distribution to the destination; and

(8) State vendor supply chain means the end-to-end process for shipping goods, purchased by the state from state vendors, to the vendors, beginning at the point of origin through a point or points of distribution to the destination.

Source: Laws 2024, LB1300, § 3.

Operative date April 17, 2024.

81-834 Critical procurements; review; report; confidential; unauthorized public disclosure, penalty.

(1) The Department of Administrative Services shall conduct a review of critical procurements purchased or supplied through a state supply chain or state vendor supply chain and produce a report, which shall be electronically submitted using a secure method to the Governor by November 1, 2024.

(2) The report shall:

(a) Summarize the critical procurements produced in or by a foreign adversary, a state-owned enterprise of a foreign adversary, a company domiciled within a foreign adversary, or a company owned by a company domiciled within a foreign adversary;

(b) Summarize the critical procurements manufactured in countries or by companies at risk of disruption in the event of a Pacific conflict;

(c) Summarize the critical procurements sourced from any country or company which utilizes Pacific supply chain processes at risk of disruption in the event of a Pacific conflict;

(d) Assess the difficulty in identifying potential alternative sourcing, if relevant; and

(e) Assess the level of risk to the State of Nebraska associated with such a disruption in sourcing for each procurement that is threatened in the event of a Pacific conflict.

(3) The Department of Administrative Services may contract with a private consultant to assist with the review and report required under this section, and such contract need not be competitively bid.

(4) Information contained in the report required under this section is confidential. Unauthorized public disclosure of such confidential information is a Class III misdemeanor.

Source: Laws 2024, LB1300, § 4.

Operative date April 17, 2024.

81-835 State-managed funds; audit; report; confidential; unauthorized public disclosure, penalty.

(1) The Nebraska Investment Council shall conduct an audit of all state-managed funds and produce a report, which shall be electronically submitted using a secure method to the Committee on Pacific Conflict created under section 81-836 and the Governor within one hundred eighty days after April 17, 2024.

(2) The report shall:

(a) Summarize the investments at risk of substantially losing value or being frozen, seized, or appropriated by foreign adversaries in the event of a Pacific conflict;

(b) Summarize the investments in any arms industry of a foreign adversary;

(c) Summarize the investments in state-owned enterprises of a foreign adversary;

(d) Summarize the investments in companies domiciled within a foreign adversary or owned by a company domiciled within a foreign adversary; and

(e) Recommend strategies for the immediate and complete divestment of the assets described in subdivisions (a) through (d) of this subsection.

(3) Information contained in the report required under this section is confidential. Unauthorized public disclosure of such confidential information is a Class III misdemeanor.

Source: Laws 2024, LB1300, § 5.

Operative date April 17, 2024.

81-836 Policy of the state; Committee on Pacific Conflict; created; members; meetings; powers; Governor; annual state threat assessment.

(1) It shall be the policy of the State of Nebraska to:

(a) Support the civilian and military command of the United States and its efforts to promote and maintain prosperity, peace, and security for America and its allies;

(b) Enhance the defensive posture of this state so as to protect state citizens and assets and to contribute to the broader defensive posture of the United States by reducing security vulnerabilities within this state; and

(c) Exercise foresight and make reasonable preparations for a potential regional or global conflict centered on the Pacific theater which could involve attacks upon the United States and its allies in the Pacific theater, which could involve asymmetrical attacks on the American homeland, and which could cause the disruption or complete severing of supply chains between this state and its vendors and the People's Republic of China, the Republic of China, or other countries in the Pacific theater.

(2) The Committee on Pacific Conflict is hereby created. The committee shall consist of the following seven voting members:

(a) The Director of State Homeland Security, appointed pursuant to section 81-830, who shall serve as chairperson of the committee;

(b) The Director of Administrative Services;

(c) The state investment officer;

(d) The Adjutant General; and

(e) Three individuals with applicable knowledge of the threats posed to this state in the event of a Pacific conflict, including at least one individual who

represents an entity that is responsible for the operation and maintenance of critical infrastructure in this state. Such individuals shall be appointed by the Governor.

(3) The committee shall also include four members of the Legislature, to be appointed by the Executive Board of the Legislative Council. The legislative members shall be nonvoting members of the committee.

(4) Appointments to the committee shall be made within sixty days after April 17, 2024.

(5) The committee shall be authorized for an initial period of three years.

(6) The first meeting of the committee shall be held within ninety days after April 17, 2024.

(7) The committee shall meet no less than once every three months. Additional meetings may be called at the will of the majority of the voting members of the committee, and emergency meetings may be called at the will of the chairperson of the committee or the Governor. In the interest of state and national security, meetings of the committee shall not be subject to the Open Meetings Act and the records and documents of the committee shall not be considered public records for purposes of sections 84-712 to 84-712.09.

(8) At the discretion of the committee, an advisory board may be established and subject matter experts may be consulted to provide expertise or collaborative research support.

(9) The committee is authorized to liaise with relevant federal government authorities, authorities from other state governments, and experts from research institutions for the purpose of obtaining information that is useful for the committee's work.

(10) The committee is authorized to produce policy recommendations for the State of Nebraska.

(11) The committee is authorized to conduct secure hearings or briefings with critical infrastructure providers for the purpose of understanding the threats, risks, and vulnerabilities posed to critical infrastructure in the event of a Pacific conflict, including potential mitigation or emergency response strategies.

(12) The Governor shall annually produce and publish a state threat assessment no later than the day prior to the annual address made to the Legislature by the Governor. The annual state threat assessment shall provide an overview of the substantial threats to state or national security, state or national economic security, state or national public health, or any combination of such matters, occurring within and threatening the State of Nebraska to the extent such information can be provided and stored in a manner that meets national security standards. The state threat assessment shall include summary nonconfidential findings of the Committee on the Pacific Conflict. Such summary nonconfidential findings shall include no information that would create any risk to state critical infrastructure or other sensitive state assets.

(13) The committee may, at the discretion of the committee and upon an affirmative vote of five of the committee's seven voting members, produce a confidential report that shall be kept in a secure location to be determined by the Governor and which shall only be accessed with the approval of the Governor. Such report shall contain information, instructions, and other find-

ings that the committee deems useful to preserve for the elected leaders of the State of Nebraska.

Source: Laws 2024, LB1300, § 6.
Operative date April 17, 2024.

Cross References

Open Meetings Act, see section 84-1407.

81-837 Repealed. Laws 1957, c. 381, § 4.

81-838 Repealed. Laws 1957, c. 381, § 4.

(e) BOARD OF EXAMINERS FOR PROFESSIONAL
ENGINEERS AND ARCHITECTS

81-839 Repealed. Laws 1997, LB 622, § 137.

81-840 Repealed. Laws 1997, LB 622, § 137.

81-841 Repealed. Laws 1997, LB 622, § 137.

81-842 Repealed. Laws 1997, LB 622, § 137.

81-843 Repealed. Laws 1997, LB 622, § 137.

81-844 Repealed. Laws 1997, LB 622, § 137.

81-845 Repealed. Laws 1997, LB 622, § 137.

81-846 Repealed. Laws 1997, LB 622, § 137.

81-846.01 Repealed. Laws 1997, LB 622, § 137.

81-847 Repealed. Laws 1997, LB 622, § 137.

81-848 Repealed. Laws 1997, LB 622, § 137.

81-849 Repealed. Laws 1997, LB 622, § 137.

81-850 Repealed. Laws 1997, LB 622, § 137.

81-851 Repealed. Laws 1997, LB 622, § 137.

81-852 Repealed. Laws 1997, LB 622, § 137.

81-853 Repealed. Laws 1997, LB 622, § 137.

81-854 Repealed. Laws 1997, LB 622, § 137.

81-855 Repealed. Laws 1997, LB 622, § 137.

81-856 Repealed. Laws 1997, LB 622, § 137.

(f) SUNDRY CLAIMS BOARD

81-857 Transferred to section 81-8,220.

81-858 Transferred to section 81-8,236.

81-859 Transferred to section 81-8,237.

81-860 Transferred to section 81-8,238.

81-861 Transferred to section 81-8,239.

(g) REAL ESTATE COMMISSION

81-862 Repealed. Laws 1973, LB 68, § 49.

81-863 Repealed. Laws 1973, LB 68, § 49.

81-864 Repealed. Laws 1973, LB 68, § 49.

81-865 Repealed. Laws 1973, LB 68, § 49.

81-866 Repealed. Laws 1973, LB 68, § 49.

81-867 Repealed. Laws 1973, LB 68, § 49.

81-868 Repealed. Laws 1973, LB 68, § 49.

81-869 Repealed. Laws 1973, LB 68, § 49.

81-870 Repealed. Laws 1973, LB 68, § 49.

81-871 Repealed. Laws 1973, LB 68, § 49.

81-872 Repealed. Laws 1973, LB 68, § 49.

81-873 Repealed. Laws 1973, LB 68, § 49.

81-874 Repealed. Laws 1973, LB 68, § 49.

81-875 Repealed. Laws 1973, LB 68, § 49.

81-875.01 Repealed. Laws 1973, LB 68, § 49.

81-875.02 Repealed. Laws 1973, LB 68, § 49.

81-875.03 Repealed. Laws 1973, LB 68, § 49.

81-876 Repealed. Laws 1973, LB 68, § 49.

81-877 Repealed. Laws 1973, LB 68, § 49.

81-877.01 Repealed. Laws 1973, LB 68, § 49.

81-878 Repealed. Laws 1973, LB 68, § 49.

81-879 Repealed. Laws 1973, LB 68, § 49.

81-880 Repealed. Laws 1973, LB 68, § 49.

81-881 Repealed. Laws 1973, LB 68, § 49.

81-882 Repealed. Laws 1973, LB 68, § 49.

81-883 Repealed. Laws 1973, LB 68, § 49.

81-884 Repealed. Laws 1973, LB 68, § 49.

81-884.01 Repealed. Laws 1973, LB 68, § 49.

81-884.02 Repealed. Laws 1973, LB 68, § 49.

81-884.03 Repealed. Laws 1959, c. 439, § 7.

81-885 Act, how cited.

Sections 81-885 to 81-885.56 shall be known and may be cited as the Nebraska Real Estate License Act.

Source: Laws 2009, LB30, § 1; Laws 2010, LB931, § 26; Laws 2016, LB678, § 1.

81-885.01 Terms, defined.

For purposes of the Nebraska Real Estate License Act, unless the context otherwise requires:

(1) Associate broker means a person who has a broker's license and who is employed by another broker to participate in any activity described in subdivision (2) of this section;

(2) Broker means any person who, for any form of compensation or consideration or with the intent or expectation of receiving the same from another, negotiates or attempts to negotiate the listing, sale, purchase, exchange, rent, lease, or option for any real estate or improvements thereon, or assists in procuring prospects or holds himself or herself out as a referral agent for the purpose of securing prospects for the listing, sale, purchase, exchange, renting, leasing, or optioning of any real estate or collects rents or attempts to collect rents, gives a broker's price opinion or comparative market analysis, or holds himself or herself out as engaged in any of the foregoing. Broker also includes any person: (a) Employed, by or on behalf of the owner or owners of lots or other parcels of real estate, for any form of compensation or consideration to sell such real estate or any part thereof in lots or parcels or make other disposition thereof; (b) who auctions, offers, attempts, or agrees to auction real estate; or (c) who buys or offers to buy or sell or otherwise deals in options to buy real estate;

(3) Broker's price opinion means an analysis, opinion, or conclusion prepared by a person licensed under the Nebraska Real Estate License Act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property for the purpose of (a) listing, purchase, or sale, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;

(4) Commission means the State Real Estate Commission;

(5) Comparative market analysis means an analysis, opinion, or conclusion prepared by a person licensed under the act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property by comparison to other real property currently or recently in the marketplace for the purpose of (a) listing, purchase, or sale, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;

(6) Designated broker means an individual holding a broker's license who has full authority to conduct the real estate activities of a real estate business. In a sole proprietorship, the owner, or broker identified by the owner, shall be the designated broker. In the event the owner identifies the designated broker, the

owner shall file a statement with the commission subordinating to the designated broker full authority to conduct the real estate activities of the sole proprietorship. In a partnership, limited liability company, or corporation, the partners, limited liability company members, or board of directors shall identify the designated broker for its real estate business by filing a statement with the commission subordinating to the designated broker full authority to conduct the real estate activities of the partnership, limited liability company, or corporation. The designated broker shall also be responsible for supervising the real estate activities of any associate brokers or salespersons;

(7) Distance education means courses in which instruction does not take place in a traditional classroom setting, but rather through other media by which instructor and student are separated by distance and sometimes by time;

(8) Federal financial institution regulatory agency means (a) the Board of Governors of the Federal Reserve System, (b) the Federal Deposit Insurance Corporation, (c) the Office of the Comptroller of the Currency, (d) the Consumer Financial Protection Bureau, (e) the National Credit Union Administration, or (f) the successors of any of those agencies;

(9) Federally related transaction means a real-estate-related transaction that (a) requires the services of an appraiser and (b) is engaged in, contracted for, or regulated by a federal financial institution regulatory agency;

(10) Inactive broker means an associate broker whose license has been returned to the commission by the licensee's broker, a broker who has requested the commission to place the license on inactive status, a new licensee who has failed to designate an employing broker or have the license issued as an individual broker, or a broker whose license has been placed on inactive status under statute, rule, or regulation;

(11) Inactive salesperson means a salesperson whose license has been returned to the commission by the licensee's broker, a salesperson who has requested the commission to place the license on inactive status, a new licensee who has failed to designate an employing broker, or a salesperson whose license has been placed on inactive status under statute, rule, or regulation;

(12) Person means and includes individuals, corporations, partnerships, and limited liability companies, except that when referring to a person licensed under the act, it means an individual;

(13) Purchaser means a person who acquires or attempts to acquire or succeeds to an interest in land;

(14) Real estate means and includes condominiums and leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold, and whether the real estate is situated in this state or elsewhere;

(15) Regulatory jurisdiction means a state, district, or territory of the United States, a province of Canada or a foreign country, or a political subdivision of a foreign country, which has implemented and administers laws regulating the activities of a broker;

(16)(a) Right-to-list home sale agreement means an agreement:

(i) By the owner of residential real estate to provide another person with the exclusive right to list such residential real estate for sale at a future date in exchange for monetary consideration or an equivalent to monetary consideration; and

(ii)(A) That states that the agreement runs with the land or otherwise purports to bind future owners of such residential real estate; or

(B) That purports to be a lien, encumbrance, or other real property security interest; and

(b) Right-to-list home sale agreement does not include any lien, encumbrance, or other real property security interest expressly authorized under the laws of this state, including any:

(i) Home warranty or similar product that covers the cost of maintenance of a major home system or appliance for a fixed period;

(ii) Insurance contract;

(iii) Option or right of refusal to purchase the residential real estate;

(iv) Contract for deed or purchase;

(v) Declaration created in the formation of a common-interest community or an amendment to such declaration;

(vi) Maintenance or repair agreement entered by a homeowners' association in a common-interest community;

(vii) Mortgage or trust deed loan or a commitment to make or receive a mortgage or trust deed loan;

(viii) Security agreement under the Uniform Commercial Code relating to the sale or rental of any personal property or fixture;

(ix) Water, sewer, electrical, telephone, cable, or other regulated utility service provider; or

(x) Right granted by the Nebraska Construction Lien Act;

(17) Salesperson means any person, other than an associate broker, who is employed by a broker to participate in any activity described in subdivision (2) of this section;

(18) Subdivider means any person who causes land to be subdivided into a subdivision for himself, herself, or others or who undertakes to develop a subdivision but does not include a public agency or officer authorized by law to create subdivisions;

(19) Subdivision or subdivided land means any real estate offered for sale and which has been registered under the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq., as such act existed on January 1, 1973, or real estate located out of this state which is divided or proposed to be divided into twenty-five or more lots, parcels, or units;

(20) Team means two or more persons licensed by the commission who (a) work under the supervision of the same broker, (b) work together on real estate transactions to provide real estate brokerage services, (c) represent themselves to the public as being part of a team, and (d) are designated by a team name; and

(21) Team leader means any person licensed by the commission and appointed or recognized by his or her broker as the leader for his or her team.

Source: Laws 1973, LB 68, § 1; Laws 1979, LB 68, § 1; Laws 1983, LB 182, § 1; Laws 1990, LB 350, § 1; Laws 1991, LB 118, § 2; Laws 1993, LB 121, § 529; Laws 1999, LB 618, § 6; Laws 2002, LB 863, § 10; Laws 2007, LB26, § 1; Laws 2010, LB931, § 27; Laws

2015, LB375, § 1; Laws 2016, LB678, § 2; Laws 2019, LB258, § 17; Laws 2024, LB1073, § 30.
Operative date April 16, 2024.

Cross References

Nebraska Construction Lien Act, see section 52-125.

A person who solicits the sale of another's property in exchange for an option to purchase the property from the owners to resell to the buyers for a higher price is acting as a broker under this section. *Choice Homes v. Donner*, 311 Neb. 835, 976 N.W.2d 187 (2022).

Unless otherwise specified in a written agency agreement pursuant to section 76-2422(6), the fiduciary duties owed by a real estate broker derive only from the performance of limited activities defined in subdivision (2) of this section. *Professional Mgmt. Midwest v. Lund Co.*, 284 Neb. 777, 826 N.W.2d 225 (2012).

When a client engages a real estate broker to perform any of the activities defined in subdivision (2) of this section, the resulting agency relationship is called a brokerage relationship.

Professional Mgmt. Midwest v. Lund Co., 284 Neb. 777, 826 N.W.2d 225 (2012).

One of the enumerated activities covered by section 76-2422(6) is the exchange of property, based on the plain language of subdivision (2) of this section. *McCully, Inc. v. Baccaro Ranch*, 279 Neb. 443, 778 N.W.2d 115 (2010).

Pursuant to the Nebraska Real Estate License Act, any person collecting a fee or commission on the sale of real estate must be a licensed real estate broker or salesperson unless they meet one of the exceptions provided in the act. In *re Estate of Ronan*, 277 Neb. 516, 763 N.W.2d 704 (2009).

"Business brokers" are real estate brokers, as defined by this section, if the attempted sale or lease involves the transfer of any interest in real estate. *Ford v. American Medical International*, 228 Neb. 226, 422 N.W.2d 67 (1988).

81-885.02 Broker, associate broker, real estate salesperson; license required; exemption; activities included.

After September 2, 1973, it shall be unlawful for any person, directly or indirectly, to engage in or conduct, or to advertise or hold himself or herself out as engaging in or conducting the business, or acting in the capacity, of a real estate broker, associate broker, or real estate salesperson within this state without first obtaining a license as such broker, associate broker, or salesperson, as provided in the Nebraska Real Estate License Act, unless he or she is exempted from obtaining a license under section 81-885.04.

For purposes of this section, acting as a real estate broker, associate broker, or real estate salesperson includes publicly marketing for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser.

Source: Laws 1973, LB 68, § 2; Laws 1983, LB 182, § 2; Laws 2009, LB30, § 2; Laws 2022, LB892, § 1.

A person cannot solicit the sale of another's property in exchange for an option to purchase the property from the owners to resell to the buyers for a higher price without being licensed as a broker or salesperson under the Nebraska Real Estate License Act or meeting one of the exceptions listed in section 81-885.04. *Choice Homes v. Donner*, 311 Neb. 835, 976 N.W.2d 187 (2022).

A promissory note given by a vendor to a real estate broker in payment for a commission is enforceable even if, at the time of the sale, the broker was not properly licensed. *Peterson and Vogt v. Livingston*, 206 Neb. 753, 295 N.W.2d 106 (1980).

81-885.03 Broker, associate broker, salesperson, defined; license required; cease and desist order; violation; fine; procedure.

(1) Any person who, directly or indirectly for another, with the intention or upon the promise of receiving any form of compensation or consideration, offers, attempts, or agrees to perform or performs any single act described in subdivision (2) of section 81-885.01, whether as a part of a transaction, or as an entire transaction, shall be deemed a broker, associate broker, or salesperson within the meaning of the Nebraska Real Estate License Act, and such action shall constitute sufficient contact with the state for the exercise of personal jurisdiction over such person in any action arising out of such action. Committing a single act described in such subdivision by a person required to be licensed under the Nebraska Real Estate License Act and not so licensed shall

constitute a violation of the act for which the commission may impose sanctions pursuant to this section for the protection of the public health, safety, or welfare.

(2) Notwithstanding any other provision of the law to the contrary, the director may issue a cease and desist order against any person who violates this section by performing any action described in subsection (1) of this section without the appropriate license. Such order shall be final ten days after issuance unless the violator requests a hearing pursuant to section 81-885.25.

(3) If such person violates a cease and desist order issued pursuant to this section, he or she shall be subject to further proceedings before the commission. If, during such proceedings, the commission makes a finding of guilt, the commission may impose a fine not to exceed (a) one thousand dollars for each day that any action is performed without the appropriate license following the issuance of the order or (b) the amount of all money earned as commission by the violator, whichever is greater. Judgments for the collection of any fine imposed under this section may be filed in the district court of any county in this state.

(4) Notice and hearing requirements under this section shall be in accordance with the Administrative Procedure Act.

Source: Laws 1973, LB 68, § 3; Laws 1983, LB 182, § 3; Laws 2002, LB 863, § 11; Laws 2010, LB691, § 1.

Cross References

Administrative Procedure Act, see section 84-920.

A person who solicits the sale of another's property in exchange for an option to purchase the property from the owners to resell to the buyers for a higher price is acting as a broker under this section. *Choice Homes v. Donner*, 311 Neb. 835, 976 N.W.2d 187 (2022).

81-885.04 Act; exceptions; restrictions on unlicensed persons.

Except as to the requirements with respect to the subdivision of land, the Nebraska Real Estate License Act shall not apply to:

(1) Any person, partnership, limited liability company, or corporation who as owner or lessor shall perform any of the acts described in subdivision (2) of section 81-885.01 with reference to property owned or leased by him, her, or it or to the regular employees thereof, with respect to the property so owned or leased, when such acts are performed in the regular course of or as an incident to the management, sale, or other disposition of such property and the investment therein, except that such regular employees shall not perform any of the acts described in such subdivision in connection with a vocation of selling or leasing any real estate or the improvements thereon. An equitable interest in real property shall not be considered an ownership interest for purposes of this subdivision;

(2) An attorney in fact under a duly executed power of attorney to convey real estate from the owner or lessor or the services rendered by any attorney at law in the performance of his or her duty as such attorney at law;

(3) Any person acting as receiver, trustee in bankruptcy, personal representative, conservator, or guardian or while acting under a court order or under the authority of a will or of a trust instrument or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;

(4) Any person acting as the resident manager of an apartment building, duplex, apartment complex, or court, when such resident manager resides on the premises and is engaged in the leasing of property in connection with his or her employment, or any employee, parent, child, brother, or sister of the owner or any employee of a licensed broker who manages rental property for the owner of such property;

(5) Any officer or employee of a federal agency in the conduct of his or her official duties;

(6) Any officer or employee of the state government or any political subdivision thereof performing his or her official duties for real estate tax purposes or performing his or her official duties related to the acquisition of any interest in real property when the interest is being acquired for a public purpose;

(7) Any person or any employee thereof who renders an estimate or opinion of value of real estate or any interest therein when such estimate or opinion of value is for the purpose of real estate taxation;

(8) Any person who, for himself or herself or for others, purchases or sells oil, gas, or mineral leases or performs any activities related to the purchase or sale of such leases; or

(9) Any person not required to be licensed under the act who provides a list or lists of potential purchasers to a broker or salesperson or who makes calls or facilitates the initial contact between a potential client or customer as defined in sections 76-2407 and 76-2409, respectively, and a broker or salesperson. The unlicensed person may only provide information regarding the broker or salesperson and the broker's or salesperson's services in written information created by the broker or salesperson that identifies the broker or salesperson and the broker's or salesperson's place of business and which is sent by email, United States mail, or by link to a website created by the broker or salesperson. The unlicensed person is not permitted to discuss with such potential client or customer the services offered or to be offered by the broker or salesperson. The unlicensed person acting under this exemption may not discuss with such potential client or customer the client's or customer's motivation, motivating factors, or price such potential client or customer is willing to offer or accept. The unlicensed person does not have the authority and shall not purport to have the authority to obligate any such potential client or customer to work with a particular broker or salesperson or particular broker's or salesperson's place of business. The unlicensed person shall, at the beginning of any contact with such potential client or customer, identify who the unlicensed person is, the name of the entity that employs the unlicensed person, the name of the broker or salesperson, and the name of the broker's or salesperson's real estate business on whose behalf the contact is being made. The unlicensed person shall not perform any other activity of a broker or salesperson described in section 81-885.01, except those acts specifically provided for in this subdivision.

Source: Laws 1973, LB 68, § 4; Laws 1981, LB 185, § 1; Laws 1983, LB 66, § 1; Laws 1983, LB 182, § 4; Laws 1990, LB 350, § 2; Laws 1993, LB 121, § 530; Laws 2020, LB808, § 94; Laws 2022, LB892, § 2.

This section allows a person to perform services as a broker for property that he or she owns without being licensed under the Nebraska Real Estate License Act, but the services must be performed during the period that he or she owns the property.

Choice Homes v. Donner, 311 Neb. 835, 976 N.W.2d 187 (2022).

The exception provided by subsection (2) of this section is limited to those instances where an attorney is acting within the

scope of his duties as an attorney. In re Estate of Ronan, 277 Neb. 516, 763 N.W.2d 704 (2009).

81-885.05 Railroads; public utilities; applicability of act.

The Nebraska Real Estate License Act shall not apply to railroads and other public utilities regulated by the State of Nebraska, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subdivision (2) of section 81-885.01 is in connection with the sale, purchase, lease, or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof.

Source: Laws 1973, LB 68, § 5; Laws 1983, LB 182, § 5; Laws 2009, LB30, § 3.

81-885.06 Action for recovery of compensation; prohibited, except to licensed brokers, associate brokers, or salespersons.

No action or suit shall be instituted, nor recovery be had, in any court of this state by any person for compensation for any act done or service rendered, the doing or rendering of which is prohibited under the Nebraska Real Estate License Act to other than licensed brokers, licensed associate brokers, or licensed salespersons. A licensed broker may bring an action in the name of a partnership, limited liability company, or corporation if the broker operates under any of such business organizations.

Source: Laws 1973, LB 68, § 6; Laws 1978, LB 361, § 2; Laws 1983, LB 182, § 6; Laws 1993, LB 121, § 531.

Under the current statute, a licensed broker may bring an action under this section even if the partnership or corporation under which he operates is not licensed. Under the previous statute, section 81-885.16, R.R.S.1943, Reissue of 1976, such an action would be barred. Peterson and Vogt v. Livingston, 206 Neb. 753, 295 N.W.2d 106 (1980).

81-885.07 State Real Estate Commission; created; members; appointment; qualifications; compensation; expenses; director; rules and regulations; conduct real estate institutes and seminars; fees.

(1)(a) There is hereby created the State Real Estate Commission which shall consist of the Secretary of State, who shall be chairperson of the commission, and six members appointed by the Governor.

(b) Three of the members of the commission appointed by the Governor shall be active and licensed real estate brokers who have engaged in the real estate business as brokers or associate brokers for not less than five years, which members shall be appointed by the Governor, one from each of the three congressional districts. If a boundary of a congressional district changes, a member affected by such change shall continue to serve the balance of the term of appointment for the district for which such member was appointed.

(c) The remaining members shall be appointed at large, one of whom shall be representative of the public, one of whom shall be a licensed real estate salesperson who has engaged in the real estate business as a salesperson for not less than three years, and one of whom shall be an active and licensed real estate broker who has engaged in the real estate business as a broker or associate broker for not less than five years.

(2) At the expiration of the term of any member of the commission, the Governor shall appoint a successor for a term of six years. Any appointed

member shall be limited to one six-year term, in addition to any partial term served. In the event of a vacancy on the commission, the Governor shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant. In the absence of the chairperson, the senior member of the commission in point of service present shall serve as presiding officer. Not less than four members of the commission must be present at any official meeting of the commission. The action of the majority of the members of the commission shall be deemed the action of the commission. No appointed person may act as a member of the commission while holding any other elective or appointive state or federal office.

(3) Each member of the commission shall receive as compensation for each day actually spent on official duties at scheduled meetings the sum of one hundred dollars and expenses incurred in the performance of official duties as provided in sections 81-1174 to 81-1177.

(4) The commission shall employ a director who shall keep a record of all the proceedings, transactions, communications, and official acts of the commission, be custodian of all the records of the commission, and perform such other duties as the commission may require. The director shall call a meeting of the commission at the discretion of the director or upon the direction of the chairperson or upon a written request of two or more members of the commission. The commission may employ such other employees as may be necessary to properly carry out the Nebraska Real Estate License Act, fix the salaries of such employees, and make such other expenditures as are necessary to properly carry out the act. The office of the commission shall be maintained in Lincoln and all files, records, and property of the commission shall remain in such office. Neither the director nor any employee of the commission may be an officer or paid employee of any real estate association or group of real estate dealers or brokers.

(5) The commission may adopt and promulgate rules and regulations relating to the administration of but not inconsistent with the act.

(6) The commission may conduct or assist in conducting real estate institutes and seminars and incur and pay the necessary expenses in connection therewith, which institutes or seminars shall be open to all licensees.

(7) The commission may charge reasonable fees for services it renders, not to exceed the actual costs thereof, except as otherwise provided in the act. The fees established by the commission pursuant to the act shall be established at the level necessary to meet expenditures of the commission as approved by the Legislature and to provide a sufficient cash fund balance.

Source: Laws 1973, LB 68, § 7; Laws 1978, LB 361, § 3; Laws 1983, LB 182, § 7; Laws 1990, LB 350, § 3; Laws 1991, LB 204, § 1; Laws 2006, LB 819, § 1; Laws 2020, LB381, § 106; Laws 2024, LB151, § 1.

Effective date July 19, 2024.

81-885.08 Seal; adopt; use.

The commission shall adopt a seal, which may be either an engraved or ink stamp seal, with the words State Real Estate Commission, State of Nebraska and such other device as the commission may desire included thereon, by which the acts of the commission shall be authenticated. Copies of all records and papers in the office of the commission, certified by the signature of the

director and the seal of the commission, shall be received in evidence in all cases equally and with like effect as the originals.

Source: Laws 1973, LB 68, § 8.

81-885.09 Attorney General; opinions on questions of law; act as attorney; fees and expenses; paid from State Real Estate Commission's Fund.

The Attorney General shall render to the State Real Estate Commission opinions on all questions of law relating to the interpretation of the Nebraska Real Estate License Act or arising in the administration thereof and shall act as attorney for the commission in all actions and proceedings brought by or against it under or pursuant to the act. All fees and expenses of the Attorney General arising out of such duties shall be paid out of the State Real Estate Commission's Fund.

Source: Laws 1973, LB 68, § 9; Laws 1983, LB 182, § 8; Laws 2009, LB30, § 4.

81-885.10 Commission; powers; licensing; sanctions; consent decrees; civil fine.

(1) The commission shall have the full power to regulate the issuance of licenses and the activities of licensees and may impose sanctions pursuant to this section for the protection of the public health, safety, or welfare. The commission may revoke or suspend licenses issued under the Nebraska Real Estate License Act, censure licensees, enter into consent decrees, and issue cease and desist orders to violators of section 81-885.03. The commission may, alone or in combination with such disciplinary actions, impose a civil fine on a licensee for each violation alleged in a complaint for which the commission has made a finding of guilt. The total civil fine for each complaint shall not exceed the greater of five thousand dollars or the total amount of commission earned by the licensee in each transaction that is subject to the complaint. The commission may also impose a civil fine on violators of section 81-885.03 subject to the limits in such section.

(2) The commission shall retain its powers under this section with respect to the actions of a licensee, whether or not he or she continues to be licensed under the act.

Source: Laws 1973, LB 68, § 10; Laws 1983, LB 182, § 9; Laws 2009, LB30, § 5; Laws 2010, LB691, § 2; Laws 2024, LB1073, § 31.
Operative date July 19, 2024.

81-885.11 Broker or salesperson; application for license; contents; expiration.

(1) Any person desiring to act as a real estate broker or real estate salesperson shall file an application for a license with the commission. The application shall be in such form and detail as the commission prescribes, setting forth the following:

(a) The name and address of the applicant and, when applicable, the name under which he or she intends to conduct business; if the applicant will be conducting business through a partnership, the name and residence address of each member thereof, the name of the partnership's designated broker, and the name under which the partnership business is to be conducted; if the applicant

will be conducting business through a limited liability company, the name and address of each of its members, the name of the company's designated broker, and the name under which the business will be conducted; if the applicant will be conducting business through a corporation, the name and address of each of its principal officers, the name of the corporation's designated broker, and the name under which the business will be conducted; and if the applicant is an individual, the applicant's social security number;

(b) The place or places, including the city or village with the street and street number, if any, where the business is to be conducted; and

(c) Such other information as the commission requires.

(2) An application for a broker's or salesperson's license shall expire one year after date of receipt in the commission office.

Source: Laws 1973, LB 68, § 11; Laws 1978, LB 361, § 4; Laws 1983, LB 182, § 10; Laws 1990, LB 350, § 4; Laws 1993, LB 121, § 532; Laws 1997, LB 752, § 219; Laws 2002, LB 863, § 12; Laws 2014, LB687, § 1.

81-885.12 License; when granted.

(1) Licenses shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of broker or salesperson in such manner as to safeguard the interest of the public and only after satisfactory proof of such qualifications has been presented to the commission. No license shall be granted to an applicant who will be conducting business through a corporation, partnership, or limited liability company unless any stockholder, partner, or member having a controlling interest therein, if any, bears a good reputation for honesty, trustworthiness, and integrity.

(2) When an applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction of this or any other state, district, or territory of the United States or of a foreign country, such untrustworthiness of the applicant and the conviction may in itself be sufficient ground for refusal of a license.

(3) The commission may in its discretion deny a license to any person who has engaged in the real estate business without a license.

(4) When an applicant has made a false statement of material fact on an application, such false statement may in itself be sufficient ground for refusal of a license.

(5) Grounds for suspension or revocation of a license, as provided for by the Nebraska Real Estate License Act, or the previous revocation of a real estate license shall also be grounds for refusal to grant a license.

Source: Laws 1973, LB 68, § 12; Laws 1978, LB 361, § 5; Laws 1983, LB 182, § 11; Laws 1990, LB 350, § 5; Laws 1993, LB 121, § 533; Laws 2002, LB 863, § 13.

A real estate broker's license may be suspended or revoked for misconduct occurring in a real estate transaction whether the broker is acting for himself or for others. *Wright v. State ex rel. State Real Estate Comm.*, 208 Neb. 467, 304 N.W.2d 39 (1981).

81-885.13 License; conditions for issuance; enumerated; examination; fingerprinting; criminal history record information check; courses of study; duty of licensee.

(1)(a) No broker's or salesperson's license shall be issued to any person who has not attained the age of nineteen years.

(b) No broker's or salesperson's license shall be issued to any person who is not a graduate of a public or private high school or the holder of a certificate of high school equivalency. This subdivision does not apply to: (i) A person who is a graduate of a school exempt from the State Department of Education requirements under section 79-1601 or an equivalent exempt school or home school program from another jurisdiction; or (ii) a person who has completed a program of education acceptable to the commission.

(2) Each applicant for a salesperson's license shall furnish evidence that he or she has completed two courses in real estate subjects, approved by the commission, composed of not less than sixty class hours of study or, in lieu thereof, courses delivered in a distance education format approved by the commission.

(3) Each applicant for a broker's license shall either:

(a) Have first served actively for two years as a licensed salesperson or broker and shall furnish evidence of completion of sixty class hours in addition to the hours required by subsection (2) of this section in a course of study approved by the commission or, in lieu thereof, courses delivered in a distance education format approved by the commission; or

(b) Upon special application and hearing before the commission, provide satisfactory evidence of hardship due to an existing brokerage being unable to retain the services of a licensee to act as its designated broker who has the two years' experience required in this subsection. Any applicant so approved must furnish a certificate that he or she has passed a course of at least eighteen credit hours in subjects related to real estate at an accredited university or college, or completed six courses in real estate subjects composed of not less than one hundred eighty class hours in a course of study approved by the commission or, in lieu thereof, courses delivered in a distance education format approved by the commission.

(4) No person issued a broker's license may act as a designated broker for any other licensee until such person has taken additional courses of postlicensure education in the subjects of real estate trust accounting, brokerage finance, business ethics, and risk management, except that the commission may extend, for up to six months, the postlicensure course work requirement under the hardship provision of subdivision (3)(b) of this section.

(5) Each applicant for a broker's or salesperson's license shall furnish evidence of completion of six class hours of study in a course approved by the commission related to professional practice and standards.

(6) Each applicant for a broker's license must pass a written examination covering generally the matters confronting real estate brokers, and each applicant for a salesperson's license must pass a written examination covering generally the matters confronting real estate salespersons. Such examination may be taken before the commission or any person designated by the commission. Failure to pass the examination shall be grounds for denial of a license without further hearing. Within thirty days after passing the examination the applicant must complete all requirements necessary for the issuance of a license. The commission may prepare and distribute to licensees under the Nebraska Real Estate License Act informational material deemed of assistance in the conduct of their business.

(7) An applicant for an original broker's or salesperson's license shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. After filing application for a license, each applicant shall furnish directly to the Nebraska State Patrol, or to a fingerprint processing service that may be selected by the commission for this purpose, a full set of fingerprints to enable a criminal background investigation to be conducted. The applicant shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The applicant shall authorize release of the national criminal history record check to the commission.

(8) Courses of study, referred to in subsections (2), (3), (4), (5), and (9) of this section, shall include courses offered by private proprietary real estate schools when such courses are prescribed by the commission and are taught by instructors approved by the commission. The commission shall monitor schools offering approved real estate courses and for good cause shall have authority to suspend or withdraw approval of such courses or instructors.

(9) All licensees shall, within one hundred eighty days after license issuance, furnish satisfactory evidence of completion of twelve hours of class study in a commission-approved class related to required knowledge and skills for real estate practice, including, but not limited to, completing contracts and listing agreements and handling of client funds. If a licensee fails to do so, the commission shall place his or her license on inactive status until the commission receives such satisfactory evidence. Transfer to active status pursuant to this subsection shall be subject to the fee provided for in section 81-885.20.

Source: Laws 1973, LB 68, § 13; Laws 1973, LB 580, § 1; Laws 1978, LB 361, § 6; Laws 1980, LB 936, § 1; Laws 1983, LB 182, § 12; Laws 2002, LB 863, § 14; Laws 2003, LB 60, § 1; Laws 2014, LB687, § 2; Laws 2017, LB16, § 1; Laws 2019, LB384, § 1; Laws 2019, LB454, § 1; Laws 2022, LB892, § 3.

81-885.14 Fees; license; renewal; procedure.

(1) To pay the expense of the maintenance and operation of the office of the commission and the enforcement of the Nebraska Real Estate License Act, the commission shall, at the time an application is submitted, collect from an applicant for each broker's or salesperson's examination a fee to be established by the commission of not more than two hundred fifty dollars and an application fee of not more than two hundred fifty dollars. The commission shall also collect a reexamination fee to be established by the commission of not more than two hundred fifty dollars for each reexamination. The commission may direct an applicant to pay the examination or reexamination fee to a third party who has contracted with the commission to administer the examination. Prior to the issuance of an original license, each applicant who has passed the examination required by section 81-885.13 or who has received a license under section 81-885.17 shall pay a license fee to be established by the commission. The license fee established by the commission shall not exceed the following amounts: For a broker's license, not more than two hundred fifty dollars; and for a salesperson's license, not more than two hundred dollars.

(2) Any applicant who is an active duty member of the armed forces of the United States or the spouse of such servicemember shall be exempt from payment of the license fee described in subsection (1) of this section if (a) such servicemember is assigned to a permanent duty station in Nebraska and (b)(i) the applicant is already duly licensed in another regulatory jurisdiction or (ii) the applicant was previously licensed in Nebraska within three years prior to becoming a resident of the State of Nebraska after such duty assignment.

(3) After the original issuance of a license, a renewal application and a renewal fee to be established by the commission of not more than five hundred dollars for each broker, and not more than four hundred dollars for each salesperson, shall be due and payable on or before November 30 of each renewal year. A broker or salesperson who: (a) Is required to submit evidence of completion of continuing education pursuant to section 81-885.51 on or before November 30, 2011, shall renew his or her license on or before such date for two years; (b) is not required to submit evidence of completion of continuing education until November 30, 2012, shall renew his or her license on or before November 30, 2011, for one year and shall renew his or her license on or before November 30, 2012, for two years; or (c) receives his or her original license on or after January 1, 2011, shall renew his or her license on or before the immediately following November 30 for two years. Each subsequent renewal under subdivisions (a), (b), and (c) of this subsection shall be for a two-year period and shall be due on or before November 30 of each renewal year. Failure to remit renewal fees when due shall automatically cancel such license on December 31 of the renewal year, but otherwise the license shall remain in full force and effect continuously from the date of issuance unless suspended or revoked by the commission for just cause. Any licensee who fails to file an application for the renewal of any license and pay the renewal fee as provided in this section may file a late renewal application and shall pay, in addition to the renewal fee, an amount to be established by the commission of not more than twenty-five dollars for each month or fraction thereof beginning with the first day of December if such late application is filed before July 1 of the ensuing year.

(4) Any check presented to the commission as a fee for either an original or renewal license or for examination for license which is returned to the State Treasurer unpaid or any electronic payment presented to the commission as a fee for either an original or renewal license or for examination for license that is not accepted against the commission shall be cause for revocation or denial of license.

(5) An inactive broker or salesperson may renew his or her license by submitting an application before December 1 prior to the ensuing year. Such broker or salesperson shall submit the renewal fee together with the completed renewal application on which he or she has noted his or her present inactive status. Any broker or salesperson whose license has been renewed on such inactive status shall not be permitted to engage in the real estate business until such time as he or she fulfills the requirements for active status. Any license which has been inactive for a continuous period of more than three years shall be reinstated only if the licensee has met the examination requirement of an original applicant.

Source: Laws 1973, LB 68, § 14; Laws 1976, LB 899, § 1; Laws 1978, LB 361, § 7; Laws 1980, LB 936, § 2; Laws 1983, LB 182, § 13;

Laws 1990, LB 350, § 6; Laws 1991, LB 118, § 3; Laws 1991, LB 204, § 2; Laws 2009, LB11, § 1; Laws 2011, LB23, § 1; Laws 2019, LB12, § 1.

81-885.15 Fees; deposited in State Real Estate Commission's Fund; investment.

All fees collected under the Nebraska Real Estate License Act shall be deposited in the state treasury in a fund to be known as the State Real Estate Commission's Fund. The commission may use such part of the money in this fund as is necessary to be used by it in the administration and enforcement of the act. Transfers may be made from the fund to the General Fund at the direction of the Legislature through June 30, 2019. The State Real Estate Commission's Fund shall be paid out only upon proper vouchers and upon warrants issued by the Director of Administrative Services and countersigned by the State Treasurer, as provided by law. The expenses of conducting the office must always be kept within the income collected and deposited with the State Treasurer by such commission and such office, and the expense thereof shall not be supported or paid from any other state fund. Any money in the State Real Estate Commission's Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The State Treasurer shall transfer two hundred thousand dollars from the State Real Estate Commission's Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. The State Treasurer shall transfer two hundred thousand dollars from the State Real Estate Commission's Fund to the General Fund on or before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1973, LB 68, § 15; Laws 1983, LB 182, § 14; Laws 2009, LB30, § 6; Laws 2009, First Spec. Sess., LB3, § 68; Laws 2017, LB331, § 49.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-885.16 Real Property Appraiser Act; applicability; broker's price opinion or comparative market analysis; requirements.

(1) The Real Property Appraiser Act shall not apply to a person licensed under the Nebraska Real Estate License Act who, in the ordinary course of his or her business, gives a broker's price opinion or comparative market analysis, except that such opinion or analysis shall not be referred to as an appraisal.

(2) No compensation, fee, or other consideration shall be charged for a broker's price opinion or comparative market analysis other than a real estate commission or brokerage fee charged or paid for brokerage services rendered in connection with the sale of the real estate involved unless the opinion or analysis is in writing, is signed by the preparer, includes the date on which it was prepared, and contains or has attached thereto the following disclosure in bold fourteen-point type: This opinion or analysis is not an appraisal. It is

intended only for the benefit of the addressee for the purpose of assisting buyers or sellers or prospective buyers or sellers in deciding the listing, offering, or sale price of the real property, for lending purposes in a transaction other than a federally related transaction, or for real property tax appeal purposes. This opinion or analysis is not governed by the Real Property Appraiser Act.

(3) A broker's price opinion or comparative market analysis prepared for an existing or potential lienholder originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction may not be used as the sole basis to determine the value of the real estate for the purpose of originating a loan secured by such real estate, and the person giving the opinion or analysis must be engaged directly by the lienholder or its agent. Such person shall have no duty to inquire as to any other basis used to determine such value.

Source: Laws 2010, LB931, § 28; Laws 2015, LB375, § 2.

Cross References

Real Property Appraiser Act, see section 76-2201.

81-885.17 Nonresident broker's license; nonresident salesperson's license; issuance; requirements; fingerprinting; criminal history record information check; reciprocal agreements.

(1)(a) A nonresident of this state who is actively engaged in the real estate business, who maintains a place of business in his or her resident regulatory jurisdiction, and who has been duly licensed in that regulatory jurisdiction to conduct such business in that regulatory jurisdiction may, in the discretion of the commission, be issued a nonresident broker's license.

(b) A nonresident salesperson employed by a broker holding a nonresident broker's license may, in the discretion of the commission, be issued a nonresident salesperson's license under such nonresident broker.

(c) A nonresident who becomes a resident of the State of Nebraska and who holds a broker's or salesperson's license in his or her prior resident regulatory jurisdiction shall be issued a resident broker's or salesperson's license upon filing an application, paying the applicable license fee except as provided in subsection (2) of section 81-885.14, complying with the criminal history record information check under subsection (4) of this section, filing the affidavit required by subsection (7) of this section, and providing to the commission adequate proof of completion of a three-hour class approved by the commission specific to the Nebraska Real Estate License Act and sections 76-2401 to 76-2430.

(2) Obtaining a nonresident broker's license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over the licensee in any action arising out of the licensee's activity in this state.

(3) Prior to the issuance of any license to a nonresident applicant, he or she shall: (a) File with the commission a duly certified copy of the license issued to the applicant by his or her resident regulatory jurisdiction or provide verification of such licensure to the commission; (b) pay to the commission a nonresident license fee equal to the fee for obtaining a broker's or salesperson's license, whichever is applicable, as provided in section 81-885.14; and (c) provide to the commission adequate proof of completion of a three-hour class

approved by the commission specific to the Nebraska Real Estate License Act and sections 76-2401 to 76-2430.

(4) An applicant for an original nonresident broker's or salesperson's license shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. After filing application for a license, each applicant shall furnish directly to the Nebraska State Patrol, or to a fingerprint processing service that may be selected by the commission for this purpose, a full set of fingerprints to enable a criminal background investigation to be conducted. The applicant shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The applicant shall authorize release of the national criminal history record check to the commission.

(5) Nothing in this section shall preclude the commission from entering into reciprocal agreements with other regulatory jurisdictions when such agreements are necessary to provide Nebraska residents authority to secure licenses in other regulatory jurisdictions.

(6) Nonresident licenses granted as provided in this section shall remain in force for only as long as the requirements of issuing and maintaining a license are met unless (a) suspended or revoked by the commission for just cause or (b) lapsed for failure to pay the renewal fee.

(7) Prior to the issuance of any license to a nonresident applicant, he or she shall file an affidavit with the commission certifying that the applicant has reviewed and is familiar with the Nebraska Real Estate License Act and the rules and regulations of the commission and agrees to be bound by the act, rules, and regulations.

Source: Laws 1973, LB 68, § 17; Laws 1980, LB 936, § 3; Laws 1983, LB 182, § 15; Laws 1983, LB 447, § 95; Laws 1990, LB 350, § 7; Laws 2002, LB 863, § 15; Laws 2003, LB 60, § 2; Laws 2006, LB 819, § 2; Laws 2008, LB715, § 1; Laws 2011, LB25, § 16; Laws 2014, LB687, § 3; Laws 2017, LB16, § 2; Laws 2019, LB12, § 2; Laws 2024, LB1073, § 32.

Operative date July 19, 2024.

81-885.18 Application; refusal; hearing; decision.

(1) If the director of the commission, after an application in proper form has been filed with the commission, accompanied by the proper fee, refuses to accept the application, the director shall give notice of the fact to the applicant within twenty days after his or her ruling, order, or decision.

(2) Upon written request from the applicant, filed within thirty days after receipt of such notice by the applicant, the commission shall set the matter down for a hearing to be conducted within ninety days after receipt of the applicant's request.

(3) The hearing shall be at such time and place as the commission shall prescribe. At least twenty days prior to the date set for the hearing the commission shall notify the applicant and other persons protesting, and the notice shall set forth the reasons why the director refused to accept the

application. Such written notice of hearing may be served by delivery personally to the applicant and protesters or by mailing the same by registered mail, certified mail, first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service, or a designated delivery service as provided in section 25-505.01, to the last-known business address of the applicant and protesters.

(4) At the hearing the applicant shall be entitled to examine, either in person or by counsel, any and all persons protesting against him or her, as well as all other witnesses whose testimony is relied upon to substantiate any protest or denial of the application. The applicant shall be entitled to present such evidence, written and oral, as he or she may see fit and as may be pertinent to the inquiry.

(5) At the hearing all witnesses shall be duly sworn by the chairperson of the commission, or any member thereof, and stenographic notes of the proceedings shall be taken. Any party to the proceedings desiring a copy of the stenographic notes shall be furnished with a copy upon the payment to the commission of such fee as the commission shall prescribe, if the request is made within ten days after the date of any order issued by the commission.

(6) The commission shall render a decision on any application within sixty days after the final hearing on such application and shall immediately notify the parties to the proceedings, in writing, of its ruling, order, or decision.

Source: Laws 1973, LB 68, § 18; Laws 1975, LB 354, § 1; Laws 1983, LB 182, § 16; Laws 1990, LB 350, § 8; Laws 2002, LB 863, § 16; Laws 2024, LB151, § 2.
Effective date July 19, 2024.

81-885.19 License; form; broker's branch office; license; fee.

(1) The commission shall prescribe the forms of brokers' and salespersons' licenses.

(2) If a broker maintains more than one place of business within the state, he or she shall obtain a branch office license for each branch office so maintained by him or her. The commission shall issue a branch office license upon the payment of an annual fee to be established by the commission of not more than fifty dollars per license. The broker or an associate broker shall be the manager of a branch office.

(3) The commission shall provide for verification of the current status of licenses electronically or by other means readily available to the public.

Source: Laws 1973, LB 68, § 19; Laws 1983, LB 182, § 17; Laws 1990, LB 350, § 9; Laws 1991, LB 204, § 3; Laws 2002, LB 863, § 17; Laws 2009, LB29, § 1; Laws 2011, LB23, § 2; Laws 2017, LB16, § 3.

81-885.20 Broker, salesperson; change in place of business or status; notify commission; fee.

(1) Should the broker change his or her place of business, he or she shall forthwith notify the commission in writing of such change.

(2) When a salesperson or associate broker leaves the employ of a broker, the employing broker shall immediately forward the license of such employee to

the commission and shall furnish such information regarding the termination of employment as the commission may require.

(3) When a salesperson or associate broker transfers from one employing broker to another, when an associate broker changes his or her status from associate broker to that of broker, or when a broker changes his or her status to that of associate broker, a transfer fee to be established by the commission of not more than fifty dollars shall be paid to the commission.

Source: Laws 1973, LB 68, § 20; Laws 1983, LB 182, § 18; Laws 1990, LB 350, § 10; Laws 1991, LB 204, § 4; Laws 2006, LB 819, § 3; Laws 2011, LB23, § 3.

81-885.21 Broker; separate trust account; notify commission where maintained; examination by representative of commission; exemption.

(1) Except as provided in subsection (7) of this section, each broker other than an inactive broker shall maintain in a bank, savings bank, building and loan association, or savings and loan association a separate, insured checking account in this state in his or her name or the name under which he or she does business which shall be designated a trust account in which all downpayments, earnest money deposits, or other trust funds received by him or her, his or her associate brokers, or his or her salespersons on behalf of his or her principal or any other person shall be deposited and remain until the transaction is closed or otherwise terminated unless all parties having an interest in the funds have agreed otherwise in writing. Such trust account may be either an interest-bearing or a non-interest-bearing account. Any broker using an interest-bearing account shall comply with subsection (6) of this section.

(2) Each broker shall notify the commission of the name of the bank, savings bank, building and loan association, or savings and loan association in which the trust account is maintained and also the name of the account on forms provided therefor.

(3) Each broker shall authorize the commission to examine such trust account by a duly authorized representative of the commission. Such examination shall be made annually or at such time as the commission may direct.

(4) A broker may maintain more than one trust account in his or her name or the name under which he or she does business if the commission is advised of such account as required in subsection (2) of this section.

(5) In the event a branch office maintains a separate trust account, a separate bookkeeping system shall be maintained in the branch office.

(6) If the trust account is an interest-bearing account, as authorized under subsection (1) of this section, the interest from the interest-bearing account may be distributed or otherwise accrue only to nonprofit organizations that promote housing in Nebraska and that are exempt from the payment of federal income taxes. A broker may use an interest-bearing account for a transaction only if the use of such account for purposes of promoting housing in Nebraska has been approved by all parties whose money will be deposited into such account. The commission may further define policies and procedures for the processing of and distributions from interest-bearing trust accounts by rule and regulation.

(7) The commission may adopt and promulgate rules and regulations to exempt active brokers who have no trust account activity and no anticipated trust account activity from the trust account requirements of this section.

Source: Laws 1973, LB 68, § 21; Laws 1975, LB 354, § 2; Laws 1978, LB 361, § 8; Laws 1981, LB 238, § 1; Laws 1991, LB 118, § 4; Laws 2000, LB 932, § 52; Laws 2002, LB 863, § 18; Laws 2011, LB347, § 1; Laws 2013, LB72, § 1; Laws 2017, LB16, § 4.

81-885.22 Broker, failure to comply with separate bank accounts and trust account provisions; report to Attorney General; action by Attorney General; receiver.

Whenever it shall appear to the commission from any examination or report provided by the laws of this state that a broker has failed to comply with the provisions of section 81-885.21, or if any broker shall refuse to submit his or her books, papers, and affairs to the inspection of any examiner, the commission shall have reason to conclude that the trust account of such broker is in an unsafe or unsound condition and the commission shall forthwith submit a complete report to the Attorney General of all information available to it. An action may be brought by the State of Nebraska to enjoin such broker from engaging in or continuing such violation or doing any act or acts in furtherance thereof. In any such action an order or judgment may be entered awarding such preliminary or final injunction as may be deemed proper. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which such action is brought shall have power and jurisdiction to impound and appoint a receiver for the property and business of the defendant, including books, papers, documents, and records pertaining thereto or as much thereof as the court may deem reasonably necessary to prevent violations of the law or injury to the public through or by means of the use of such property and business. Such receiver, when so appointed and qualified, shall have such powers and duties as to custody, collection, administration, winding up, and liquidation of such property and business as shall, from time to time, be conferred upon him or her by the court.

Source: Laws 1973, LB 68, § 22; Laws 1978, LB 361, § 9; Laws 1983, LB 182, § 19.

81-885.23 Attorney General; special counsel; appoint; fees allowed; taxed as costs.

The Attorney General may appoint special counsel to prosecute the action as provided for in section 81-885.22, and all fees allowed to the receiver and to counsel so appointed shall be taxed as costs in such action as the court may direct.

Source: Laws 1973, LB 68, § 23.

81-885.24 Commission; investigative powers; disciplinary powers; civil fine; violations of unfair trade practices.

The commission may, upon its own motion, and shall, upon the sworn complaint in writing of any person, investigate the actions of any broker, associate broker, salesperson, or subdivider, may censure the licensee or certificate holder, revoke or suspend any license or certificate issued under the Nebraska Real Estate License Act, or enter into consent orders, and, alone or in

combination with such disciplinary actions, may impose a civil fine on a licensee pursuant to section 81-885.10, whenever the license or certificate has been obtained by false or fraudulent representation or the licensee or certificate holder has been found guilty of any of the following unfair trade practices:

(1) Refusing because of religion, race, color, national origin, ethnic group, sex, familial status, or disability to show, sell, or rent any real estate for sale or rent to prospective purchasers or renters;

(2) Intentionally using advertising which is misleading or inaccurate in any material particular or in any way misrepresents any property, terms, values, policies, or services of the business conducted;

(3) Failing to account for and remit any money coming into his or her possession belonging to others;

(4) Commingling the money or other property of his or her principals with his or her own;

(5) Failing to maintain and deposit in a separate trust account all money received by a broker acting in such capacity, or as escrow agent or the temporary custodian of the funds of others, in a real estate transaction unless all parties having an interest in the funds have agreed otherwise in writing;

(6) Accepting, giving, or charging any form of undisclosed compensation, consideration, rebate, or direct profit on expenditures made for a principal;

(7) Representing or attempting to represent a real estate broker, other than the employer, without the express knowledge and consent of the employer;

(8) Accepting any form of compensation or consideration by an associate broker or salesperson from anyone other than his or her employing broker without the consent of his or her employing broker;

(9) Acting in the dual capacity of agent and undisclosed principal in any transaction;

(10) Guaranteeing or authorizing any person to guarantee future profits which may result from the resale of real property;

(11) Placing a sign on any property offering it for sale or rent without the written consent of the owner or his or her authorized agent;

(12) Offering real estate for sale or lease without the knowledge and consent of the owner or his or her authorized agent or on terms other than those authorized by the owner or his or her authorized agent;

(13) Inducing any party to a contract of sale or lease to break such contract for the purpose of substituting, in lieu thereof, a new contract with another principal;

(14) Negotiating a sale, exchange, listing, or lease of real estate directly with an owner or lessor if he or she knows that such owner has a written outstanding listing contract in connection with such property granting an exclusive agency or an exclusive right to sell to another broker or negotiating directly with an owner to withdraw from or break such a listing contract for the purpose of substituting, in lieu thereof, a new listing contract;

(15) Discussing or soliciting a discussion of, with an owner of a property which is exclusively listed with another broker, the terms upon which the broker would accept a future listing upon the expiration of the present listing unless the owner initiates the discussion;

(16) Violating any provision of sections 76-2401 to 76-2430;

(17) Soliciting, selling, or offering for sale real estate by offering free lots or conducting lotteries for the purpose of influencing a purchaser or prospective purchaser of real estate;

(18) Providing any form of compensation or consideration to any person for performing the services of a broker, associate broker, or salesperson who has not first secured his or her license under the Nebraska Real Estate License Act unless such person is (a) a nonresident who is licensed in his or her resident regulatory jurisdiction or (b) a citizen and resident of a foreign country which does not license persons conducting the activities of a broker and such person provides reasonable written evidence to the Nebraska broker that he or she is a resident citizen of that foreign country, is not a resident of this country, and conducts the activities of a broker in that foreign country;

(19) Failing to include a fixed date of expiration in any written listing agreement and failing to leave a copy of the agreement with the principal;

(20) Failing to deliver within a reasonable time a completed and dated copy of any purchase agreement or offer to buy or sell real estate to the purchaser and to the seller;

(21) Failing by a broker to deliver to the seller in every real estate transaction, at the time the transaction is consummated, a complete, detailed closing statement showing all of the receipts and disbursements handled by such broker for the seller, failing to deliver to the buyer a complete statement showing all money received in the transaction from such buyer and how and for what the same was disbursed, and failing to retain true copies of such statements in his or her files;

(22) Making any substantial misrepresentations;

(23) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts;

(24) Failing by an associate broker or salesperson to place, as soon after receipt as practicable, in the custody of his or her employing broker any deposit money or other money or funds entrusted to him or her by any person dealing with him or her as the representative of his or her licensed broker;

(25) Filing a listing contract or any document or instrument purporting to create a lien based on a listing contract for the purpose of casting a cloud upon the title to real estate when no valid claim under the listing contract exists;

(26) Violating any rule or regulation adopted and promulgated by the commission in the interest of the public and consistent with the Nebraska Real Estate License Act;

(27) Failing by a subdivider, after the original certificate has been issued, to comply with all of the requirements of the Nebraska Real Estate License Act;

(28) Conviction of a felony or entering a plea of guilty or nolo contendere to a felony charge by a broker or salesperson;

(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section;

(30) Inducing or attempting to induce a person to transfer an interest in real property, whether or not for monetary gain, or discouraging another person from purchasing real property, by representing that (a) a change has occurred or will or may occur in the composition with respect to religion, race, color,

national origin, ethnic group, sex, familial status, or disability of the owners or occupants in the block, neighborhood, or area or (b) such change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area;

(31) Failing by a team leader to provide a current list of all team members to his or her designated broker;

(32) Failing by a designated broker to maintain a record of all team leaders and team members working under him or her;

(33) Utilizing advertising which does not prominently display the name under which the designated broker does business as filed with the commission;

(34) Utilizing team advertising or a team name suggesting the team is an independent real estate brokerage;

(35) Charging or collecting, as part or all of his or her compensation or consideration, any part of the earnest money or other money paid to him or her or the entity under which he or she does business in connection with any real estate transaction until the transaction has been consummated or terminated. However, a payment for goods or services rendered by a third party on behalf of the client shall not be considered compensation or consideration if such payment does not include any profit, compensation, or payment for services rendered by the broker and the broker retains a record of the payment to the third party for such goods or services;

(36) Failing to provide a copy of section 81-885.04 or written instructions explaining the provisions of the exemption from licensure as set forth in subdivision (9) of section 81-885.04 to any unlicensed person who assists in procuring a potential client or customer as defined in sections 76-2407 and 76-2409, respectively, for the purpose of the listing, sale, purchase, exchange, renting, leasing, or optioning of any real estate; or

(37) Offering or entering into a right-to-list home sale agreement.

Source: Laws 1973, LB 68, § 24; Laws 1975, LB 354, § 3; Laws 1978, LB 361, § 10; Laws 1981, LB 238, § 2; Laws 1982, LB 403, § 1; Laws 1983, LB 182, § 20; Laws 1985, LB 109, § 1; Laws 1990, LB 350, § 11; Laws 2002, LB 863, § 19; Laws 2009, LB30, § 7; Laws 2011, LB25, § 17; Laws 2011, LB347, § 2; Laws 2016, LB678, § 4; Laws 2017, LB16, § 5; Laws 2020, LB808, § 95; Laws 2024, LB1073, § 33.

Operative date April 16, 2024.

1. Misconduct and unfair trade practices
2. Miscellaneous

1. Misconduct and unfair trade practices

The Real Estate Commission shall have the power to censure the licensee or certificate holder whenever the licensee or certificate holder has been found guilty of either of the following unfair trade practices: (1) failing to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser and the seller, or (2) acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts. *Firmature v. Brannon*, 223 Neb. 123, 388 N.W.2d 119 (1986).

For the purposes of subsection (28) of this section regarding revocation or suspension of a real estate broker's license, incompetence means failure to meet requirements for a minimal

level of acceptable conduct. *Weiner v. State ex rel. Real Estate Comm.*, 217 Neb. 372, 348 N.W.2d 879 (1984).

Evidence supported commission's suspension of appellant's real estate license for six months after hearing on complaint that appellant engaged in an unfair trade practice as defined by this section. *Abboud v. State ex rel. State Real Estate Comm.*, 210 Neb. 676, 316 N.W.2d 608 (1982).

A real estate broker's license may be suspended or revoked for misconduct occurring in a real estate transaction whether the broker is acting for himself or for others. *Wright v. State ex rel. State Real Estate Comm.*, 208 Neb. 467, 304 N.W.2d 39 (1981).

Licensed sales agent's violation of a commission regulation held an action demonstrating unworthiness justifying suspen-

sion. *Haller v. State ex rel. State Real Estate Commission*, 198 Neb. 437, 253 N.W.2d 280 (1977).

A real estate broker's actions clearly demonstrated unworthiness under this section. *Clark v. Tyrrell*, 16 Neb. App. 692, 750 N.W.2d 364 (2008).

2. Miscellaneous

Whether subdivision (13) of this section creates a private right of action against a real estate broker for inducement to breach a contract of sale or lease depends on its purpose and whether the Legislature intended to create such a private right of action. *Professional Mgmt. Midwest v. Lund Co.*, 284 Neb. 777, 826 N.W.2d 225 (2012).

Whether subdivision (13) of this section includes an implied right of action against a real estate broker for inducement to

breach a contract of sale or lease is distinct and separate from the issue whether this section creates a duty in tort which can be enforced via a negligence action. *Professional Mgmt. Midwest v. Lund Co.*, 284 Neb. 777, 826 N.W.2d 225 (2012).

Subsection (28) of this section is not unconstitutionally vague. *Weiner v. State ex rel. Real Estate Comm.*, 217 Neb. 372, 348 N.W.2d 879 (1984).

Statute declared to be unambiguous and requiring a salesperson to turn over to his broker any funds entrusted to that salesperson. *Weiner v. State ex rel. Real Estate Comm.*, 214 Neb. 404, 333 N.W.2d 915 (1983).

Double jeopardy was not applicable to a real estate broker's discipline under this section. *Clark v. Tyrrell*, 16 Neb. App. 692, 750 N.W.2d 364 (2008).

81-885.25 Censure, revoke, or suspend license; impose civil fine; cease and desist order; hearing; notice; contents.

(1) Before the commission censures a licensee, imposes a civil fine, revokes or suspends a license, or issues a cease and desist order, the commission shall send to the licensee or violator a copy of the complaint by registered mail, certified mail, first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service, or a designated delivery service as provided in section 25-505.01, which contains the charges against the licensee or violator and, unless the licensee or violator waives the right to a hearing and has executed a consent order, give the licensee or violator a hearing on the matter.

(2) The licensee or violator shall have full authority to be heard in person or by counsel before the commission in reference to such charges. The commission shall, at least twenty days prior to the date set for hearing, notify the licensee or violator in writing of the date and place of the hearing. Such notice may be served by delivering it personally to the licensee or violator or by sending it by either registered mail, certified mail, first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service, or a designated delivery service as provided in section 25-505.01, to the last-known business address of such licensee or any known address of the violator. If the licensee is an associate broker or a salesperson, the commission shall also notify the broker employing the licensee by mailing a copy of such notice to the broker's last-known business address.

Source: Laws 1973, LB 68, § 25; Laws 1983, LB 182, § 21; Laws 1984, LB 480, § 2; Laws 1990, LB 350, § 12; Laws 2009, LB30, § 8; Laws 2010, LB691, § 3; Laws 2024, LB151, § 3.
Effective date July 19, 2024.

81-885.26 Answer to complaint; when.

Within twenty days from the time of service of the complaint and notice the licensee may file his or her sworn answer thereto which shall contain all defenses which he or she intends to assert. No motions or other pleadings shall be authorized.

Source: Laws 1973, LB 68, § 26; Laws 1981, LB 238, § 3; Laws 1990, LB 350, § 13.

81-885.27 Hearing; witnesses; subpoenas; depositions.

In the preparation and conducting of the hearing, the director shall have power to issue and sign subpoenas to require the attendance and testimony of any witness and the production of any papers, books, or documents. The chairperson or any member of the commission may administer oaths, examine the witnesses, and take any evidence he or she deems pertinent to the determination of the charges. Any witness subpoenaed shall be entitled to the same fees as prescribed by law in judicial proceedings in the district courts of this state in civil actions and mileage at the rate provided in section 81-1176 for state employees, but the payment of such fees and mileage shall be paid out of and kept within the limits of the funds created from license fees. The party against whom such charges may be filed shall have the right to obtain from the director a subpoena for any witnesses which he or she may desire at such hearing. Depositions may also be taken and used as in civil cases in the district courts.

Source: Laws 1973, LB 68, § 27; Laws 1981, LB 204, § 179.

81-885.28 Refusal of witness to attend or testify; proceedings in district court.

(1) If any witness so subpoenaed shall refuse to attend the taking of a deposition or the hearing, or if attending shall refuse to testify, the commission may apply to the district court of the county in which the deposition is to be taken or in which the hearing is to be held for an order compelling the attendance of the witness, the giving of testimony, and the production of books, papers, and documents.

(2) The application shall be by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books, papers, and documents;

(b) That the witness has been subpoenaed in the manner prescribed by section 81-885.27; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the commission, or officer taking the deposition in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him or her in the course of the hearing or deposition.

(3) The court, upon petition of the commission, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he or she has not attended, testified, or produced the books, papers, or documents before the commission. A certified copy of the order shall be served upon the witness.

(4) If at the show-cause hearing, it shall appear to the court that the subpoena was regularly issued by the director of the commission, the court shall thereupon enter an order that the witness appear before the commission or the officer taking the deposition at the time and place fixed in the order and testify or produce the required books, papers, or documents, and upon failure to obey such order the witness shall be dealt with as for contempt of court.

Source: Laws 1973, LB 68, § 28; Laws 1983, LB 182, § 22.

81-885.29 Findings and determination by commission; license revoked or suspended; when; censure; civil fine; stay of execution; probation.

After the hearing the commission shall state in writing, officially signed by the chairperson and attested to by the director, its findings and determination and its order in the matter. If the commission determines that the licensee has been guilty of any violation of the Nebraska Real Estate License Act or the rules and regulations of the commission or the violator has been guilty of a violation of section 81-885.03, the commission may revoke or suspend the license, enter an order censuring the licensee, or impose a civil fine on a licensee pursuant to section 81-885.10 or on a violator pursuant to section 81-885.03. The execution of a penalty of suspension may be stayed by the commission and the licensee may be placed on probation for the suspension period, after satisfactory completion of which his or her license shall be fully reinstated. Any violation of the act or the rules and regulations by the licensee during the period of probation shall cause the immediate execution of the suspension penalty.

Source: Laws 1973, LB 68, § 29; Laws 1975, LB 354, § 4; Laws 1983, LB 182, § 23; Laws 1990, LB 350, § 14; Laws 2002, LB 863, § 20; Laws 2009, LB30, § 9; Laws 2010, LB691, § 4.

81-885.30 Appeal; procedure.

An order of the commission which has become final may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1973, LB 68, § 30; Laws 1981, LB 238, § 4; Laws 1988, LB 352, § 169.

Cross References

Administrative Procedure Act, see section 84-920.

Action by Real Estate Commission to suspend license is arbitrary and capricious where it is taken on findings of fact that do not represent a breach of conduct within the terms of the statute. Judicial review of a commission order issued before the

effective date of the 1981 amendment to this section is under the amendment, where district court acted on the appeal after the amendment took effect. *Hancock v. State ex rel. Real Estate Comm.*, 213 Neb. 807, 331 N.W.2d 526 (1983).

81-885.31 Civil fines; distribution; collection procedure.

(1) All civil fines collected pursuant to the Nebraska Real Estate License Act shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(2) Any civil fine imposed pursuant to the act which remains unpaid for more than sixty days shall constitute a debt to the State of Nebraska which may be recovered by the Attorney General, along with reasonable attorney's fees and court costs, in a proper form of action in the name of the state in the district court of the county in which the violator resides. The commission shall consider such debt to be grounds for denial, refusal to renew, or refusal to reinstate a license under the act or grounds for additional disciplinary action by the commission.

Source: Laws 2009, LB30, § 10.

81-885.32 Repealed. Laws 1978, LB 361, § 14.

81-885.33 Subdivision real estate; sale or offer to sell; requirements.

It shall be unlawful for any person, partnership, limited liability company, or corporation to sell or offer for sale any real estate in a subdivision except by a broker and his or her employees duly licensed in this state.

Source: Laws 1973, LB 68, § 33; Laws 1983, LB 182, § 24; Laws 1993, LB 121, § 534; Laws 2002, LB 863, § 21.

81-885.34 Subdivision real estate; sale; subdivision certificate; application; contents; fee.

Prior to the time when such subdivision real estate is offered for sale, such person, partnership, limited liability company, or corporation shall make application for a subdivision certificate to the commission in writing on a form to be prescribed by the commission and approved by the Attorney General. Such application shall be accompanied by a filing fee of one hundred dollars plus twenty-five dollars for each one hundred lots or fraction thereof to be offered for sale. Such application shall contain the following information and supporting documents:

- (1) The name and address of the applicant and whether the applicant is a person, partnership, limited liability company, or corporation;
- (2) If the applicant is a partnership, the names and addresses of the individual members thereof;
- (3) If the applicant is a limited liability company, the names and addresses of the individual members thereof;
- (4) If the applicant is a corporation, the place of incorporation and the names and addresses of its officers and members of its board of directors;
- (5) The legal description and area of the real estate to be offered for sale, including maps and recorded plats thereof showing the area involved;
- (6) The name and address of the legal owner of the real estate to be offered for sale;
- (7) A certified, audited financial statement fully and fairly disclosing the current financial condition of the developer;
- (8) A statement of the condition of the title of the subdivided lands including encumbrances as of a specified date within thirty days of the application;
- (9) Copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrances upon the title and copies of the instruments creating the lien or encumbrances, if any, with dates as to recording, along with the documentary evidence that any mortgagee or trustee of a deed of trust has subordinated his or her interest in the real estate to the interest of a purchaser of the real estate;
- (10) A true statement of the terms and conditions on which it is intended to dispose of the real estate, together with copies of any contracts intended to be used, which contracts shall contain (a) a provision entitling the purchaser, if he or she has not seen the land, to an unconditional right of refund of all payments made under the contract if such right is exercised within fourteen days after inspecting the land and if inspection is made within a time provided in the contract which shall not be less than four months from the date of the contract and (b) a provision granting to the purchaser an unconditional right to rescind the contract for a period of fourteen days if he or she has not inspected the land within the time provided in the contract for inspection;
- (11) A statement of the zoning and other governmental regulations affecting the use of the land to be sold or offered for sale disclosing whether or not such regulations have been satisfied; and
- (12) A copy of an offering statement which sets forth the material facts with respect to the land to be offered or sold.

After receiving the application, the commission may require such additional information concerning the real estate as it deems necessary.

Source: Laws 1973, LB 68, § 34; Laws 1978, LB 361, § 11; Laws 1983, LB 182, § 25; Laws 1993, LB 121, § 535; Laws 2002, LB 863, § 22.

81-885.35 Subdivision real estate; investigation; expenses; certificate; conditions.

(1) The commission shall thoroughly investigate all matters relating to the application and may require a personal inspection of the real estate by a person or persons designated by it. All expenses incurred by the commission in investigating such real estate and the proposed sale thereof in this state shall be borne by the applicant and the commission shall require a deposit sufficient to cover such expenses prior to incurring the same.

(2) No application shall be approved by the commission unless the subdivider offers satisfactory proof of his or her ability to provide promised public improvements such as but not limited to water, sewer, gas, and streets. Satisfactory proof shall be in the form of performance bonds or other security.

(3) Obtaining a certificate of registration shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such applicant in any action arising out of the applicant's activity in this state.

Source: Laws 1973, LB 68, § 35; Laws 1983, LB 447, § 96; Laws 1983, LB 182, § 26.

81-885.36 Subdivision real estate; application for certificate; approval; fee; renewal.

If the application is approved, the commission shall issue a certificate of registration to the applicant. After issuance of a certificate, an annual fee of fifty dollars plus ten dollars for each one hundred lots or fraction thereof computed on the number of lots in the original application shall be due and payable on or before January 1 of each year. Failure to remit annual fees when due shall automatically cancel such certificate, but otherwise such certificate shall remain in full force and effect if the commission determines from satisfactory investigation that such certificate should be renewed. Before issuing the renewal certificate each year, the certificate holder shall furnish to the commission such information as may be requested by the commission. If an investigation is required, the cost of making the investigation shall be paid by the certificate holder.

Source: Laws 1973, LB 68, § 36.

81-885.37 Subdivision real estate; instrument conveying an interest; recordable form; recording.

Any instrument conveying an interest in the subdivided real estate shall be in recordable form and the subdivider or buyer may record such instrument in the county where the real estate is located and in the office where deeds are recorded.

Source: Laws 1973, LB 68, § 37.

81-885.38 Subdivision real estate; representations that commission has inspected and approved; unlawful.

No broker or salesperson shall in any manner refer to the commission or any member or employee thereof in selling, offering for sale, or advertising or otherwise promoting the sale, mortgage, or lease of any such real estate, nor make any representation whatsoever that such real estate has been inspected or approved or otherwise passed upon by the commission or any state official, department, or employee.

Source: Laws 1973, LB 68, § 38; Laws 1983, LB 182, § 27.

81-885.39 Subdivision real estate; cease and desist orders.

The director, with the consent of the commission, shall have the power to issue a cease and desist order upon determination that sections 81-885.33 to 81-885.38 have been or are about to be violated.

Source: Laws 1973, LB 68, § 39.

81-885.40 Subdivision real estate; failure to comply with sections; contract void; repayment of money with interest.

Failure on the part of any person, partnership, limited liability company, or corporation to comply with sections 81-885.33 to 81-885.39 shall render any contract (1) entered into in this state or (2) arising out of contacts between the purchaser and subdivider within this state void and unenforceable, and any money paid under such contract to the subdivider, together with interest at the rate of six percent per annum from date of such payment, may be recovered in an action at law brought in the county where the cause of action or some part thereof arose.

Source: Laws 1973, LB 68, § 40; Laws 1993, LB 121, § 536; Laws 2002, LB 863, § 23.

81-885.41 Subdivision real estate; industrial or commercial properties.

Sections 81-885.33 to 81-885.40 shall not apply to the sale or lease of lots in a subdivision for industrial or commercial properties.

Source: Laws 1973, LB 68, § 41.

81-885.42 Subdivision real estate; sales of twenty-five or more lots.

Sections 81-885.33 to 81-885.40 shall not apply to sale or lease of real estate not pursuant to a common promotional plan to offer or sell twenty-five or more lots in a subdivision.

Source: Laws 1973, LB 68, § 42.

81-885.43 Violations; Attorney General; maintain action.

Except as provided in subsection (2) of section 81-885.31, whenever, in the judgment of the commission, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the Nebraska Real Estate License Act, the Attorney General may maintain an action in the name of the State of Nebraska, in the district court of the county in which such violation or threatened violation occurred, to abate and temporarily and permanently enjoin such acts and practices and to enforce compli-

ance with the act. The plaintiff shall not be required to give any bond nor shall any court costs be adjudged against the plaintiff.

Source: Laws 1973, LB 68, § 43; Laws 1983, LB 182, § 28; Laws 2009, LB30, § 11.

81-885.44 Complaint for violations of act.

The commission by and through its director may prefer a complaint for violation of the Nebraska Real Estate License Act.

Source: Laws 1973, LB 68, § 44; Laws 1983, LB 182, § 29; Laws 2009, LB30, § 12.

81-885.45 Acting without license or certificate; penalty.

Any person or subdivider acting as a broker, salesperson, or subdivider without having first obtained the required license or subdivision certificate or while his or her license or subdivision certificate is under suspension shall be guilty of a Class II misdemeanor.

Source: Laws 1973, LB 68, § 45; Laws 1975, LB 354, § 5; Laws 1977, LB 39, § 296; Laws 1978, LB 361, § 12; Laws 1985, LB 109, § 2; Laws 2002, LB 863, § 24.

81-885.46 License or certificate under prior law; renewal.

Any real estate license or subdivision certificate issued prior to September 2, 1973, shall, for purposes of renewal, be considered to have been originally issued under the Nebraska Real Estate License Act.

Source: Laws 1973, LB 68, § 46; Laws 1983, LB 182, § 30; Laws 2009, LB30, § 13.

81-885.47 Repealed. Laws 2009, LB 30, § 17.

81-885.48 Terms, how construed.

Except for purposes of section 81-885.04, the terms employ, employed, employer, or employee as used in the Nebraska Real Estate License Act shall not necessarily be construed to imply an employer and employee relationship. The use of such terms shall not prohibit the establishment of any independent contract or other relationship between a business and an individual, between individuals, or between businesses, including an employer and employee relationship.

Source: Laws 1978, LB 361, § 13; Laws 2009, LB30, § 14.

81-885.49 Continuing education and training; purpose.

The purpose of sections 81-885.49 to 81-885.54 is to establish requirements for continuing education and training of real estate brokers and salespersons who are licensed in order to maintain and improve the quality of real estate services provided to the public.

Source: Laws 1985, LB 101, § 5; Laws 2011, LB24, § 1.

81-885.50 Continuing education and training; terms, defined.

As used in sections 81-885.49 to 81-885.54, unless the context otherwise requires:

- (1) Commission shall mean the State Real Estate Commission;
- (2) Licensee shall mean a natural person who is licensed by the commission as a real estate broker or salesperson; and
- (3) Two-year period shall mean twenty-four months commencing on January 1 following either the date of licensing of the real estate broker or salesperson or March 8, 1985, whichever is later, and each succeeding twenty-four-month period.

Source: Laws 1985, LB 101, § 6.

81-885.51 Continuing education and training; evidence of completion.

In each two-year period, every licensee shall complete twelve hours of approved continuing education activities and six hours of broker-approved training. Evidence of completion of such continuing education and training activities for the two-year period shall be submitted to the commission pursuant to rules and regulations adopted and promulgated by the commission.

Source: Laws 1985, LB 101, § 7; Laws 2002, LB 863, § 25; Laws 2011, LB24, § 2.

81-885.52 Continuing education and training; certify activities.

(1) The commission shall certify as approved continuing education activities those courses, lectures, seminars, or other instructional programs which it determines would protect the public by improving the competency of licensees. The commission may require descriptive information about any continuing education or training activity and refuse approval of any continuing education or training activity which does not advance the purposes of sections 81-885.49 to 81-885.54. The commission shall not approve any provider of continuing education or training courses, lectures, seminars, or other instructional programs unless such provider meets the standards established by the commission.

(2) The commission shall certify the number of hours to be awarded for participation in an approved continuing education activity, based upon contact or classroom hours or other criteria prescribed by rule and regulation of the commission.

(3) The commission may certify the number of hours to be awarded for successful completion of a course delivered in a distance education format, based upon the number of hours which would be awarded in an equivalent classroom course or program or other criteria prescribed by rule and regulation of the commission.

Source: Laws 1985, LB 101, § 8; Laws 2002, LB 863, § 26; Laws 2011, LB24, § 3.

81-885.53 Continuing education and training; licensee; requirements.

Except for inactive licensees, the commission shall not renew a license or issue a new license to any licensee who has failed to comply with the requirements of sections 81-885.49 to 81-885.54. Inactive licensees may renew their licenses at the end of the two-year period without having completed the hours of continuing education and training activities required by section 81-885.51 for each two-year period. Inactive licensees shall not be activated until the

licensee has satisfactorily completed the total number of deficient hours of continuing education activities and filed evidence of such completion with the commission, except that no inactive licensee shall be required to make up more than the number of hours of continuing education required by section 81-885.51 for a two-year period.

Source: Laws 1985, LB 101, § 9; Laws 2002, LB 863, § 27; Laws 2011, LB24, § 4.

81-885.54 Continuing education and training; rules and regulations.

The commission shall adopt and promulgate rules and regulations necessary for the effective administration of sections 81-885.49 to 81-885.54 pursuant to the Administrative Procedure Act. Such rules and regulations may include, but not be limited to, the establishment of minimum standards for schools, courses, and instructors.

Source: Laws 1985, LB 101, § 10.

Cross References

Administrative Procedure Act, see section 84-920.

81-885.55 Errors and omissions insurance; commission; duties; certificate of coverage; required; when; group policy unavailable at a reasonable premium; effect.

(1) Every licensee under the Nebraska Real Estate License Act, except an inactive broker or salesperson, shall have errors and omissions insurance to cover all activities contemplated under the act. The commission shall make the errors and omissions insurance available to all licensees by contracting with an insurer for a group errors and omissions insurance policy after competitive bidding. Any group errors and omissions insurance policy obtained by the commission shall be available to all licensees with no right on the part of the insurer to cancel any licensee. Licensees may obtain errors and omissions insurance independently if the coverage complies with the minimum requirements established by the commission.

(2) The commission shall establish the minimum required terms and conditions for errors and omissions insurance coverage, including the minimum limits of coverage, the permissible deductible, and permissible exemptions. Each licensee shall be notified of such required terms and conditions at least thirty days prior to the license renewal date.

(3) A certificate of coverage showing compliance with the minimum required terms and conditions shall be on file with the commission for each licensee who does not participate in the group errors and omissions insurance policy administered by the commission. If such a licensee fails to have the certificate described in this subsection on file with the commission, the commission shall place the licensee's license on inactive status until the commission receives such certificate. Transfer to active status pursuant to this subsection shall be subject to the fee provided for in section 81-885.14.

(4) If the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the group errors and omissions insurance policy at a reasonable premium not to exceed five

hundred dollars, the errors and omissions insurance requirement of this section shall not apply during the year for which coverage cannot be obtained.

Source: Laws 1991, LB 118, § 1; Laws 2002, LB 863, § 28; Laws 2004, LB 845, § 4; Laws 2024, LB1073, § 34.

Operative date July 19, 2024.

81-885.56 Team leader.

A team leader shall be responsible for supervising the real estate activities of his or her team performed under the Nebraska Real Estate License Act subject to the overall supervision by the designated broker of the team leader and team members.

Source: Laws 2016, LB678, § 3.

81-886 Repealed. Laws 1973, LB 68, § 49.

81-886.01 Repealed. Laws 1973, LB 68, § 49.

81-886.02 Repealed. Laws 1973, LB 68, § 49.

81-886.03 Repealed. Laws 1973, LB 68, § 49.

81-886.04 Repealed. Laws 1973, LB 68, § 49.

81-886.05 Repealed. Laws 1973, LB 68, § 49.

81-886.06 Repealed. Laws 1973, LB 68, § 49.

81-886.07 Repealed. Laws 1973, LB 68, § 49.

81-887 Repealed. Laws 1973, LB 68, § 49.

81-887.01 Repealed. Laws 2022, LB707, § 66.

81-887.02 Repealed. Laws 2022, LB707, § 66.

81-887.03 Auctioneers; compliance with Nebraska Real Estate License Act; required.

All auctioneers of any state shall comply with the requirements of the Nebraska Real Estate License Act before conducting a sale of real estate in this state.

Source: Laws 1953, c. 339, § 3, p. 1112; Laws 2009, LB30, § 15; Laws 2022, LB707, § 60.

Cross References

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

(h) NEBRASKA MERIT SYSTEM

81-888 Repealed. Laws 1951, c. 311, § 11.

81-889 Repealed. Laws 1951, c. 311, § 11.

81-890 Repealed. Laws 1951, c. 311, § 11.

81-891 Repealed. Laws 1951, c. 311, § 11.

- 81-892 Repealed. Laws 1951, c. 311, § 11.**
- 81-893 Repealed. Laws 1951, c. 311, § 11.**
- 81-894 Repealed. Laws 1951, c. 311, § 11.**
- 81-895 Repealed. Laws 1951, c. 311, § 11.**
- 81-896 Repealed. Laws 1951, c. 311, § 11.**
- 81-897 Repealed. Laws 1951, c. 311, § 11.**
- 81-898 Repealed. Laws 1951, c. 311, § 11.**
- 81-899 Repealed. Laws 1951, c. 311, § 11.**
- 81-8,100 Repealed. Laws 1951, c. 311, § 11.**
- 81-8,101 Repealed. Laws 1951, c. 311, § 11.**
- 81-8,102 Repealed. Laws 1951, c. 311, § 11.**
- 81-8,103 Repealed. Laws 1951, c. 311, § 11.**
- 81-8,104 Repealed. Laws 1951, c. 311, § 11.**
- 81-8,105 Repealed. Laws 1951, c. 311, § 11.**
- 81-8,106 Repealed. Laws 1997, LB 5, § 5.**
- 81-8,107 Repealed. Laws 1997, LB 5, § 5.**

(i) LAND SURVEYING

81-8,108 Land surveying; declaration of policy; prohibited acts.

In order to safeguard life, health, and property, any person practicing or offering to practice land surveying in this state shall submit evidence that he or she is qualified to practice and shall be licensed as provided in the Land Surveyors Regulation Act. It shall be unlawful for any person to practice or to offer to practice land surveying in this state unless such person has been duly licensed under the act.

Source: Laws 1957, c. 383, § 1, p. 1332; Laws 1994, LB 874, § 1; Laws 2015, LB138, § 6; Laws 2024, LB102, § 16.
Operative date September 1, 2024.

Registered surveyors are professionals for purposes of professional negligence. *Bixenmann v. Dickinson Land Surveyors*, 294 Neb. 407, 882 N.W.2d 910 (2016).

81-8,108.01 Land Surveyors Regulation Act; act, how cited.

Sections 81-8,108 to 81-8,127 shall be known and may be cited as the Land Surveyors Regulation Act.

Source: Laws 2015, LB138, § 5; Laws 2024, LB102, § 17.
Operative date September 1, 2024.

81-8,109 Land surveying; definitions.

For purposes of the Land Surveyors Regulation Act, unless the context otherwise requires:

(1) Board or examining board means the State Board of Examiners for Land Surveyors;

(2) Land surveying means the establishment or reestablishment of corners and boundaries and the location of lots, parcels, tracts, or divisions of land, which may include distance, direction, elevation, and acreage, and the correct determination and description of lots, parcels, tracts, or divisions of land for, but not limited to, any of the following purposes:

(a) To furnish a legal description of any tract of land to be used in the preparation of deeds of conveyance when the description is not the same as the one in the deed of conveyance to the current owner or when bearings, distances, or measurements are needed to properly describe the tract being conveyed;

(b) To furnish a legal description of any land surveyed to be used in the platting or subdividing of the land;

(c) To determine the amount of acreage contained in any land surveyed;

(d) To furnish a topographic plat of a lot, parcel, tract, or division of land and locating natural and artificial features in the air, on the surface or subsurface of the earth, and on the beds or surface of bodies of water for the purpose of establishing the facts of size, area, shape, topography, and orientation of improved or unimproved real property and appurtenances to the real property;

(e) To conduct a control survey; or

(f) To provide improvement location reports;

(3) Land surveyor means a person who engages in the practice of land surveying;

(4) Professional land surveyor means a land surveyor who is licensed by the board to engage in the professional practice of land surveying in Nebraska; and

(5) Surveyor-in-training means a person (a) who is a graduate in an approved surveying or engineering curriculum of four years or more or who has had four or more years of experience in surveying work of a character satisfactory to the examining board and (b) who has successfully passed the examination in the fundamental surveying subjects and has received from the examining board a certificate stating that that portion of the examination has been successfully passed. The fee for such certificate and for the renewal of such certificate shall be set by the examining board.

Source: Laws 1957, c. 383, § 2, p. 1332; Laws 1971, LB 442, § 1; Laws 1989, LB 263, § 1; Laws 1994, LB 874, § 2; Laws 2015, LB138, § 7; Laws 2024, LB102, § 18.
Operative date September 1, 2024.

81-8,110 Land surveying; examining board; duties.

(1) An examining board shall be established for the purpose of administering the Land Surveyors Regulation Act. The examining board shall be independent of all other examining boards.

(2) The board shall enforce the Land Surveyors Regulation Act and the rules and regulations adopted and promulgated pursuant to the act. If any person violates the act, any rule or regulation under the act, or any decision or order of

the board, upon the request of the board the Attorney General or the appropriate county attorney shall file an action for the enforcement of the act, rule or regulation, or decision or order and for injunctive relief, if appropriate, in the district court.

Source: Laws 1957, c. 383, § 3, p. 1333; Laws 1969, c. 514, § 6, p. 2106; Laws 1971, LB 442, § 2; Laws 2024, LB102, § 20.
Operative date September 1, 2024.

81-8,110.01 Examining board; members; terms; qualifications; removal; vacancies.

(1) The examining board shall consist of four members appointed by the Governor who are duly licensed under the Land Surveyors Regulation Act to practice land surveying and one lay member appointed by the Governor who is of the age of legal majority and has been a resident of Nebraska for at least one year immediately prior to appointment to the examining board. Such lay member shall be a representative of consumer viewpoints.

(2) The members of the examining board shall be appointed to five-year terms. Each member shall serve until the appointment and qualification of his or her successor. Each member appointed to the examining board shall receive a certificate of appointment from the Governor. Each member so appointed, prior to beginning his or her term, shall file with the Secretary of State the constitutional oath of office. The Governor may remove any member of the examining board for misconduct, incompetency, incapacity, or neglect of duty or upon conviction of a crime involving moral turpitude. Vacancies on the examining board, however created, shall be filled for the unexpired term of the member by appointment by the Governor.

Source: Laws 1971, LB 442, § 3; Laws 1984, LB 478, § 2; Laws 1994, LB 874, § 3; Laws 2015, LB138, § 8; Laws 2024, LB102, § 21.
Operative date September 1, 2024.

81-8,110.02 Examining board; members; residence; qualifications.

Each member of the examining board who is a professional land surveyor shall be a resident of the State of Nebraska for at least one year immediately preceding his or her appointment to the examining board, shall have been engaged in the active practice of the discipline for at least ten years, and shall have been in responsible charge of work for at least five years prior to his or her appointment to the examining board.

Source: Laws 1971, LB 442, § 4; Laws 1994, LB 874, § 4; Laws 2024, LB102, § 22.
Operative date September 1, 2024.

81-8,110.03 State Surveyor; ex officio secretary of examining board.

The State Surveyor shall be ex officio secretary of the examining board and of all committees appointed by the examining board.

Source: Laws 1971, LB 442, § 5; Laws 1994, LB 874, § 5.

Cross References

For provisions for appointment of the State Surveyor, see section 84-407.

81-8,110.04 Examining board; meetings.

The examining board shall hold as many meetings throughout each year as may be necessary to conduct the business of the examining board and to examine, within a reasonable time, the applicants seeking licensure. An annual meeting of the examining board shall be held for the election of officers.

Source: Laws 1971, LB 442, § 6; Laws 1994, LB 874, § 6; Laws 2024, LB102, § 23.

Operative date September 1, 2024.

81-8,110.05 Examining board; meetings; notice.

Notice of all meetings, including the annual meeting of the examining board, shall be in such manner as provided in the bylaws of the examining board.

Source: Laws 1971, LB 442, § 7; Laws 1994, LB 874, § 7.

81-8,110.06 Examining board; officers; election; duties.

The examining board shall elect from its membership at its annual meeting, officers for the coming year. The officers shall be a chairperson and a vice-chairperson. The duties of the chairperson shall be to preside at all meetings of the examining board. The vice-chairperson shall preside in the absence of the chairperson and shall, with the other officers, fulfill such other duties and obligations as provided in section 81-8,110.07 and the bylaws.

Source: Laws 1971, LB 442, § 8; Laws 1994, LB 874, § 8.

81-8,110.07 Examining board; secretary; duties; Land Surveyor Examiner's Fund; created; purpose; investment.

The secretary of the examining board shall receive and account for all money derived from the operation of the Land Surveyors Regulation Act and shall remit it to the State Treasurer for credit to the Land Surveyor Examiner's Fund, which fund is hereby created. This fund shall be continued from year to year. When appropriated by the Legislature, this fund shall be expended only for the purposes of the Land Surveyors Regulation Act. When not reappropriated for the succeeding biennium, the money in this fund shall not revert to the General Fund. The fund shall be paid out only upon vouchers approved by the examining board and upon warrants issued by the Director of Administrative Services and countersigned by the State Treasurer. The expenditures of the examining board shall be kept within the income collected and remitted to the State Treasurer by the examining board. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Land Surveyor Examiner's Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1971, LB 442, § 9; Laws 1986, LB 258, § 35; Laws 1994, LB 874, § 9; Laws 1995, LB 7, § 110; Laws 2009, First Spec. Sess., LB3, § 69; Laws 2015, LB138, § 9.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-8,110.08 Examining board; rules and regulations; publication.

The examining board shall make and adopt all bylaws and rules, not inconsistent with law, which are needed in performing its duties. Such rules shall be published in the roster of professional land surveyors as provided for in section 81-8,113.

Source: Laws 1971, LB 442, § 10; Laws 2024, LB102, § 24.
Operative date September 1, 2024.

81-8,110.09 Repealed. Laws 1994, LB 874, § 25.

81-8,110.10 Repealed. Laws 1994, LB 874, § 25.

81-8,110.11 Examining board; members; expenses.

Each member of the examining board shall receive, when authorized, all necessary travel, meals, and lodging expenses incidental to the performance of his or her official duties or while attending national meetings or seminars as the official representative of the examining board as provided in sections 81-1174 to 81-1177 for state employees.

Source: Laws 1971, LB 442, § 13; Laws 1981, LB 204, § 180.

81-8,110.12 Examining board; seal; adopt.

The examining board shall adopt and have an official seal, which shall be affixed to all licenses and in-training certificates that are granted by the examining board. The dimensions of the seal shall be as provided in the bylaws.

Source: Laws 1971, LB 442, § 14; Laws 2024, LB102, § 25.
Operative date September 1, 2024.

81-8,110.13 Examining board; license; issuance; replacement license, when; fee.

The examining board may issue a license or an in-training certificate to a qualified person. A new license may be issued to replace a lost, destroyed, stolen, or mutilated license, subject to the rules and regulations adopted by the examining board. A fee not to exceed fifty dollars shall be charged the applicant for the issuance of a replacement license.

Source: Laws 1971, LB 442, § 15; Laws 1994, LB 874, § 10; Laws 2024, LB102, § 26.
Operative date September 1, 2024.

81-8,110.14 Examining board; record of proceedings and applications for licensure; confidential.

The examining board shall keep a record of its proceedings and a record of all applications for licensure. The information and data retained by the examining board in its files for individual applicants shall be considered confidential records and shall not be disclosed to any applicant or the public for any reason.

Source: Laws 1971, LB 442, § 16; Laws 2024, LB102, § 27.
Operative date September 1, 2024.

81-8,110.15 Examining board; sue and be sued; liability of members.

The examining board may sue or be sued as the examining board, and its members need not be named as parties. Members of the examining board shall

not be personally liable, jointly or severally, for any act or acts committed in the performance of their official duties as examining board members, nor shall any examining board member be personally liable for any hearing costs or court costs which may accrue in any action by or against the examining board.

Source: Laws 1971, LB 442, § 17; Laws 1994, LB 874, § 11.

81-8,111 Code of practice; contents; board; powers.

(1) The Legislature hereby finds and declares that a code of practice established by the board by which professional land surveyors could govern their professional conduct would be beneficial to the state and would safeguard the life, health, and property of the citizens of this state. The code of practice shall include provisions on:

- (a) Professional competence;
- (b) Conflict of interest;
- (c) Full disclosure of financial interest;
- (d) Full disclosure of matters affecting public safety, health, and welfare;
- (e) Compliance with laws;
- (f) Professional conduct and good character standards; and
- (g) Practice of land surveying.

(2) The board may adopt and promulgate rules and regulations to establish a code of practice.

(3) The board may publish commentaries regarding the code of practice. The commentaries shall explain the meaning of interpretations given to the code by the board.

Source: Laws 2015, LB138, § 10; Laws 2024, LB102, § 28.
Operative date September 1, 2024.

81-8,112 Repealed. Laws 1971, LB 442, § 24.

81-8,113 Examining board; record of proceedings; roster of professional land surveyors.

The examining board shall keep a complete record of all its proceedings which, together with all other records and files of the examining board, shall be filed in the office of the State Surveyor. A roster showing the names and places of business of all professional land surveyors shall be prepared by the secretary of the examining board each year. Copies of this roster shall be sent to all professional land surveyors and shall be furnished to the public on request.

Source: Laws 1957, c. 383, § 6, p. 1334; Laws 1994, LB 874, § 12; Laws 2024, LB102, § 29.
Operative date September 1, 2024.

81-8,114 Land surveying; application for licensure.

Applications for licensure 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; Laws 2024, LB102, § 30.
Operative date September 1, 2024.

81-8,115 Land surveying; examination of applicants.

The applicant for licensure 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; Laws 2024, LB102, § 32.
Operative date September 1, 2024.

81-8,116 Repealed. Laws 1994, LB 874, § 25.

81-8,117 Land surveying; eligibility for licensure; requirements.

(1) No person shall be eligible for a license unless:

(a) He or she has successfully passed an examination, designed to determine his or her proficiency and qualification to engage in the professional 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 (2) of section 81-8,109, and three of such five years must have been in a responsible position as a subordinate to a professional 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; Laws 2024, LB102, § 33.
Operative date September 1, 2024.

Registered surveyors are professionals for purposes of professional negligence. *Bixenmann v. Dickinson Land Surveyors*, 294 Neb. 407, 882 N.W.2d 910 (2016).

81-8,118 Land surveying; application and license fees; examination fee; failure to pay fees, effect.

(1) To pay the expense of the operation and enforcement of the Land Surveyors Regulation Act, the examining board shall establish application and license fees. Total application and license fees shall not exceed two hundred

dollars and shall be in addition to the examination fee which shall be set to recover the costs of the examination and its administration. The board may direct applicants to pay the examination fee directly to a third party who has contracted to administer the examination. At the time the application for a license is submitted the board shall collect from the applicant a nonrefundable application fee. If the applicant successfully qualifies by examination, he or she shall be licensed until April 1 of the immediately following odd-numbered year upon payment of a license fee as set forth in the rules or regulations. After the issuance of a license, a biennial fee of not less than five nor more than one hundred fifty dollars, as the examining board shall direct, shall be due and payable on or before January 1 of each odd-numbered year. Failure to remit biennial fees when due shall automatically cancel the license effective the immediately following April 1, but otherwise the license shall remain in full force and effect continuously from the date of issuance, unless suspended or revoked by the examining board for just cause. A license which has been canceled for failure to pay the biennial fee when due may be reinstated within one year, but the biennial fee shall be increased ten percent for each month or fraction of a month that payment is delayed. Nothing in this section shall prevent the examining board from suspending or revoking any license for just cause.

(2) Any person holding a certificate of registration under the Land Surveyors Regulation Act as of September 1, 2024, shall be deemed to be duly licensed under the act until the expiration of such certificate.

Source: Laws 1957, c. 383, § 11, p. 1335; Laws 1971, LB 442, § 22; Laws 1985, LB 564, § 1; Laws 1986, LB 621, § 1; Laws 1994, LB 874, § 16; Laws 2007, LB252, § 1; Laws 2015, LB138, § 11; Laws 2024, LB102, § 34.

Operative date September 1, 2024.

81-8,119 Repealed. Laws 1971, LB 442, § 24.

81-8,119.01 License; renewal; professional development requirements; inactive status.

(1) As a condition for renewal of a license issued pursuant to the Land Surveyors Regulation Act, a licensee who has previously renewed his or her license shall be required to successfully complete thirty hours of professional development within the preceding two calendar years. Any licensee who completes in excess of thirty hours of professional development within the preceding two calendar years may have the excess, not to exceed fifteen hours, applied to the requirement for the next biennium.

(2) The examining board shall not renew the license of any licensee who has failed to complete the professional development requirements pursuant to subsection (1) of this section, unless he or she can show good cause why he or she was unable to comply with such requirements. If the examining board determines that good cause was shown, the examining board shall permit the professional land surveyor to make up all outstanding required hours of professional development.

(3) A licensee may at any time prior to the termination of his or her license request to be classified as inactive. Such inactive licenses may be maintained by payment of a biennial fee of not less than five nor more than fifty dollars as determined by the examining board. Holders of inactive licenses shall not be

required to complete professional development as required in subsection (1) of this section. Holders of inactive licenses shall not practice land surveying. If the examining board determines that an inactive licensee has actively practiced land surveying, the examining board may immediately revoke his or her license.

(4) A holder of an inactive license may return his or her license to an active license to practice land surveying by the applicant electing to either:

(a) Complete one and one-half the biennial requirement for professional development. Such requirement shall be satisfied as set forth in the rules or bylaws; or

(b) Take such examination as the examining board deems necessary to determine his or her qualifications. Such examination shall cover areas designed to demonstrate the applicant's proficiency in current methods of land surveying practice.

Additionally he or she shall pay the biennial fee as required in section 81-8,118.

Source: Laws 1984, LB 478, § 6; Laws 1985, LB 564, § 2; Laws 1986, LB 621, § 2; Laws 1994, LB 874, § 17; Laws 2015, LB138, § 12; Laws 2024, LB102, § 35.
Operative date September 1, 2024.

81-8,119.02 Professional development programs; rules and regulations.

The examining board shall adopt and promulgate such administrative procedures and rules and regulations as are necessary for the effective delivery and certification of all programs of professional development required in section 81-8,119.01.

Source: Laws 1984, LB 478, § 7; Laws 1994, LB 874, § 18.

81-8,120 Land surveying; nonresident; license; fee; service of process.

A nonresident of this state who is licensed as a professional land surveyor in another state may be licensed under the Land Surveyors Regulation Act 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 licensed under the Land Surveyors Regulation Act, 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; Laws 2015, LB138, § 13; Laws 2024, LB102, § 36.
Operative date September 1, 2024.

81-8,121 Land surveying; professional land surveyor; rights and privileges; seal.

The issuance of a license by the examining board shall be evidence that the person named therein is entitled to all rights and privileges of a professional land surveyor and that the recipient thereof is admitted to the practice of land surveying in this state while the license remains unsuspended, unrevoked, or unexpired. The examining board shall provide for each person licensed a seal bearing the licensee's name and the legend Professional Land Surveyor. Plats, reports, and field notes issued by a professional land surveyor may be stamped with his or her seal or a facsimile thereof which is approved by the examining board during the life of his or her license. It shall be unlawful for anyone to stamp or seal any documents with a seal or facsimile thereof after the license of the licensee named thereon has been suspended or revoked or has expired.

Source: Laws 1957, c. 383, § 14, p. 1336; Laws 1994, LB 874, § 20; Laws 2024, LB102, § 37.

Operative date September 1, 2024.

81-8,121.01 Land surveying; entry upon land; authorized; liability for damages.

(1) A professional land surveyor, any person assisting a professional land surveyor, or a surveyor-in-training may:

(a) Enter public or private lands or waterways in this state, except for buildings, for the purpose of making a land survey;

(b) Investigate, recover, establish, reestablish, rehabilitate, perpetuate, or use evidence of a boundary location;

(c) Locate, relocate, use, install, perpetuate, or replace a survey monument; and

(d) Use any equipment that is required for the purpose of making a land survey.

(2) A vehicle used for land surveying shall be marked on the exterior with the name of the professional land surveyor or the firm which employs such professional land surveyor.

(3) Any professional land surveyor, person assisting a professional land surveyor, or surveyor-in-training who enters onto private property shall be liable for any actual damages done to such property by such professional land surveyor, person assisting such professional land surveyor, or surveyor-in-training, including damages done to crops. By such entry he or she shall forfeit any and all claims against the owner or tenant of the private property for damages or injury done to his or her person or equipment while on the private property, unless such damages or injuries are caused by the intentional conduct of such owner or tenant.

Source: Laws 2024, LB102, § 19.

Operative date September 1, 2024.

81-8,121.02 Land surveying; organizational practice; certificate of authorization; application; fee; renewal.

(1) An individual licensed under the Land Surveyors Regulation Act may practice or offer to practice the profession of land surveying through an organization 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.

(2) An organization applying for a certificate of authorization shall designate at least one professional land surveyor as the person in responsible charge of any practice of land surveying by the organization. One who renders only occasional professional services for an organization may not be designated as being in responsible charge of the professional activities of an organization under this section.

(3) To obtain a certificate of authorization, an application shall be filed with the board. The application shall contain the name and license number of each individual designated as in responsible charge and licensed to practice land surveying in Nebraska.

(4) Applications for a certificate of authorization shall be made on a form prescribed and furnished by the board.

(5) 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 for the initial application.

(6) An organization shall notify the board of any changes in the status of any individual designated as in responsible charge within thirty days after the effective date of the change.

(7) 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 land surveying is not relieved of responsibility for services performed by reason of employment or any other relationship with an organization holding a certificate of authorization.

(8) 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 in the state to an organization which intends to engage in the practice of land surveying unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive a certificate or to register the name.

(9) The Secretary of State shall not register any trade name or service mark which includes the words land surveyor or land surveying, or any modification or derivative of such words, in an applicant's firm name or logotype unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to register the trade name or service mark.

(10) An organization may engage in the practice of land surveying for itself without obtaining a certificate of authorization.

(11) A certificate of authorization shall expire on a date established by the board and become invalid after that date unless renewed. The board shall notify every organization holding a certificate of authorization under the act of the date of the expiration of the certificate of authorization and the amount of the fee required for renewal. The notice shall be provided at least one month in advance of the date of the expiration to the organization at the last-known address on file with the board. Only valid certificates may be renewed prior to expiration. Renewal fees shall not exceed two hundred dollars per year.

(12) The board may issue a new certificate of authorization to replace any lost, destroyed, or mutilated certificate.

Source: Laws 2024, LB102, § 31.

Operative date September 1, 2024.

81-8,122 Land survey; where filed.

When the county shall receive an official copy of a survey from a professional land surveyor or from the survey record repository established pursuant to section 84-412, such copy shall be placed on file in the office of the county surveyor in the county where the land is located. If no regular office is maintained in a county-owned building for the county surveyor, it shall be placed on file in the office of the county clerk.

Source: Laws 1957, c. 383, § 15, p. 1337; Laws 1982, LB 127, § 10; Laws 2024, LB102, § 38.

Operative date September 1, 2024.

81-8,122.01 Land survey; official record of survey; filing; contents.

(1) Whenever a survey has been executed by a professional land surveyor who is licensed under the Land Surveyors Regulation Act, a record of such survey bearing the signature and seal of the professional land surveyor shall become an official record of survey and shall be presumptive evidence of the facts stated therein, unless the professional land surveyor executing the survey has a personal interest in such survey.

(2) Surveys performed in accordance with the definition of land surveying described in subdivisions (2)(a), (b), and (c) of section 81-8,109 including, but not limited to, a new subdivision, subdivision replat, administrative subdivision, lot split, American Land Title Association and National Society of Professional Surveyors land title survey, irregular tract survey, or any survey which references the United States Public Land Survey System shall be filed in the survey record repository established pursuant to section 84-412.

(3) Surveys of an existing lot or lots of an existing subdivision created pursuant to section 19-921 which are within the corporate limits of a city with a population in excess of fifteen thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and which do not create a new legal description shall be filed in either the survey record repository or in the county survey records in the county where the land is located pursuant to section 23-1911.

(4) The record of survey shall be filed within ninety days after the completion of the survey, or within any extension of time granted by the office in which it is required to be filed for reasonable cause, and shall consist of the following minimum data: (a) A graphic representation of the survey; (b) a legal description of the tract surveyed; (c) a description of all corners found; (d) a description of all corners set; (e) ties to any section corners, quarter corners, or quarter-quarter corners found or set; (f) plat or record distances as well as field measurements; and (g) the date of completion of the survey.

(5) Control surveys, improvement location reports, topographic plats, or maps prepared pursuant to subdivision (2)(d) or (e) of section 81-8,109 only for the purpose of showing the location of improvements on existing lots, which

are not represented as boundary surveys or land surveys that include a statement of reference to a boundary survey filed of record, and in which no corners are found, established, or reestablished, shall be specifically exempt from all requirements of this section.

Source: Laws 1969, c. 764, § 1, p. 2893; Laws 1982, LB 127, § 11; Laws 2015, LB138, § 14; Laws 2017, LB113, § 56; Laws 2024, LB102, § 39.

Operative date September 1, 2024.

81-8,122.02 Land survey; failure to file record; effect.

Any professional land surveyor who fails to file a record of survey as provided in section 81-8,122.01 shall be reported to the examining board which shall take whatever action, as provided in section 81-8,123, that the board deems appropriate.

Source: Laws 1969, c. 764, § 2, p. 2893; Laws 1994, LB 874, § 21; Laws 2024, LB102, § 40.

Operative date September 1, 2024.

81-8,123 Professional land surveyor; complaint; investigation; disciplinary actions.

(1) The examining board may, upon its own motion, and shall, upon the sworn complaint in writing of any person, investigate the actions of any professional land surveyor.

(2) The board, after a hearing as provided in section 81-8,124, and upon proof satisfactory to the board, may determine by a majority vote that any person or organization has violated the Land Surveyors Regulation Act or any rules and regulations adopted and promulgated under the act.

(3) Upon a finding that a person or organization has committed a violation, one or more of the following actions may be taken against such person or organization upon a majority vote of the board:

(a) Issuance of censure or reprimand;

(b) Suspension of judgment;

(c) Placement of the offender on probation;

(d) Placement of a limitation or limitations on a licensee and upon the right of the licensee 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 for each offense. The amount of the penalty shall be based on the severity of the violation;

(f) Entry of an order of revocation, suspension, or cancellation of the license;

(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 reasonable 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.

(4) The board may take into account suitable evidence of reform when determining appropriate action.

(5) Civil penalties collected under subdivision (3)(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 (3)(h) of this section shall be remitted to the State Treasurer for credit to the Land Surveyor Examiner's Fund.

Source: Laws 1957, c. 383, § 16, p. 1337; Laws 1984, LB 478, § 5; Laws 1994, LB 874, § 22; Laws 2015, LB138, § 15; Laws 2024, LB102, § 41.

Operative date September 1, 2024.

Incompetency refers to a demonstrated lack of skill to perform duties of licensed land surveyor; misconduct violates standards of professional behavior established through professional experience. A land surveyor must exercise care which a survey-

or of ordinary skill and prudence would exercise under similar circumstances. *Simonds v. Board of Examiners*, 213 Neb. 259, 329 N.W.2d 92 (1983).

81-8,124 Professional land surveyor; disciplinary action; hearing; notice.

Before the examining board takes any disciplinary action against any professional land surveyor, it shall give the licensee a hearing on the matter and shall, at least twenty days prior to the date set for the hearing, notify such licensee in writing. Such notice shall contain an exact statement of the charges against the professional land surveyor and the date and place of hearing. The licensee shall be heard in person or by counsel before an examiner appointed by the examining board in reference to such charges. Such notice may be served by delivering it personally to the licensee or by sending it by either registered or certified mail addressed to the licensee's last-known business address as shown by the professional land surveyor's license.

Source: Laws 1957, c. 383, § 17, p. 1337; Laws 1994, LB 874, § 23; Laws 2024, LB102, § 42.

Operative date September 1, 2024.

81-8,125 Professional land surveyor; disciplinary action; hearing; attendance of witnesses; record; findings; order; effect.

The examiner shall have power to compel the attendance of witnesses and to administer oaths and shall take testimony and proof concerning the charges stated in the complaint. A complete record shall be made of all testimony taken and evidence received at such hearing, which record shall be filed with the secretary of the examining board. The examiner conducting such hearing shall make in writing complete findings and recommendations to the examining board. Thereafter, the examining board shall, in writing officially signed by all members concurring therein, make its findings, determination, and order in the matter. If the examining board finds that the professional land surveyor has violated the Land Surveyors Regulation Act or any rules and regulations adopted and promulgated under the act, he or she shall be placed on probation or his or her license shall be revoked or suspended. As a condition of probation the examining board may restrict the professional land surveyor's scope of practice or require supervision of the professional land surveyor's practice.

Source: Laws 1957, c. 383, § 18, p. 1337; Laws 1994, LB 874, § 24; Laws 2024, LB102, § 43.

Operative date September 1, 2024.

81-8,126 Act; applicability.

The Land Surveyors Regulation Act shall not apply to (1) any land surveyor working for the United States Government while performing his or her duties as an employee of the government, (2) any person employed as an assistant to a professional land surveyor licensed under the act, or (3) any professional engineer or person working under the direct supervision of a professional engineer licensed under the Engineers and Architects Regulation Act doing work which does not involve the location, description, establishment, or reestablishment of property corners or property lines or work which does not create descriptions, definitions, or areas for transfer of an estate in real property.

Source: Laws 1957, c. 383, § 19, p. 1338; Laws 1989, LB 263, § 2; Laws 1997, LB 622, § 118; Laws 2015, LB138, § 16; Laws 2024, LB102, § 44.

Operative date September 1, 2024.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

81-8,127 Land surveying; unlawful practice or use of title; penalty.

(1) Except as provided in sections 81-8,121.01 and 81-8,126, an individual shall not directly or indirectly engage in the practice of land surveying in the state or use the title professional land surveyor or display or use any words, letters, figures, titles, sign, card, advertisement, or other symbol or device indicating or tending to indicate that he or she is a professional land surveyor or is practicing land surveying unless he or she is licensed under the Land Surveyors Regulation Act. A licensee shall not aid or abet any person not licensed under the act in the practice of land surveying.

(2) Any person, firm, partnership, limited liability company, corporation, or joint-stock association who or which practices or offers to practice land surveying or uses the title of professional land surveyor or land surveyor, or any modification or derivative of such words, in its name or form of business activity in this state except as authorized in the Land Surveyors Regulation Act shall be deemed guilty of a Class I misdemeanor for the first offense and a Class IV felony for the second or any subsequent offense.

Source: Laws 1957, c. 383, § 20, p. 1338; Laws 1977, LB 39, § 297; Laws 1993, LB 690, § 2; Laws 1994, LB 884, § 93; Laws 2015, LB138, § 17; Laws 2024, LB102, § 45.

Operative date September 1, 2024.

(j) STATE ATHLETIC COMMISSIONER**81-8,128 State Athletic Commissioner; appointment; term; salary; bond or insurance; assistants.**

There is hereby established the position of State Athletic Commissioner. The commissioner shall be appointed by the Governor and shall hold office for a term of two years commencing the first Thursday after the first Tuesday of January in each odd-numbered year. The commissioner shall receive such salary as the Governor may elect and shall be bonded or insured as required by section 11-201. The commissioner may be reappointed for successive terms.

The office of the commissioner shall be located within and under the general supervision of the Charitable Gaming Division of the Department of Revenue. The commissioner may exercise and perform his or her powers and duties at any location in the state. The commissioner may employ assistants and fix their compensation in conjunction with the Charitable Gaming Division. The compensation of assistants and expenses of the office of the commissioner shall be paid through the State Athletic Commissioner's Cash Fund.

Source: Laws 1957, c. 382, § 1, p. 1326; Laws 1978, LB 653, § 33; Laws 1993, LB 397, § 2; Laws 2004, LB 884, § 41; Laws 2006, LB 941, § 1; Laws 2010, LB879, § 21; Laws 2011, LB210, § 11.

81-8,128.01 State Athletic Commissioner; salary increase; when effective.

Section 81-8,128 shall be so interpreted as to effectuate its general purpose to provide, in the public interest, adequate compensation as therein provided for the State Athletic Commissioner, and to permit a change in such salary as soon as the same may become operative under the Constitution of the State of Nebraska.

Source: Laws 1967, c. 591, § 2, p. 2011.

81-8,129 State Athletic Commissioner; jurisdiction; activities covered.

The State Athletic Commissioner shall have sole direction, management, control, and jurisdiction over all professional mixed martial arts, professional boxing, professional kickboxing, professional bare-knuckle boxing, and professional sparring matches and exhibitions and all amateur mixed martial arts matches and exhibitions to be held within the state, except such as are conducted by universities, colleges, high schools, the military, and recognized amateur associations for contestants under sixteen years of age. No professional boxers, professional mixed martial arts contestants, professional kickboxers, professional bare-knuckle boxers, or amateur mixed martial arts contestants who have attained the age of sixteen, shall participate in a match or exhibition for a prize or purse, or at which an admission fee is charged, either directly or indirectly, in the form of dues or otherwise, in this state except by a club, association, organization, or person licensed by the commissioner, as provided in section 81-8,130, and in pursuance of a license granted by the commissioner for such match or exhibition under section 81-8,130.01.

Source: Laws 1957, c. 382, § 2, p. 1327; Laws 1980, LB 849, § 2; Laws 2007, LB471, § 1; Laws 2012, LB869, § 1; Laws 2015, LB291, § 1; Laws 2021, LB70, § 1.

Fight contests, which include kickboxing, mixed martial arts, and submission wrestling, do not qualify as professional wrestling or boxing matches or exhibitions as those terms are used in the statute. The State Athletic Commissioner has jurisdiction

over professional wrestling and boxing and has no authority to issue a license for fight contests. *Mason v. City of Lincoln*, 266 Neb. 399, 665 N.W.2d 600 (2003).

81-8,129.01 State Athletic Commissioner's Cash Fund; created; receipts; disbursements.

There is hereby created a fund, to be known as the State Athletic Commissioner's Cash Fund, from which shall be appropriated such amounts as are available and as shall be considered incident to the administration of the State Athletic Commissioner's office. Money in the State Athletic Commissioner's Cash Fund may be transferred to the General Fund at the direction of the

Legislature. The fund shall contain all license fees and gross receipts taxes collected by the commissioner as provided under sections 81-8,128 to 81-8,142.01, which shall be paid into the state treasury and the State Treasurer shall credit the money to the State Athletic Commissioner's Cash Fund.

Source: Laws 1973, LB 118, § 1; Laws 1980, LB 849, § 3; Laws 1983, LB 469, § 6.

81-8,130 Amateur mixed martial arts matches or exhibitions; license; fee.

The State Athletic Commissioner may issue an annual license for conducting amateur mixed martial arts matches or exhibitions to any club, association, or organization. Each application for a license shall be accompanied by a fee set by the commissioner in rule and regulation. Such fee shall be not less than twenty-five dollars and not more than one hundred dollars.

Source: Laws 1957, c. 382, § 3, p. 1327; Laws 1980, LB 849, § 4; Laws 2002, LB 482, § 1; Laws 2012, LB869, § 2.

81-8,130.01 Professional matches; promoters; licenses and permits; fee.

Licenses and permits may be issued to professional mixed martial arts, professional boxing, professional kickboxing, or professional bare-knuckle boxing promoters, whether persons, clubs, or associations, for the sole purpose of conducting professional matches under such rules and regulations as the State Athletic Commissioner shall adopt. Each application for such license shall be accompanied by a fee set by the commissioner in rule and regulation. Such fee shall be not less than one hundred dollars and not more than three hundred dollars. If the promoter is an individual, the application shall include his or her social security number.

Source: Laws 1980, LB 849, § 17; Laws 1997, LB 752, § 222; Laws 2002, LB 482, § 2; Laws 2007, LB471, § 2; Laws 2012, LB869, § 3; Laws 2015, LB291, § 2; Laws 2021, LB70, § 2.

81-8,131 Mixed martial arts, defined.

For purposes of sections 81-8,128 to 81-8,142.01, mixed martial arts, commonly referred to as MMA, means an unarmed combat sport in which two competitors seek to achieve dominance over each other by utilizing a combination of permitted martial arts techniques from disciplines of martial arts, including, but not limited to, grappling, kicking, and striking. Martial arts means any one of the disciplines set forth in rules and regulations adopted and promulgated by the State Athletic Commissioner.

Source: Laws 2007, LB471, § 11.

81-8,132 Licensee; bond; conditions.

No license shall be granted unless the licensee has executed a bond in the sum of not less than one thousand dollars in the case of amateur mixed martial arts, nor less than five thousand dollars in the case of professional mixed martial arts, professional boxing, professional kickboxing, or professional bare-knuckle boxing. The license shall be approved by the State Athletic Commissioner, conditioned on the faithful compliance by the licensee with the provisions of sections 81-8,129 to 81-8,142.01, the rules and regulations of the

commissioner, and such other laws of the state as may be applicable to anything done by the licensee in pursuance of the license.

Source: Laws 1957, c. 382, § 5, p. 1328; Laws 1980, LB 849, § 5; Laws 2007, LB471, § 3; Laws 2012, LB869, § 4; Laws 2015, LB291, § 3; Laws 2021, LB70, § 3.

81-8,133 Referees; license; duties; fee.

The State Athletic Commissioner is authorized to grant licenses to competent referees, upon an application and the payment of a fee set by the commissioner in rule and regulation. Such fee shall be not less than ten dollars and not more than forty dollars per annum. The commissioner may revoke any license so granted for such cause as may be deemed sufficient. At every professional boxing, professional mixed martial arts, professional kickboxing, professional bare-knuckle boxing, amateur mixed martial arts, or professional sparring match or exhibition, there shall be in attendance a duly licensed referee, who shall direct and control the match. The referee shall stop the match whenever he or she deems it advisable, (1) because of the physical condition of the contestants or one of them, (2) when one of the contestants is clearly outclassed by his or her opponent, or (3) for any other sufficient reason. The referee shall, at the termination of every professional boxing, professional mixed martial arts, professional kickboxing, professional bare-knuckle boxing, amateur mixed martial arts, or professional sparring match or exhibition, indicate a winner. The fees of the referee and other licensed officials may be fixed by the commissioner and shall be paid by the licensed organization.

Source: Laws 1957, c. 382, § 6, p. 1328; Laws 1980, LB 849, § 6; Laws 2002, LB 482, § 3; Laws 2007, LB471, § 4; Laws 2012, LB869, § 5; Laws 2015, LB291, § 4; Laws 2021, LB70, § 4.

81-8,133.01 Other officials and contestants; license required; fees; revocation of license.

The State Athletic Commissioner may grant licenses to qualified physicians, managers, matchmakers, and professional mixed martial arts, professional boxing, professional kickboxing, professional bare-knuckle boxing, or professional sparring match or exhibition judges upon an application and payment of an annual fee set by the commissioner in rule and regulation. Such fee for matchmakers shall be not less than ten dollars and not more than one hundred dollars. Such fee for physicians, managers, and professional mixed martial arts, professional boxing, professional kickboxing, professional bare-knuckle boxing, or professional sparring match or exhibition judges shall be not less than ten dollars and not more than twenty dollars. The commissioner may also grant licenses to qualified timekeepers, contestants, and seconds upon an application and payment of an annual fee set by the commissioner in rule and regulation. Such fee shall be not less than ten dollars and not more than twenty dollars. The application shall include the applicant's social security number. No person shall serve as physician, manager, matchmaker, or judge at any professional mixed martial arts, professional boxing, professional kickboxing, professional bare-knuckle boxing, or professional sparring match or exhibition who is not licensed as such. No person shall serve as timekeeper or contestant at any professional mixed martial arts, professional boxing, professional kickboxing, or professional bare-knuckle boxing match who is not licensed as such. The

commissioner shall have summary authority to stop any match at which any person is serving in violation of the provisions of this section. Any license granted under the provisions of this section may be revoked for cause.

Source: Laws 1963, c. 501, § 1, p. 1604; Laws 1980, LB 849, § 7; Laws 1984, LB 980, § 1; Laws 1997, LB 752, § 223; Laws 2002, LB 482, § 4; Laws 2007, LB471, § 5; Laws 2012, LB869, § 6; Laws 2015, LB291, § 5; Laws 2021, LB70, § 5.

81-8,134 Boxing, mixed martial arts, kickboxing, bare-knuckle boxing, or sparring matches; rules governing.

(1) Any professional boxing match, professional mixed martial arts match, professional kickboxing match, professional bare-knuckle boxing match, or amateur mixed martial arts match conducted in this state which is labeled or promoted as a championship match shall have regional or national significance and the approval of a nationally recognized professional boxing, mixed martial arts, kickboxing, or bare-knuckle boxing association.

(2) Professional boxing, professional kickboxing, professional bare-knuckle boxing, or professional sparring matches or exhibitions shall not exceed ten rounds in length, except in a championship match, which shall not exceed fifteen rounds. No round shall be longer than three minutes. At least one minute shall intervene between rounds. Except for professional kickboxing or professional bare-knuckle boxing matches, the contestants shall wear during the contest gloves weighing at least eight ounces each.

(3) Professional mixed martial arts matches or exhibitions shall not exceed three rounds in length, except in a championship match, which shall not exceed five rounds in length. No round shall be longer than five minutes. At least one minute shall intervene between rounds.

(4) No professional boxing contestant, professional mixed martial arts contestant, professional kickboxing contestant, professional bare-knuckle boxing contestant, or amateur mixed martial arts contestant shall be allowed to participate or take part in any contest in this state unless a duly licensed physician shall certify in writing that such contestant has taken a physical examination the day of the contest and is physically fit to engage in the proposed contest.

Source: Laws 1957, c. 382, § 7, p. 1328; Laws 1980, LB 849, § 8; Laws 2007, LB471, § 6; Laws 2012, LB869, § 7; Laws 2021, LB70, § 6.

81-8,135 Licensee; reports; contents; gross receipts tax; amounts.

Every licensee conducting or holding any professional mixed martial arts, amateur mixed martial arts, professional boxing, professional kickboxing, or professional bare-knuckle boxing match shall furnish to the State Athletic Commissioner a written report showing the articles of agreement between the contestants, the number of tickets sold for each contest, the amount of the gross receipts thereof, the gross receipts from sale of any television rights, and such other matters as the commissioner shall prescribe. Within such time the licensee shall pay to the commissioner a tax of five percent of the total gross receipts of any professional mixed martial arts, professional boxing, professional kickboxing, or professional bare-knuckle boxing match or exhibition, exclusive of state and federal taxes, except the gross receipts from sale of television rights, and five percent of such rights, and five percent of the total gross receipts of any amateur mixed martial arts match or exhibition, exclusive of

state and federal taxes, except that if such match or exhibition is conducted as an incidental feature in any event or entertainment of a different character, such portion of the total receipts shall be paid to the state as the commissioner may determine, or as may be fixed by rule adopted under section 81-8,139.

Source: Laws 1957, c. 382, § 8, p. 1329; Laws 1961, c. 434, § 1, p. 1349; Laws 1963, c. 520, § 1, p. 1638; Laws 1969, c. 778, § 4, p. 2951; Laws 1980, LB 849, § 9; Laws 2007, LB471, § 7; Laws 2012, LB869, § 8; Laws 2015, LB291, § 6; Laws 2021, LB70, § 7.

81-8,136 Tickets; sale; commissioner may supervise.

The State Athletic Commissioner may have control and supervision of the sale of tickets and the issuing of complimentary tickets. He or she may be represented to supervise and check the counting of receipts, to enforce any and all rules and regulations of the commissioner, and to see that the provisions of sections 81-8,128 to 81-8,142.01, the rules and regulations of the commissioner, and the articles of agreement are carried out and complied with.

Source: Laws 1957, c. 382, § 9, p. 1329; Laws 1980, LB 849, § 10.

81-8,137 License; revocation or suspension; grounds.

Any license granted under the provisions of sections 81-8,128 to 81-8,142.01 may be revoked or suspended by the State Athletic Commissioner for a violation of the provisions of sections 81-8,128 to 81-8,142.01, the articles of agreement, any rule or regulation of the commissioner, or when the licensee, in the judgment of the commissioner, has been guilty of any act or offense detrimental to the public interest.

Source: Laws 1957, c. 382, § 10, p. 1329; Laws 1980, LB 849, § 11.

81-8,138 Contestants; compensation; when payable; fake contests.

No contestant in any match or exhibition shall be paid for services until the same are rendered, and should it be determined by the State Athletic Commissioner that a contestant did not give an honest exhibition of his or her skill, he or she shall not be paid. Any contestant who shall participate in any sham or fake professional boxing, professional mixed martial arts, professional kickboxing, professional bare-knuckle boxing, or amateur mixed martial arts match or exhibition shall be disqualified and shall not thereafter be permitted to contend in any match or exhibition in this state, and any contestant who shall participate in any sham or fake professional boxing, professional mixed martial arts, professional kickboxing, professional bare-knuckle boxing, or amateur mixed martial arts match or exhibition shall be guilty of a violation of sections 81-8,128 to 81-8,142.01.

Source: Laws 1957, c. 382, § 11, p. 1330; Laws 1980, LB 849, § 12; Laws 2007, LB471, § 8; Laws 2012, LB869, § 9; Laws 2021, LB70, § 8.

81-8,139 State Athletic Commissioner; rules and regulations; powers; suspension of contestant from competition; fine; hearing; notice.

(1) Except as provided in subsection (2) of this section, the State Athletic Commissioner shall adopt and promulgate such rules and regulations for the administration and enforcement of sections 81-8,128 to 81-8,142.01 as he or she may deem necessary. Such rules and regulations shall include, but not be limited to, the establishment of written criteria for the granting and revoking of

licenses, the setting of license fees, and the qualification requirements for those to be licensed as referees, physicians, managers, matchmakers, and professional boxing, professional mixed martial arts, professional kickboxing, professional bare-knuckle boxing, or professional sparring match or exhibition judges. He or she shall have the power and may control and limit the number of professional mixed martial arts, amateur mixed martial arts, professional boxing, professional kickboxing, professional bare-knuckle boxing, or professional sparring matches or exhibitions given, or to be held, each year, or within one week, in any city or town, or by any organization. He or she may fine any licensee, except amateur contestants, an amount not to exceed one thousand dollars and may suspend for a period, not to exceed one year, any licensee's right to participate in or conduct any match or exhibition for unsportsmanlike conduct while engaged in or arising directly from any match or exhibition, failure to compete in good faith, engaging in any sham match or exhibition, or the use of threatening and abusive language toward officials, other contestants, or spectators.

(2) The State Athletic Commissioner may adopt and promulgate rules and regulations to identify a list of substances banned for use by any amateur or professional contestant and may require any contestant to submit to a test for banned substances as a condition for allowing the contestant's participation in a match or exhibition.

(3) The State Athletic Commissioner may suspend an amateur or professional contestant from competition for a period not to exceed one year and may fine a professional contestant an amount not to exceed one thousand five hundred dollars or forty percent of the prize or purse, whichever is greater, for a first offense of failing a test for a banned substance on the list developed pursuant to subsection (2) of this section or for refusing to submit to such a test. He or she may suspend an amateur or professional contestant from competition for a period not to exceed three years and may fine a professional contestant an amount not to exceed three thousand dollars or seventy percent of the prize or purse, whichever is greater, for any second such offense. He or she may suspend an amateur or professional contestant from competition for life and may fine a professional contestant an amount not to exceed five thousand dollars or one hundred percent of the prize or purse, whichever is greater, for any third or subsequent such offense. For purposes of determining if an offense under this subsection is a first, second, third, or subsequent offense, failing a test for banned substances and refusing to submit to such a test shall be considered the same offense.

(4) Before levying an administrative fine pursuant to this section, the State Athletic Commissioner shall set the matter for hearing. Proceedings to levy an administrative fine shall be contested cases prosecuted and appealable pursuant to the Administrative Procedure Act. At least ten days before the hearing, the State Athletic Commissioner shall serve notice of the time, date, and place of the hearing upon the licensee or other violator by personal or certified mail service.

(5) The State Athletic Commissioner shall remit any administrative fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1957, c. 382, § 12, p. 1330; Laws 1975, LB 5, § 1; Laws 1980, LB 849, § 13; Laws 2002, LB 482, § 5; Laws 2007, LB471, § 9; Laws 2012, LB869, § 10; Laws 2015, LB291, § 7; Laws 2016, LB823, § 1; Laws 2021, LB70, § 9.

Cross References

Administrative Procedure Act, see section 84-920.

81-8,139.01 Repealed. Laws 2013, LB 78, § 23.

81-8,140 Repealed. Laws 1981, LB 545, § 52.

81-8,141 Licensee; reports; failure to make; investigation; determination of tax; failure to pay; effect.

(1) Whenever any club, corporation, association, or person shall fail to make a report of any contest at the time prescribed by section 81-8,135, or whenever such report is unsatisfactory to the State Athletic Commissioner, he or she may examine, or cause to be examined, the books and records of such club, corporation, association, or person, and subpoena and examine under oath any officers or persons as witnesses for the purpose of determining the total amount of the gross receipts for any contest and the amount of taxes due pursuant to the provisions of section 81-8,135, which tax the commissioner may, upon and as a result of such examination, fix and determine. In case of a default in the payment of any taxes so adjudged to be due, together with the expenses incurred in making such examination, for a period of twenty days after notice to such delinquent club, corporation, association, or person of the amount, such delinquent club, corporation, association, or person shall ipso facto forfeit its, his, or her license and shall be thereby disqualified from receiving any new license, or any renewal of its, his, or her license. It, he, or she shall in addition thereto forfeit to the people of the State of Nebraska the sum of one thousand dollars in the case of amateur licenses and five thousand dollars in the case of professional licenses, which sum may be recovered by the Attorney General in the name of the people of the State of Nebraska in the same manner as other penalties are by law recovered.

(2) The State Athletic Commissioner may employ persons to inspect and collect the taxes required to be submitted to the commission under section 81-8,135. Any such inspector shall be bonded or insured as required by section 11-201.

Source: Laws 1957, c. 382, § 14, p. 1330; Laws 1980, LB 849, § 15; Laws 2004, LB 884, § 42.

81-8,142 Violations; penalty.

Any person who violates any of the provisions of sections 81-8,128 to 81-8,142.01 or who assists another to violate the same, shall be guilty of a Class III misdemeanor.

Source: Laws 1957, c. 382, § 15, p. 1331; Laws 1977, LB 39, § 298; Laws 1980, LB 849, § 16.

81-8,142.01 Violations; Attorney General; duties.

The State Athletic Commissioner may inform the Attorney General of any violations of sections 81-8,129 to 81-8,142.01, and may request the Attorney General to prosecute persons committing such violations. The Attorney General shall be authorized upon receipt of the request by the commissioner, to take the appropriate legal action, whether civil or criminal.

Source: Laws 1980, LB 849, § 19.

(k) CENTENNIAL COMMISSION

- 81-8,143 Repealed. Laws 1969, c. 411, § 1.
- 81-8,144 Repealed. Laws 1969, c. 411, § 1.
- 81-8,145 Repealed. Laws 1969, c. 411, § 1.
- 81-8,145.01 Repealed. Laws 1969, c. 411, § 1.
- 81-8,145.02 Repealed. Laws 1969, c. 411, § 1.
- 81-8,145.03 Repealed. Laws 1969, c. 411, § 1.

(l) NEBRASKA SONG COMMITTEE

- 81-8,146 Repealed. Laws 1969, c. 411, § 1.
- 81-8,147 Repealed. Laws 1969, c. 411, § 1.
- 81-8,148 Repealed. Laws 1969, c. 411, § 1.

(m) NEBRASKA INDUSTRIAL RESEARCH INSTITUTE

- 81-8,149 Repealed. Laws 1967, c. 566, § 15.
- 81-8,150 Repealed. Laws 1967, c. 566, § 15.
- 81-8,151 Repealed. Laws 1967, c. 566, § 15.
- 81-8,152 Repealed. Laws 1967, c. 566, § 15.
- 81-8,153 Repealed. Laws 1967, c. 566, § 15.
- 81-8,154 Repealed. Laws 1967, c. 566, § 15.
- 81-8,155 Repealed. Laws 1967, c. 566, § 15.
- 81-8,156 Repealed. Laws 1967, c. 566, § 15.
- 81-8,157 Repealed. Laws 1967, c. 566, § 15.

(n) COLLECTION AGENCY

- 81-8,158 Transferred to section 45-601.
- 81-8,159 Transferred to section 45-602.
- 81-8,160 Repealed. Laws 1984, LB 471, § 24.
- 81-8,161 Repealed. Laws 1984, LB 471, § 24.
- 81-8,162 Transferred to section 45-603.
- 81-8,163 Repealed. Laws 1984, LB 471, § 24.
- 81-8,164 Repealed. Laws 1984, LB 471, § 24.
- 81-8,165 Transferred to section 45-604.

- 81-8,166 Transferred to section 45-605.
- 81-8,167 Transferred to section 45-606.
- 81-8,168 Transferred to section 45-607.
- 81-8,169 Transferred to section 45-608.
- 81-8,170 Transferred to section 45-609.
- 81-8,171 Transferred to section 45-610.
- 81-8,172 Transferred to section 45-611.
- 81-8,173 Transferred to section 45-612.
- 81-8,174 Transferred to section 45-613.
- 81-8,175 Transferred to section 45-614.
- 81-8,176 Transferred to section 45-615.
- 81-8,177 Transferred to section 45-616.
- 81-8,178 Transferred to section 45-617.
- 81-8,179 Transferred to section 45-618.
- 81-8,180 Transferred to section 45-619.
- 81-8,181 Transferred to section 45-620.
- 81-8,182 Transferred to section 45-621.
- 81-8,183 Transferred to section 45-622.

(o) PROFESSIONAL LANDSCAPE ARCHITECTS

81-8,183.01 Professional Landscape Architects Act, how cited.

Sections 81-8,183.01 to 81-8,208 shall be known and may be cited as the Professional Landscape Architects Act.

Source: Laws 1967, c. 565, § 25, p. 1867; Laws 1984, LB 477, § 15; R.S.1943, (2008), § 81-8,208; Laws 2012, LB1140, § 1; Laws 2020, LB30, § 1.

81-8,184 Terms, defined.

For purposes of the Professional Landscape Architects Act:

- (1) Board means the State Board of Landscape Architects;
- (2) Coordinating professional means a design professional who coordinates, as appropriate, the work of all design professionals involved in a project;
- (3) Design professional means a professional landscape architect, a licensed architect, or a professional engineer;
- (4) License means an authorization granted by the board to practice landscape architecture;

(5) Practice of landscape architecture means the application of the principles of mathematical, physical, biological, and social sciences in consultation, evaluation, planning, design, including, but not limited to, the preparation, review and filing of plans, drawings, specifications, and other contract documents, and administration of contracts relative to projects principally directed at the functional and aesthetic use and preservation of land in the performance of professional services. These professional services include, but are not limited to:

(a) Investigation, selection, and allocation of land and natural resources for appropriate uses;

(b) Development of feasibility and site selection studies to govern the planning, design, and management of the land;

(c) Preparation, review, and analysis of land-use master, site, and comprehensive development plans and preliminary subdivision plans;

(d) Determining the location and siting of improvements, including buildings, site features, access, and environs for the improvements;

(e) Collaboration with architects, professional engineers, and professional land surveyors in the design of streets, highways, bridges, buildings, and structures with respect to the functional and aesthetic requirements of the area in which such facilities are to be placed;

(f) Preservation and management of natural, cultural, historic, and aesthetic resources;

(g) Design of: Sites, landforms, water features, and water bodies; site grading; surface and subsurface drainage and management; sediment and erosion control; noninhabitable structures; park and recreation areas; site vehicular circulation systems, greenways, and streetscapes; equestrian, bicycle, and pedestrian circulation systems; and site lighting, irrigation, plantings, and related construction details and specifications; and

(h) Location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined in this section. Practice of landscape architecture does not include the design of structures or facilities with separate and self-contained purposes for habitation or industry, or the design of streets and highways, utilities, storm and sanitary sewers, and water and sewage treatment facilities, such as are exclusive to the practice of engineering, architecture, or land surveying; and

(6) Professional landscape architect or licensee means a person who is licensed by the board to practice landscape architecture.

Source: Laws 1967, c. 565, § 1, p. 1860; Laws 1971, LB 98, § 1; Laws 2012, LB1140, § 2; Laws 2020, LB30, § 3; Laws 2024, LB102, § 46.

Operative date September 1, 2024.

81-8,184.01 Repealed. Laws 2020, LB30, § 21.

81-8,184.02 Act; regulation of landscape architecture; prohibited acts.

To protect public health, safety, and welfare, the Professional Landscape Architects Act regulates the title and practice of landscape architecture in the State of Nebraska. No person may engage in the practice of landscape architecture, use the designation of professional landscape architect, landscape architect, or any derivative thereof, or advertise any title or description tending to

convey the impression that he or she is a professional landscape architect, unless the person is authorized in the manner provided in the act and complies with all provisions of the act. The practice of landscape architecture is a privilege granted by the board, based on the qualifications of the individual, and evidenced by a license.

Source: Laws 2020, LB30, § 2.

81-8,185 Repealed. Laws 2020, LB30, § 21.

81-8,186 State Board of Landscape Architects; members; appointment; qualifications; terms; removal.

(1) There is hereby created a State Board of Landscape Architects consisting of six members who shall be appointed by the Governor. Five members of the board shall be professional landscape architects and one shall be a member of the public.

(2) Each member shall be a citizen of the United States and shall have been a resident of the State of Nebraska for at least one year immediately preceding appointment.

(3) Each professional landscape architect member shall have been engaged in the active practice of landscape architecture for at least five years at the time of his or her appointment and shall be a professional landscape architect in this state.

(4) The term of office of the members appointed to the board shall be for five years. A member shall hold office after the expiration of his or her term until his or her successor is duly appointed and qualified. Vacancies in the membership of the board, however created, shall be filled for the unexpired term by appointment by the Governor. The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty.

Source: Laws 1967, c. 565, § 3, p. 1861; Laws 1971, LB 98, § 3; Laws 1984, LB 477, § 3; Laws 2012, LB1140, § 4; Laws 2020, LB30, § 4.

81-8,187 Repealed. Laws 2020, LB30, § 21.

81-8,188 Repealed. Laws 2020, LB30, § 21.

81-8,189 Board; members; compensation; expenses.

Members of the board shall serve without compensation, except that they shall be reimbursed for expenses incurred in the discharge of their duties pursuant to the Professional Landscape Architects Act as provided in sections 81-1174 to 81-1177.

Source: Laws 1967, c. 565, § 6, p. 1862; Laws 1981, LB 204, § 183; Laws 2012, LB1140, § 5; Laws 2020, LB381, § 107.

81-8,190 Board; chairperson; meetings; quorum; personnel; employ.

The board shall elect annually from its members a chairperson and a vice-chairperson. The board shall meet at least once a year at a time and place fixed by the board. Three members shall constitute a quorum. The board may employ

such technical and clerical assistants and incur such expense as may be necessary to properly carry out the Professional Landscape Architects Act.

Source: Laws 1967, c. 565, § 7, p. 1862; Laws 2012, LB1140, § 6.

81-8,191 Board; committee; powers; Attorney General; legal advisor.

The board and any committee of the board is entitled to the services of the Attorney General in the connection with the affairs of the board and may compel the attendance of witnesses, administer oaths, and take testimony and proofs concerning all matters within its jurisdiction. The Attorney General shall act as legal advisor to the board and render such legal assistance as may be necessary in carrying out the Professional Landscape Architects Act. The board may expend funds to promote licensure of professional landscape architects in this state subject to section 84-733.

Source: Laws 1967, c. 565, § 8, p. 1862; Laws 1981, LB 204, § 184; Laws 2020, LB30, § 5.

81-8,191.01 Board; powers; rules and regulations; code of professional conduct; content.

The board may adopt and promulgate rules and regulations to carry out the Professional Landscape Architects Act. Such rules and regulations may include, but not be limited to, a definition of conflict of interest for board members and the appropriate procedure to follow when a conflict arises. The rules and regulations or a code of professional conduct developed by the board shall also include definitions of or a list of specific practices which constitute fraud, deceit, gross negligence, incompetence, or misconduct and the punishments for such practices which shall be used as the basis to place a professional landscape architect on probation, revoke or suspend a license, or impose a penalty pursuant to sections 81-8,205, 81-8,207, and 81-8,208.

Source: Laws 1984, LB 477, § 14; Laws 2012, LB1140, § 7; Laws 2020, LB30, § 6.

81-8,192 Board; roster; duties.

The board shall maintain and make available to the public a complete roster of each professional landscape architect showing his or her name and last-known address. The board shall file the roster with the Secretary of State annually and may distribute a copy to each professional landscape architect as well as county and municipal officials.

Source: Laws 1967, c. 565, § 9, p. 1862; Laws 1981, LB 545, § 31; Laws 2012, LB1140, § 8; Laws 2020, LB30, § 7.

81-8,193 Board; seal; adopt.

The board shall adopt and have an official seal which shall be affixed to all certificates of licensure granted and may adopt and promulgate rules and regulations necessary for the proper performance of such duty.

Source: Laws 1967, c. 565, § 10, p. 1863; Laws 2012, LB1140, § 9.

81-8,194 Board; fees; disposition; State Board of Landscape Architects Cash Fund; created; investment.

(1) The board shall establish fees of no more than three hundred dollars for applications and initial certificates of licensure and annual renewals for services related to the Professional Landscape Architects Act based on the administration costs incurred by the board. The board shall collect, account for, and remit such fees to the State Treasurer for credit to the State Board of Landscape Architects Cash Fund which is hereby created. All fees are nonrefundable.

(2) Transfers may be made from the State Board of Landscape Architects Cash Fund to the General Fund at the direction of the Legislature. Any money in the State Board of Landscape Architects 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) Warrants for the payment of expenses and compensation as provided for in the Professional Landscape Architects Act shall be issued by the Director of Administrative Services and paid by the State Treasurer out of the State Board of Landscape Architects Cash Fund upon presentation of vouchers regularly drawn by the chairperson of the board and approved by the board. At no time shall the total amount of warrants exceed the total amount of fees collected under the act and credited to the fund.

Source: Laws 1967, c. 565, § 11, p. 1863; Laws 1971, LB 98, § 4; Laws 1984, LB 477, § 5; Laws 2007, LB396, § 1; Laws 2009, First Spec. Sess., LB3, § 70; Laws 2012, LB1140, § 10; Laws 2020, LB30, § 8.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-8,195 Repealed. Laws 2020, LB30, § 21.

81-8,196 Licensure applicants; examination; eligibility; requirements.

(1) Applications for licensure as a professional landscape architect shall be on forms prescribed and furnished by the State Board of Landscape Architects.

(2) Applicants who hold a landscape architecture degree accredited by the Landscape Architectural Accreditation Board or its equivalent as determined by the board may sit for the Landscape Architect Registration Examination as administered by the Council of Landscape Architectural Registration Boards.

(3) The following shall be considered as the minimum evidence satisfactory to the State Board of Landscape Architects that an applicant is eligible for initial licensure, upon application, as a professional landscape architect:

(a) Submission of an application accompanied by the fee established by the board, in accordance with subsection (1) of section 81-8,194;

(b) Submission of a council record maintained by the Council of Landscape Architectural Registration Boards;

(c) Graduation from a program accredited by the Landscape Architectural Accreditation Board or its equivalent as determined by the State Board of Landscape Architects;

(d) Passage of an examination on technical and professional subjects as prescribed by the board or its equivalent as determined by the board;

(e) A record of three years or more of diversified post-degree experience directly related to landscape architecture under the direct supervision of a

professional landscape architect or equivalent experience as determined by the board; and

(f) One or more written professional references which shall be submitted by the applicant to the board.

(4) An individual holding a license to practice landscape architecture issued by a proper authority of any jurisdiction recognized by the board, based on credentials that do not conflict with subsection (3) of this section and other provisions of the Professional Landscape Architects Act, may, upon application, be licensed as a professional landscape architect after demonstration of good reputation and character.

(5) An individual who has been licensed to practice landscape architecture for fifteen years or more in one or more jurisdictions recognized by the board and who has practiced landscape architecture in compliance with the licensing laws in the jurisdiction where his or her landscape architecture practice has occurred since initial licensure may, upon application, be licensed as a professional landscape architect after demonstration of good reputation and character.

(6) The board may accept the verified information contained in a valid council record issued by the Council of Landscape Architectural Registration Boards in lieu of the same information that is required on the form prescribed by the board.

(7) Examination materials shall not be considered public records.

(8) The board may adopt the examinations and grading procedures of the Council of Landscape Architectural Registration Boards. The board may also adopt guidelines published from time to time by the council.

(9) Licensure shall be effective upon issuance.

Source: Laws 1967, c. 565, § 13, p. 1863; Laws 1974, LB 811, § 20; Laws 1997, LB 752, § 224; Laws 2012, LB1140, § 12; Laws 2020, LB30, § 9.

81-8,197 Repealed. Laws 2020, LB30, § 21.

81-8,198 Licensee; seal; use; effect; prohibited acts; qualifications to perform professional services.

(1) Each licensee shall provide himself or herself with a suitable seal with a uniform inscription thereon formulated by the board with which he or she shall stamp all plans, specifications, and reports prepared by him or her when required. The following shall be stated on the seal: State of Nebraska, the licensee's name, the license number, and Professional Landscape Architect.

(2) 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.

(3) The seal and date of its placement shall be on all technical submissions and calculations whenever presented to a client or any public or governmental agency. It shall be unlawful for a licensee to affix his or her seal and signature or to permit his or her seal and signature to be affixed to any document after the expiration of the certificate of licensure or for the purpose of aiding or abetting any other person to evade or attempt to evade the Professional Landscape Architects Act.

(4) The seal and date shall be placed on final plans and specifications and reports as required in such a manner that the seal, signature, and date will be reproduced and be in compliance with rules and regulations of the board, if any. The application of the licensee's seal shall constitute certification that the work was done in accordance with the act.

(5) A landscape architect shall undertake to perform professional services only when the landscape architect is qualified by education, training, and experience in the specific technical areas involved.

Source: Laws 1967, c. 565, § 15, p. 1864; Laws 2012, LB1140, § 14; Laws 2020, LB30, § 10.

81-8,198.01 Coordinating professional; designation; duties.

(1) Landscape architecture design projects involving more than one design professional shall have a designated coordinating professional for the entire project. The coordinating professional may, but need not, provide professional services on the project. The coordinating professional shall apply his or her seal in accordance with the Engineers and Architects Regulation Act or the Professional Landscape Architects Act to the cover sheet of all documents and denote the seal as that of the coordinating professional.

(2) The coordinating professional shall be responsible for reviewing and coordinating technical documents prepared by any other design professional for compatibility with the design of the project.

Source: Laws 2020, LB30, § 19.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

81-8,199 Certificate of licensure; issuance; use; new or duplicate certificate, fee.

(1) The board shall issue to any applicant who has met the requirements of the Professional Landscape Architects 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 Professional Landscape Architect. The certificate of licensure shall give the full name of the licensee and license number and shall be signed by two members of the board.

(2) The certificate of licensure shall be prima facie evidence that the person is entitled to all rights, privileges, and responsibilities of a professional landscape architect while the certificate of licensure remains unrevoked and unexpired.

(3) The board may issue a new certificate of licensure to replace any lost, destroyed, or mutilated certificate of licensure or issue a duplicate of any active certificate of licensure upon request from the licensee. A fee not to exceed fifty dollars, in accordance with subsection (1) of section 81-8,194, may be charged for each such issuance.

(4) Any person holding a certificate of registration under the act as of November 14, 2020, shall be deemed to be duly licensed under the act until the expiration of such certificate.

Source: Laws 1967, c. 565, § 16, p. 1864; Laws 1984, LB 477, § 8; Laws 2012, LB1140, § 15; Laws 2020, LB30, § 11.

81-8,200 Certificate of licensure; expiration; notice; renewal.

Certificates of licensure shall expire on a date established by the board and shall become invalid on that date unless renewed. In 2021, a licensee whose last name begins with a letter between the letters “A” and “L” shall renew his or her certificate of licensure for one year and a licensee whose last name begins with a letter between the letters “M” and “Z” shall renew his or her certificate of licensure for two years. Each subsequent renewal shall be for a two-year period. The board shall notify every person licensed under the Professional Landscape Architects Act of the expiration date of his or her certificate of licensure and the amount of the fee, in accordance with subsection (1) of section 81-8,194, required for renewal. The notice shall be sent at least one month in advance of the date of the expiration. Valid certificates of licensure may be renewed prior to expiration upon application and payment of applicable fees. The fee to be paid on an expired certificate of licensure shall be increased by ten percent for each month or fraction of a month such payment is delayed, except that the maximum fee for a delayed renewal shall not exceed twice the amount of the original renewal fee and no renewals shall be made after one year after the expiration date, in accordance with subsection (1) of section 81-8,194. Expired licenses shall be renewed in accordance with the rules and regulations of the board. The board may require individual licensees to obtain professional development in accordance with the rules and regulations of the board.

Source: Laws 1967, c. 565, § 17, p. 1865; Laws 1984, LB 477, § 9; Laws 2012, LB1140, § 16; Laws 2020, LB30, § 12.

81-8,200.01 Repealed. Laws 2020, LB30, § 21.**81-8,200.02 Repealed. Laws 2020, LB30, § 21.****81-8,201 Repealed. Laws 2020, LB30, § 21.****81-8,202 Act; enforcement; procedure.**

The board shall enforce the Professional Landscape Architects Act and rules and regulations under the act, including enforcement against any unlicensed person. If any person refuses to obey any decision or order of the board, the board, or upon request of the board the Attorney General or the appropriate county attorney, shall file an action for the enforcement of the decision or order, including injunctive relief, in the district court. After a hearing the court shall order enforcement of the decision or order, or any part thereof, if legally and properly made by the board and, if appropriate, injunctive relief.

Source: Laws 1967, c. 565, § 19, p. 1865; Laws 1971, LB 98, § 5; Laws 1984, LB 477, § 11; Laws 1988, LB 352, § 171; Laws 2012, LB1140, § 20; Laws 2020, LB30, § 13.

81-8,203 Repealed. Laws 2020, LB30, § 21.**81-8,204 Use of title; unlawful practice.**

Except as provided in section 81-8,206, an individual shall not directly or indirectly engage in the practice of landscape architecture in this state or use the title of professional landscape architect or display or use any words, letters, figures, titles, signs, cards, advertisements, or other symbols or devices indicat-

ing or tending to indicate that he or she is a professional landscape architect or is practicing landscape architecture unless he or she is licensed under the Professional Landscape Architects Act. A licensee shall not aid or abet any person not licensed under the act in the practice of landscape architecture.

Source: Laws 1967, c. 565, § 21, p. 1866; Laws 1971, LB 98, § 6; Laws 2012, LB1140, § 22; Laws 2020, LB30, § 14.

81-8,205 Prohibited acts; penalties.

(1) It is unlawful for any person to:

(a) Practice or offer to practice landscape architecture in this state without being licensed in accordance with the Professional Landscape Architects Act unless such practice or offer to practice is otherwise exempt under the act;

(b) Knowingly and intentionally employ or retain a person to practice landscape architecture in this state who is not licensed in accordance with the act unless otherwise exempt under the act;

(c) Advertise any title or description tending to convey the impression that he or she is a professional landscape architect unless the person is duly licensed or exempt from licensure under the act;

(d) Present or attempt to use the certificate of licensure or the seal of another person;

(e) Give any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate of licensure;

(f) Falsely impersonate any other licensee of like or different name;

(g) Attempt to use an expired, suspended, revoked, or nonexistent certificate of licensure or attempt to engage in the practice or offer to practice landscape architecture when not qualified;

(h) Falsely claim that he or she is licensed or authorized under the act; or

(i) Otherwise violate the act.

(2) Any person who performs any of the actions described in subsection (1) of this section is guilty of a Class III misdemeanor for the first offense and a Class II misdemeanor for the second or any subsequent offense.

Source: Laws 1967, c. 565, § 22, p. 1866; Laws 1977, LB 39, § 300; Laws 2012, LB1140, § 23; Laws 2020, LB30, § 15.

81-8,206 Persons exempt from act.

(1) The Professional Landscape Architects Act shall not apply to:

(a) Any employee of a professional landscape architect who performs landscape architecture services under the direction and supervision of the professional landscape architect. Such services do not include responsible charge of design or the administration of construction contracts;

(b) Any employee who performs landscape architecture services for his or her employer when all such services are completed for a facility owned or operated by the employer and when such services are not offered to the public and do not endanger the public health, safety, or welfare;

(c) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state to perform services

consistent with the laws of this state and the training and the code of ethics of the respective profession if such qualified member does not represent himself or herself to be a professional landscape architect; or

(d) Any person who seeks advice or help of any other person in planning, planting, or maintaining the planting or conservation work on any property he or she owns or controls or who does such things himself or herself.

(2) The Professional Landscape Architects Act shall not prohibit or require compliance with the act for any person who engages in the professional occupation of city, county, or city-county planning or a planning-related occupation to undertake the activities described in subdivisions (5)(a) through (f) of section 81-8,184, so long as such person does not use the title of landscape architect or professional landscape architect.

(3) The Professional Landscape Architects Act does not prohibit any person, officer, agent, or employee of any business entity with experience and qualifications from engaging in the occupation of growing or marketing nursery stock or to use the title landscape nurseryperson, landscape gardener, landscape designer, landscape contractor, or land developer, so long as no individual engages in the practice of landscape architecture or uses the title landscape architect or professional landscape architect unless he or she is licensed as such under the Professional Landscape Architects Act.

(4) The Professional Landscape Architects Act does not prevent a vendor of goods, services, real estate, or materials, including nurserypersons, landscape nurserypersons, gardeners, landscape gardeners, landscape designers, general contractors registered under the Contractor Registration Act, landscape contractors, land developers, golf course architects, or golf course designers from providing drawings or graphic diagrams that are necessary for the proper layout or development of the vendor's goods, services, real estate, or materials for public or private land or arranging for the installation of the goods or materials. The Professional Landscape Architects Act also does not prevent a landscape designer or any person or firm registered under the Contractor Registration Act from engaging in, for a fee, the design of spaces utilizing plant materials and ancillary paving and building materials or arranging for or engaging in the installation of the materials.

Source: Laws 1967, c. 565, § 23, p. 1866; Laws 1971, LB 98, § 7; Laws 1997, LB 622, § 119; Laws 2012, LB1140, § 24; Laws 2020, LB30, § 18.

Cross References

Contractor Registration Act, see section 48-2101.

81-8,207 Complaint; enforcement; procedures.

A complaint against any person involving any matter coming within the jurisdiction of the board shall be in writing and shall be filed with the board. The complaint, at the discretion of the board, shall be heard within a reasonable time in accordance with the rules and regulations and may be heard through the use of a hearing officer. The accused shall have the right to appear personally with or without counsel, to cross-examine adverse witnesses, and to produce evidence and witnesses in his or her defense. The board shall set the time and place of the hearing and shall cause a copy of the complaint, together with a notice of the time and place fixed for the hearing, to be sent by registered mail to the accused, at his or her last-known mailing address known

to the board, at least thirty days before the hearing. If after the hearing the board finds the accused has violated the Professional Landscape Architects Act or any rules or regulations adopted and promulgated under the act, it may issue any order or take any action described in section 81-8,208. If the board finds no violation, it shall enter an order dismissing the complaint. If the order revokes, suspends, or cancels a license, the board shall notify the licensee and the Secretary of State in writing. The board may reissue a license that has been revoked. An application for the reissuance of a license shall be made in such a manner as the board directs and shall be accompanied by a fee established by the board, in accordance with subsection (1) of section 81-8,194.

Source: Laws 2020, LB30, § 16.

81-8,208 Disciplinary actions authorized; civil penalties.

(1) The board, after hearing and upon proof satisfactory to the board, may determine by a two-thirds majority vote that any person has violated the Professional Landscape Architects Act or any rule or regulation under the act.

(2) Upon a finding that a person has committed a violation, one or more of the following actions may be taken against such person upon a two-thirds majority vote of the board:

(a) Issuance of a censure or reprimand;

(b) Suspension of judgment;

(c) Placement of the offender on probation;

(d) Placement of a limitation or limitations on a licensee and upon the privilege of a licensee to engage in the practice of landscape architecture to the extent, scope, or type of landscape architecture 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 for each offense. 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 reasonable 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.

(3) The board may take into account suitable evidence of reform when determining appropriate action.

(4) Civil penalties collected under subdivision (2)(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 (2)(h) of this section shall be remitted to the State Treasurer for credit to the State Board of Landscape Architects Cash Fund.

Source: Laws 2020, LB30, § 17.

(p) TORT CLAIMS, STATE CLAIMS BOARD,
AND RISK MANAGEMENT PROGRAM**81-8,209 State Tort Claims Act; purpose.**

The State of Nebraska shall not be liable for the torts of its officers, agents, or employees, and no suit shall be maintained against the state, any state agency, or any employee of the state on any tort claim except to the extent, and only to the extent, provided by the State Tort Claims Act. The Legislature further declares that it is its intent and purpose through such act to provide uniform procedures for the bringing of tort claims against the state or an employee of the state and that the procedures provided by such act shall be used to the exclusion of all others.

Source: Laws 1969, c. 756, § 1, p. 2845; Laws 1988, LB 864, § 19; Laws 1989, LB 541, § 1.

A state officer or employee cannot be sued in his or her individual capacity for negligence claims arising out of actions performed while acting within the scope of his or her office or employment. *Davis v. State*, 297 Neb. 955, 902 N.W.2d 165 (2017).

On an appeal from a judgment rendered in an action brought under the State Tort Claims Act, the findings of the trial court will not be disturbed unless clearly wrong. *Sharkey v. Board of Regents of Univ. of Neb.*, 260 Neb. 166, 615 N.W.2d 889 (2000).

A district court's findings of fact in a proceeding under the State Tort Claims Act will not be set aside unless such findings are clearly erroneous. *Goodenow v. State Dept. of Corr. Servs.*, 259 Neb. 375, 610 N.W.2d 19 (2000).

On an appeal from a judgment rendered in an action brought under the State Tort Claims Act, the findings of the trial court will not be disturbed unless clearly wrong. *Talle v. Nebraska Dept. of Soc. Servs.*, 253 Neb. 823, 572 N.W.2d 790 (1998); *Anderson by and through Anderson/Couvillon v. Nebraska Dept. of Soc. Servs.*, 253 Neb. 813, 572 N.W.2d 362 (1998).

An entity consisting of specifically named counties, created by the Legislature to carry out a state policy of providing services to the mentally retarded, governed by a board consisting of members of the county boards of supervisors or commissioners, supported by funds from the state or participating counties, and lacking the requisites of a political subdivision, is a state agency

within the meaning of the State Tort Claims Act. *Roggasch v. Region IV Ofc. of Developmental Dis.*, 228 Neb. 636, 423 N.W.2d 771 (1988).

The state's conduct in maintaining its highways falls squarely within the purview of these sections. *Bean v. State*, 222 Neb. 202, 382 N.W.2d 360 (1986).

The Nebraska State Tort Claims Act, sections 81-8,209 to 81-8,235, does not apply to any claim which is covered by the Nebraska Workmen's Compensation Act, section 48-101 et seq. *Johnston v. State*, 219 Neb. 457, 364 N.W.2d 1 (1985).

Board of Regents of State University is a State Agency, and tort claims against the Board must be brought under the Tort Claims Act, by suit filed in District Court for Lancaster County. *Catania v. The University of Nebraska*, 204 Neb. 304, 282 N.W.2d 27 (1979).

The Tort Claims Act applies to claims for money only. *Czarnick v. Loup River P.P. Dist.*, 190 Neb. 521, 209 N.W.2d 595 (1973).

Under the State Tort Claims Act, a litigant is not authorized to bring suit against the State for alleged negligence in failing to revoke a day-care license issued by the Department of Health and Human Services. *Pittman v. State*, 5 Neb. App. 342, 558 N.W.2d 600 (1997).

81-8,210 Terms, defined.

For purposes of the State Tort Claims Act:

(1) State agency includes all departments, agencies, boards, bureaus, and commissions of the State of Nebraska and corporations the primary function of which is to act as, and while acting as, instrumentalities or agencies of the State of Nebraska but shall not include corporations that are essentially private corporations or entities created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. State agency does not include any contractor with the State of Nebraska;

(2) State Claims Board means the board created by section 81-8,220;

(3) Employee of the state means any one or more officers or employees of the state or any state agency and shall include duly appointed members of boards or commissions when they are acting in their official capacity. State employee does not include any employee of an entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act or any contractor with the State of Nebraska;

(4) Tort claim means any claim against the State of Nebraska for money only on account of damage to or loss of property or on account of personal injury or death caused by the negligent or wrongful act or omission of any employee of the state, while acting within the scope of his or her office or employment, under circumstances in which the state, if a private person, would be liable to the claimant for such damage, loss, injury, or death but does not include any claim accruing before January 1, 1970, any claim against an employee of the state for money only on account of damage to or loss of property or on account of personal injury or death caused by the negligent or wrongful act or omission of the employee while acting within the scope of his or her employment occurring on or after August 25, 1989, and any claim allowed under the Nebraska Claims for Wrongful Conviction and Imprisonment Act;

(5) Award means any amount determined by the Risk Manager or State Claims Board to be payable to a claimant under section 81-8,211 or the amount of any compromise or settlement under section 81-8,218; and

(6) Risk Manager means the Risk Manager appointed under section 81-8,239.01.

Source: Laws 1969, c. 756, § 2, p. 2845; Laws 1988, LB 864, § 20; Laws 1989, LB 541, § 2; Laws 1991, LB 81, § 6; Laws 1999, LB 87, § 92; Laws 2008, LB821, § 1; Laws 2009, LB260, § 10.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Nebraska Claims for Wrongful Conviction and Imprisonment Act, see section 29-4601.

The State Tort Claims Act's limited waiver of sovereign immunity applies only to tort claims for which a private person, under like circumstances, would be liable in tort to the plaintiff. *Doe v. State*, 312 Neb. 665, 980 N.W.2d 842 (2022).

The Public Service Commission is a state agency for purposes of the State Tort Claims Act, and as a result, the provisions of the act are applicable in tort suits against the commission. *Amend v. Nebraska Pub. Serv. Comm.*, 298 Neb. 617, 905 N.W.2d 551 (2018).

Under subsection (4) of this section, state officers and employees acting within the scope of their offices or employment can be sued for tortious conduct only in their official capacities. *Davis v. State*, 297 Neb. 955, 902 N.W.2d 165 (2017).

Pursuant to subsection (1) of this section, for purposes of filing a claim against a mental health board or its members, the

boards of mental health in Nebraska are state agencies within the meaning of the State Tort Claims Act. *Zimmerman v. Douglas Cty. Hosp.*, 252 Neb. 583, 563 N.W.2d 349 (1997).

A claim for remuneration for services rendered pursuant to a contract is not a "tort claim" as defined in this section. Plaintiff's claim was therefore not subject to the exclusive jurisdiction of the tort claims board. *L. J. Vontz Constr. Co. v. State*, 230 Neb. 377, 432 N.W.2d 7 (1988).

The State Tort Claims Act provides for liability of the state the same as a private person under like circumstances. *Cortes v. State*, 191 Neb. 795, 218 N.W.2d 214 (1974).

Claims for injunctive relief need not be brought under the Tort Claims Act. *Czarnick v. Loup River P.P. Dist.*, 190 Neb. 521, 209 N.W.2d 595 (1973).

81-8,211 Risk Manager; State Claims Board; authority; procedure; fees.

Authority is hereby conferred upon the Risk Manager and State Claims Board, acting on behalf of the State of Nebraska, to consider, ascertain, adjust, compromise, settle, determine, and allow any tort claim. Any claimant dissatisfied with a decision of the Risk Manager may make application for review of the decision by the State Claims Board by filing an application for review with the Risk Manager within sixty days after receipt of notice of the Risk Manager's decision. If any tort claim is compromised, settled, or allowed in an amount of more than five thousand dollars, the approval of the State Claims Board is required. If any tort claim is compromised, settled, or allowed in an amount of more than ten thousand dollars, the unanimous approval of all members of the State Claims Board shall be required. If any tort claim is compromised, settled, or allowed in an amount of more than twenty-five thousand dollars, the claim shall also be submitted for approval by the district court for Lancaster County.

When approval of the district court is required, the Attorney General shall make application for such approval and shall file with the application a transcript of the action of the State Claims Board on such claim. The claimant may join in such application, and if the claimant does so, the court may proceed to act on the application without further notice to either party. If the claimant does not join in the application, the court shall require actual notice to all parties before acting on the application. The court may deny the application for any legal and sufficient reason or may direct the State Claims Board to conduct further hearings on any material issues. The fees of the clerk of the district court for filing such application shall be five dollars.

Source: Laws 1969, c. 756, § 3, p. 2846; Laws 1984, LB 1028, § 1; Laws 1988, LB 864, § 21; Laws 2005, LB 485, § 1; Laws 2008, LB821, § 2; Laws 2018, LB193, § 91.

81-8,212 Tort claims; filing; Risk Manager; Attorney General; duty; service of process.

All tort claims shall be filed with the Risk Manager in the manner prescribed by the State Claims Board. The Risk Manager shall immediately advise the Attorney General of the filing of any claim. It shall be the duty of the Attorney General to cause a complete investigation to be made of all such claims and serve as a legal advisor to the Risk Manager and State Claims Board on all such claims. In any suit brought under the State Tort Claims Act, service of process shall be made in the manner provided for service of a summons in section 25-510.02.

Source: Laws 1969, c. 756, § 4, p. 2847; Laws 1972, LB 1334, § 5; Laws 1981, LB 273, § 17; Laws 1983, LB 447, § 98; Laws 1984, LB 1028, § 2; Laws 1988, LB 864, § 22; Laws 1989, LB 541, § 3; Laws 2008, LB821, § 3.

The doctrine of substantial compliance applies when determining whether presentment requirements pertaining to a claim's content are met. *Saylor v. State*, 306 Neb. 147, 944 N.W.2d 726 (2020).

The filing requirement in this section is a condition precedent to the commencement of a suit, but not a jurisdictional prerequisite for the adjudication of a tort claim against the State. *Cole v. Isherwood*, 264 Neb. 985, 653 N.W.2d 821 (2002).

When the Legislature has waived the state's sovereign immunity as to a particular cause of action and has designated a person or official as the agent of the state upon whom summons may be served, that person or official validly may enter a voluntary appearance for the state, thereby waiving the issue of in personam jurisdiction. To the extent that *Anstine v. State*, 137 Neb. 148, 288 N.W. 525 (1939), conflicts with this holding, it is overruled. *Pointer v. State*, 219 Neb. 315, 363 N.W.2d 164 (1985).

81-8,213 Suit; final disposition by Risk Manager or State Claims Board required; exception.

No suit shall be permitted under the State Tort Claims Act unless the Risk Manager or State Claims Board has made final disposition of the claim, except that if the Risk Manager or board does not make final disposition of a claim within six months after the claim is made in writing and filed with the Risk Manager in the manner prescribed by the board, the claimant may, by notice in writing, withdraw the claim from consideration of the Risk Manager or board and begin suit under such act.

Source: Laws 1969, c. 756, § 5, p. 2847; Laws 1988, LB 864, § 23; Laws 2008, LB821, § 4.

The 6-month filing extension in section 81-8,227 runs from the first date on which the claim could have been withdrawn under this section, not the date the claim is actually withdrawn. *Komar v. State*, 299 Neb. 301, 908 N.W.2d 610 (2018).

The final disposition requirement in this section is a condition precedent to the commencement of a suit, but not a jurisdictional prerequisite for the adjudication of a tort claim against the State. *Cole v. Isherwood*, 264 Neb. 985, 653 N.W.2d 821 (2002).

A claimant who files a tort claim with the Risk Manager of the State Claims Board 18 months or more after his or her claim has accrued, but within 2 years as provided in subsection (1) of section 81-8,227, has 6 months to file suit from the date the board gives written notice to the claimant as to the final disposition of the claim. *Collins v. State*, 264 Neb. 267, 646 N.W.2d 618 (2002).

A claimant who files a tort claim with the Risk Manager of the State Claims Board 18 months or more after his or her claim has accrued, but within the 2-year statute of limitations, has 6 months from the first day on which the claim may be withdrawn from the claims board in which to begin suit. *Coleman v. Chadron State College*, 237 Neb. 491, 466 N.W.2d 526 (1991).

81-8,214 District court; jurisdiction; venue.

The district court, sitting without a jury, shall have exclusive jurisdiction to hear, determine, and render judgment on any suit or tort claim. Suits shall be brought in the district court of the county in which the act or omission complained of occurred or, if the act or omission occurred outside the boundaries of the State of Nebraska, in the district court for Lancaster County.

Source: Laws 1969, c. 756, § 6, p. 2847; Laws 1988, LB 864, § 24.

The first sentence of this section relates to jurisdiction; the second sentence indicates the place of venue. *Blitzkie v. State*, 228 Neb. 409, 422 N.W.2d 773 (1988).

The findings of fact of the trial court in a proceeding under the State Tort Claims Act have the effect of jury findings and will not be disturbed on appeal unless they are clearly wrong. *McMullin Transfer v. State*, 225 Neb. 109, 402 N.W.2d 878 (1987).

Judicial findings of fact have the same force and effect as a jury finding of fact. *Oldenburg v. State*, 221 Neb. 1, 374 N.W.2d 341 (1985).

The State Tort Claims Act requires that actions of this nature be heard without a jury but otherwise determined in the same manner as other suits. The action is similar to a law action in which a jury has been waived and is governed by the same rules. *Saporta v. State*, 220 Neb. 142, 368 N.W.2d 783 (1985).

The county in which the act or omission occurred means the site where the wrongful conduct actually takes place, not where

the results of the wrongful conduct take place or occur. *Wickersham v. State*, 218 Neb. 175, 354 N.W.2d 134 (1984).

On an appeal to the Nebraska Supreme Court of an action under the State Tort Claims Act, the findings of the trial court will not be disturbed unless clearly wrong. *Wakenight v. State*, 212 Neb. 798, 326 N.W.2d 52 (1982).

The action must be brought in the county where the act or omission occurred. The statutory provisions authorizing the transfer of an action where the venue was improper are not applicable to suits under the State Tort Claims Act. *Miller v. State*, 208 Neb. 170, 302 N.W.2d 692 (1981).

An action against the state or a state agency is governed by this section only. *Catania v. The University of Nebraska*, 204 Neb. 304, 282 N.W.2d 27 (1979).

Jurisdiction to hear tort claims filed against the state, including tort actions by prison inmates against state officials seeking monetary damages, is specifically vested in the district court. *Pratt v. Clarke*, 8 Neb. App. 199, 590 N.W.2d 426 (1999).

81-8,215 Liability of state.

In all suits brought under the State Tort Claims Act, the state shall be liable in the same manner and to the same extent as a private individual under like circumstances, except that no writ of execution shall issue, and the disposition of or offer to settle any claim made under such act shall not be competent evidence of liability of the state or any employee of the state or the amount of damages.

Source: Laws 1969, c. 756, § 7, p. 2847; Laws 1988, LB 864, § 25; Laws 1989, LB 541, § 4.

The State Tort Claims Act's limited waiver of sovereign immunity applies only to tort claims for which a private person, under like circumstances, would be liable in tort to the plaintiff. *Doe v. State*, 312 Neb. 665, 980 N.W.2d 842 (2022).

Statutes that purport to waive the State's sovereign immunity must be clear in their intent. They are strictly construed in favor of the sovereign and against the waiver. *Woollen v. State*, 256 Neb. 865, 593 N.W.2d 729 (1999).

The State Tort Claims Act requires that actions of this nature be heard without a jury but otherwise determined in the same manner as other suits. The action is similar to a law action in which a jury has been waived and is governed by the same rules. *Saporta v. State*, 220 Neb. 142, 368 N.W.2d 783 (1985).

Demurrers were properly sustained to petitions alleging negligence by state cancer research institute in hiring a paroled felon, in failing to control his access to a poisonous drug, in failing to maintain an inventory of the drug, and in exposing him to information about past criminal use of the drug, because such allegations did not allow conclusion that the negligent acts were the proximate cause of the employee's use of stolen quantities of the drug to poison plaintiffs' decedents, where it is not alleged that the institute should have realized the likelihood of the employee's criminal acts. *Shelton v. Board of Regents*, 211 Neb. 820, 320 N.W.2d 748 (1982).

The State Tort Claims Act provides for liability of the state the same as a private person under like circumstances. *Cortes v. State*, 191 Neb. 795, 218 N.W.2d 214 (1974).

81-8,215.01 Vehicular pursuit by law enforcement officer; liability to third parties; reimbursement.

(1) In case of death, injury, or property damage to any innocent third party proximately caused by the action of a law enforcement officer employed by the

state during vehicular pursuit, damages shall be paid to such third party by the state employing the officer.

(2) Upon payment by the state of those damages sustained by an innocent third party, whether upon voluntary settlement or in satisfaction of a judgment, the state shall be entitled to reimbursement of the amount of damages paid by the state from each and all of the following sources:

(a) The driver of the fleeing vehicle;

(b) Any organization, including a sole proprietorship, partnership, limited liability company, or corporation, liable for the conduct of the driver of the fleeing vehicle;

(c) Every insurer or self-insurance surety of either the driver of the fleeing vehicle or any organization, including a sole proprietorship, partnership, limited liability company, or corporation, liable for the conduct of the driver of the fleeing vehicle, except that no such insurer or self-insurance surety shall be required to pay in excess of the liability limit of its applicable policies or bonds;

(d) Any uninsured or underinsured motorist insurer or self-insurance surety legally liable to the innocent third party, except that the sum recoverable from such insurer or self-insurance surety shall not exceed the highest limit of liability determined in accord with the Uninsured and Underinsured Motorist Insurance Coverage Act; and

(e) Any political subdivision employing law enforcement officers whose actions contributed to the proximate cause of death, injury, or property damage sustained by the innocent third party, except that the liability of any such political subdivision shall not exceed the lesser of (i) its maximum statutory liability pursuant to the Political Subdivisions Tort Claims Act or (ii) the damages sustained by the innocent third party apportioned equally among the state and all political subdivisions employing law enforcement officers whose actions contributed to the proximate cause of the death, injury, or property damage sustained by the innocent third party.

(3) This section shall not relieve any public or private source required statutorily or contractually to pay benefits for disability or loss of earned income or medical expenses of the duty to pay such benefits when due. No such source of payment shall have any right of subrogation or contribution against the state.

(4) This section shall be considered part of the State Tort Claims Act and all provisions of the act apply.

(5) For purposes of this section, vehicular pursuit means an active attempt by a law enforcement officer operating a motor vehicle to apprehend one or more occupants of another motor vehicle when the driver of the fleeing vehicle is or should be aware of such attempt and is resisting apprehension by maintaining or increasing his or her speed, ignoring the officer, or attempting to elude the officer while driving at speeds in excess of those reasonable and proper under the conditions.

Source: Laws 1984, LB 590, § 4; Laws 1988, LB 864, § 26; Laws 1996, LB 952, § 4.

Cross References

Political Subdivisions Tort Claims Act, see section 13-901.

Uninsured and Underinsured Motorist Insurance Coverage Act, see section 44-6401.

The actions of a law enforcement officer during a vehicular pursuit need to be merely a proximate cause of the damage, and not the sole proximate cause. *Meyer v. State*, 264 Neb. 545, 650 N.W.2d 459 (2002).

This section creates strict liability on the part of the State when a claimant suffers death or injury which is proximately caused by the actions of a pursuing law enforcement officer and the claimant is an innocent third party. *Meyer v. State*, 264 Neb. 545, 650 N.W.2d 459 (2002).

The language of this section makes the pursuer's conduct merely a factual circumstance that must be proved in order to establish that a vehicular pursuit occurred. It is not part of a proximate cause analysis. *Adams v. State*, 261 Neb. 680, 625 N.W.2d 190 (2001).

This section does not create on the part of the State a secondary liability derived from the pursuer's liability during a vehicular pursuit; rather, it creates a primary liability based on the actions of officers the State employs. *Adams v. State*, 261 Neb. 680, 625 N.W.2d 190 (2001).

81-8,216 Rules of civil procedure; costs; judgment; appeal.

In all suits brought under the State Tort Claims Act, the district courts shall follow the rules of civil procedure applicable to private litigants, and costs shall be allowed in all courts to the successful claimant to the same extent as if the state was a private litigant. Judgments shall be subject to appeal in the same manner as other judgments of the district court.

Source: Laws 1969, c. 756, § 8, p. 2848; Laws 1988, LB 864, § 27; Laws 1991, LB 732, § 148.

As part of the civil procedure applicable to suits brought under the State Tort Claims Act, a district court is authorized, under appropriate circumstances, to change the venue of the

proceedings or otherwise transfer the site for trial. *Blitzkie v. State*, 228 Neb. 409, 422 N.W.2d 773 (1988).

81-8,217 Judgment; effect.

Final judgment in any suit under the State Tort Claims Act shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the state whose act or omission gave rise to the claim. This section shall not apply if the court rules that the claim is not permitted under the State Tort Claims Act.

Source: Laws 1969, c. 756, § 9, p. 2848; Laws 1988, LB 864, § 28.

81-8,218 Attorney General; authority.

The Attorney General shall represent the state and employees of the state in any suit brought under the State Tort Claims Act and is authorized to compromise or settle any such suit with the approval of the court in which such suit is pending.

Source: Laws 1969, c. 756, § 10, p. 2848; Laws 1988, LB 864, § 29; Laws 1989, LB 541, § 5.

81-8,219 State Tort Claims Act; claims exempt.

The State Tort Claims Act shall not apply to:

- (1) Any claim based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute, rule, or regulation, whether or not such statute, rule, or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion is abused;
- (2) Any claim arising with respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer;
- (3) Any claim for damages caused by the imposition or establishment of a quarantine by the state whether such quarantine relates to persons or property;

(4) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, or interference with contract rights, except that this subdivision does not apply to a claim under the Healthy Pregnancies for Incarcerated Women Act;

(5) Any claim arising out of misrepresentation or deceit, except that, in cases of adoption or placement, the State Tort Claims Act shall apply to a claim arising out of misrepresentation or deceit by the Department of Health and Human Services in failing to warn, notify, or inform of a ward's mental and behavioral health history, educational history, and medical history, including any history as a victim or perpetrator of sexual abuse;

(6) Any claim by an employee of the state which is covered by the Nebraska Workers' Compensation Act;

(7) Any claim based on activities of the Nebraska National Guard when such claim is cognizable under the Federal Tort Claims Act, 28 U.S.C. 2674, or the federal National Guard Claims Act, 32 U.S.C. 715, or when such claim accrues as a result of active federal service or state service at the call of the Governor for quelling riots and civil disturbances;

(8) Any claim based upon the failure to make an inspection or making an inadequate or negligent inspection of any property other than property owned by or leased to the state to determine whether the property complies with or violates any statute, ordinance, rule, or regulation or contains a hazard to public health or safety unless the state had reasonable notice of such hazard or the failure to inspect or inadequate or negligent inspection constitutes a reckless disregard for public health or safety;

(9) Any claim based upon the issuance, denial, suspension, or revocation of or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, or order. Such claim shall also not be filed against a state employee acting within the scope of his or her office. Nothing in this subdivision shall be construed to limit the state's liability for any claim based upon the negligent execution by a state employee in the issuance of a certificate of title under the Motor Vehicle Certificate of Title Act and the State Boat Act except when such title is issued upon an application filed electronically by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507;

(10) Any claim arising out of the malfunction, destruction, or unauthorized removal of any traffic or road sign, signal, or warning device unless it is not corrected by the governmental entity responsible within a reasonable time after actual or constructive notice of such malfunction, destruction, or removal. Nothing in this subdivision shall give rise to liability arising from an act or omission of any governmental entity in placing or removing any traffic or road signs, signals, or warning devices when such placement or removal is the result of a discretionary act of the governmental entity;

(11) Any claim arising out of snow or ice conditions or other temporary conditions caused by nature on any highway as defined in section 60-624, bridge, public thoroughfare, or other state-owned public place due to weather conditions. Nothing in this subdivision shall be construed to limit the state's liability for any claim arising out of the operation of a motor vehicle by an employee of the state while acting within the course and scope of his or her employment by the state;

(12) Any claim arising out of the plan or design for the construction of or an improvement to any highway as defined in such section or bridge, either in original construction or any improvement thereto, if the plan or design is approved in advance of the construction or improvement by the governing body of the governmental entity or some other body or employee exercising discretionary authority to give such approval;

(13) Any claim arising out of the alleged insufficiency or want of repair of any highway as defined in such section, bridge, or other public thoroughfare. Insufficiency or want of repair shall be construed to refer to the general or overall condition and shall not refer to a spot or localized defect. The state shall be deemed to waive its immunity for a claim due to a spot or localized defect only if the state has had actual or constructive notice of the defect within a reasonable time to allow repair prior to the incident giving rise to the claim;

(14)(a) Any claim relating to recreational activities on property leased, owned, or controlled by the state for which no fee is charged (i) resulting from the inherent risk of the recreational activity, (ii) arising out of a spot or localized defect of the premises unless the spot or localized defect is not corrected within a reasonable time after actual or constructive notice of the spot or localized defect, or (iii) arising out of the design of a skatepark or bicycle motocross park constructed for purposes of skateboarding, inline skating, bicycling, or scootering that was constructed or reconstructed, reasonably and in good faith, in accordance with generally recognized engineering or safety standards or design theories in existence at the time of the construction or reconstruction. For purposes of this subdivision, the state shall be charged with constructive notice only when the failure to discover the spot or localized defect of the premises is the result of gross negligence.

(b) For purposes of this subdivision:

(i) Recreational activities include, but are not limited to, whether as a participant or spectator: Hunting, fishing, swimming, boating, camping, picnicking, hiking, walking, running, horseback riding, use of trails, nature study, waterskiing, winter sports, use of playground equipment, biking, roller blading, skateboarding, golfing, athletic contests; visiting, viewing, or enjoying entertainment events, festivals, or historical, archaeological, scenic, or scientific sites; and similar leisure activities;

(ii) Inherent risk of recreational activities means those risks that are characteristic of, intrinsic to, or an integral part of the activity;

(iii) Gross negligence means the absence of even slight care in the performance of a duty involving an unreasonable risk of harm; and

(iv) Fee means a fee to participate in or be a spectator at a recreational activity. A fee shall include payment by the claimant to any person or organization other than the state only to the extent the state retains control over the premises or the activity. A fee shall not include payment of a fee or charge for parking or vehicle entry.

(c) This subdivision, and not subdivision (8) of this section, shall apply to any claim arising from the inspection or failure to make an inspection or negligent inspection of premises owned or leased by the state and used for recreational activities; or

(15) Any claim arising as a result of a special event during a period of time specified in a notice provided by a political subdivision pursuant to subsection (3) of section 39-1359.

Source: Laws 1969, c. 756, § 11, p. 2848; Laws 1971, LB 28, § 5; Laws 1986, LB 811, § 142; Laws 1988, LB 864, § 30; Laws 1992, LB 262, § 11; Laws 1993, LB 370, § 482; Laws 1993, LB 170, § 9; Laws 1999, LB 228, § 2; Laws 2004, LB 560, § 44; Laws 2005, LB 276, § 111; Laws 2007, LB564, § 4; Laws 2011, LB589, § 5; Laws 2017, LB263, § 99; Laws 2018, LB729, § 1; Laws 2019, LB690, § 9.

Cross References

Healthy Pregnancies for Incarcerated Women Act, see section 47-1001.

Motor Vehicle Certificate of Title Act, see section 60-101.

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

State Boat Act, see section 37-1201.

1. Nature of defense
2. Discretionary function
3. Misrepresentations
4. Highways and roads
5. Recreational activities
6. Miscellaneous

1. Nature of defense

An exception to the State's sovereign immunity under this section is not a waivable affirmative defense which the State must plead and prove, but, rather, is a matter of sovereign immunity implicating subject matter jurisdiction which the State may raise at any time, including for the first time on appeal. *Davis v. State*, 297 Neb. 955, 902 N.W.2d 165 (2017).

The exceptions to the general waiver of tort immunity provided for in the State Tort Claims Act are matters of defense which must be pled and proved by the State. *Sherrod v. State Dept. of Correctional Services*, 251 Neb. 355, 557 N.W.2d 634 (1997); *D.M. v. State*, 23 Neb. App. 17, 867 N.W.2d 622 (2015).

A defendant may affirmatively plead that the plaintiff has failed to state a cause of action under this section because an exception to the waiver of sovereign immunity applies. *Bojanski v. Foley*, 18 Neb. App. 929, 798 N.W.2d 134 (2011).

2. Discretionary function

The decision to seek a mental health commitment of an inmate who was believed to be mentally ill and dangerous was discretionary where the inmate was not admitted for emergency protective custody. *Holloway v. State*, 293 Neb. 12, 875 N.W.2d 435 (2016).

Sovereign immunity barred a claim against the State of Nebraska and Cass County concerning a sight-restricted railroad crossing at which a collision occurred because neither the State nor the county had any mandatory legal duty to improve any sight restrictions at the crossing. *Shipley v. Department of Roads*, 283 Neb. 832, 813 N.W.2d 455 (2012).

Sovereign immunity barred a claim against the State of Nebraska and Cass County concerning the lack of pavement markings at a railroad crossing at which a collision occurred because the decision of whether to place pavement markings at the crossing was discretionary. *Shipley v. Department of Roads*, 283 Neb. 832, 813 N.W.2d 455 (2012).

Sovereign immunity barred a failure-to-warn claim concerning a sight-restricted railroad crossing; neither the State of Nebraska nor Cass County had a nondiscretionary duty to warn where the truck wash facility alleged to be the cause of the sight restriction was built by a private party on private property and was readily apparent to a motorist approaching the crossing. *Shipley v. Department of Roads*, 283 Neb. 832, 813 N.W.2d 455 (2012).

The discretionary function exception is expressed in nearly identical language in the State Tort Claims Act and the Political

Subdivisions Tort Claims Act; thus, cases construing the state exception apply as well to the exception granted to political subdivisions. *Lawry v. County of Sarpy*, 254 Neb. 193, 575 N.W.2d 605 (1998).

Pursuant to subdivision (1)(a) of this section, applicability of the discretionary function exception of the State Tort Claims Act depends on the conduct in question, not on the identity of the actor. *Security Inv. Co. v. State*, 231 Neb. 536, 437 N.W.2d 439 (1989).

Pursuant to subdivision (1)(a) of this section, judgment or choice is essential and indispensable for discretionary conduct excepted from liability under the State Tort Claims Act. The discretionary function exception protects or excepts only governmental decision, action, or conduct based on a permissible exercise of a public policy judgment. The discretionary function exception is inapplicable to a claim under the act if a statute, regulation, or policy specifically prescribes a course of governmental action or conduct. *Security Inv. Co. v. State*, 231 Neb. 536, 437 N.W.2d 439 (1989).

The discretionary function or duty exemption in the State Tort Claims Act extends only to the basic policy decisions made in governmental activity, and not to ministerial activities implementing such policy decisions. *Wickersham v. State*, 218 Neb. 175, 354 N.W.2d 134 (1984).

3. Misrepresentations

The misrepresentation exception to the waiver of sovereign immunity, which must be strictly construed in favor of the government, can apply to claims for personal injuries as well as economic injuries and to claims not involving business transactions. *Jill B. & Travis B. v. State*, 297 Neb. 57, 899 N.W.2d 241 (2017).

Where the gravamen of the complaint is the negligent performance of operational tasks rather than misrepresentation, the state cannot rely upon the misrepresentation exclusion. *Wickersham v. State*, 218 Neb. 175, 354 N.W.2d 134 (1984).

4. Highways and roads

Under subsection (9) of this section, the State is immune from liability against allegations of a malfunctioning traffic signal unless the malfunction was not corrected by the State within a reasonable time after it received actual or constructive notice of the problem. *Fickle v. State*, 273 Neb. 990, 735 N.W.2d 754 (2007).

Pursuant to subsection (10) of this section, the State was not immune from suit when the defective condition of a highway, rather than a temporary condition caused by nature such as weather conditions, was proved as a proximate cause of an automobile accident. *Woollen v. State*, 256 Neb. 865, 593 N.W.2d 729 (1999).

The duty to use reasonable and ordinary care in the construction, maintenance, and repair of highways and bridges so that they will be reasonably safe for the traveler using them while in the exercise of reasonable and ordinary prudence has now been imposed under both the State Tort Claims Act and the Political Subdivisions Tort Claims Act. *Hendrickson v. City of Kearney*, 210 Neb. 8, 312 N.W.2d 677 (1981).

The state has the duty to use ordinary and reasonable care in the construction, maintenance, and repair of its highways including the shoulders of a paved or hard-surfaced highway. *Richardson & Gillispie v. State*, 200 Neb. 225, 263 N.W.2d 442 (1978).

A claim that the State failed to warn of a condition of the road resulting from rain "arises out of" a condition of the road due to weather conditions as meant by subsection (10) of this section. As a result, the State has not waived its sovereign immunity regarding such a claim. *Hammond v. Nemaha Cty.*, 7 Neb. App. 124, 581 N.W.2d 82 (1998).

5. Recreational activities

A recreational activity involves something more than simply being physically on property maintained by the State; it must involve some leisure activity other than merely being present on state-maintained land. *Brown v. State*, 305 Neb. 111, 939 N.W.2d 354 (2020).

For the recreational activity exception to apply, the claim must relate to a recreational activity on property leased, owned, or controlled by the State; the claim must result from an inherent risk of that recreational activity; and no fee must have been charged for the plaintiff to participate in, or be a spectator at, the recreational activity. *Brown v. State*, 305 Neb. 111, 939 N.W.2d 354 (2020).

It is necessary as a threshold matter to identify the recreational activity, if any, in which the plaintiff was engaged as either a participant or a spectator. *Brown v. State*, 305 Neb. 111, 939 N.W.2d 354 (2020).

6. Miscellaneous

The intentional tort exception provides immunity and bars all claims arising out of an intentional tort, regardless of whether the intentional tort was committed by an agent of the State or by a third party. *Moser v. State*, 307 Neb. 18, 948 N.W.2d 194 (2020).

"[A]ny law enforcement officer" covered by the exception to the waiver of sovereign immunity in the State Tort Claims Act, specifically subdivision (2) of this section, includes all law enforcement officers, including Department of Correctional Services personnel. *Rouse v. State*, 301 Neb. 1037, 921 N.W.2d 355 (2019).

Tort claims by a parolee against State officials and employees were barred by the false imprisonment exception, under subdivision (4) of this section, where the parolee alleged that he turned himself in to authorities and was reincarcerated for almost 2 months despite his protests that he had been correctly paroled. *Davis v. State*, 297 Neb. 955, 902 N.W.2d 165 (2017).

Under subsection (4) of this section, the State has not waived its sovereign immunity for claims of fraudulent concealment. *Doe v. Board of Regents*, 280 Neb. 492, 788 N.W.2d 264 (2010).

Where a plaintiff's tort claim is based on the mere fact of government employment or on the employment relationship between the intentional tort-feasor and the government, the exception applies and the State is immune from suit. *Johnson v. State*, 270 Neb. 316, 700 N.W.2d 620 (2005).

Even though this section has been amended in 1993, 1999, 2004, 2005, and 2007, claims for invasion of privacy are still not among those claims for which sovereign immunity provides protection for State employees or officers. *Bojanski v. Foley*, 18 Neb. App. 929, 798 N.W.2d 134 (2011).

81-8,220 State Claims Board; members; legal advisor; hire secretary; expenses.

The Director of Insurance, Commissioner of Labor, and Director of Administrative Services shall constitute the State Claims Board which shall be a part of the Risk Management Program created by section 81-8,239.01. The Attorney General shall be its legal advisor. With the advice and consent of the other members of the board, the Director of Administrative Services may hire a secretary for the board. The members of the board shall receive no compensation for their services except that provided by law for the offices they hold, but they shall be allowed necessary traveling expenses in performing their duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1943, c. 129, § 1, p. 432; R.S.1943, § 81-857; Laws 1969, c. 756, § 12, p. 2849; Laws 1972, LB 1334, § 6; Laws 1981, LB 204, § 185; Laws 1981, LB 273, § 18; Laws 1988, LB 864, § 31; Laws 1992, Third Spec. Sess., LB 14, § 6; Laws 2008, LB821, § 5.

Cross References

Other provisions for claims against state, see sections 81-8,294 to 81-8,306 and 81-1170.01 to 81-1170.05.

Presentment of warrants, time limitation, see section 77-2205.

81-8,221 State Claims Board; rules and regulations; adopt.

The State Claims Board shall adopt and promulgate such rules and regulations as are necessary to carry out the State Tort Claims Act.

Source: Laws 1969, c. 756, § 13, p. 2850; Laws 1988, LB 864, § 32.

81-8,222 Department of Justice; Claims Division; assistant attorney general; duties.

There is hereby established within the Department of Justice a Claims Division to be headed by an assistant attorney general appointed by and under the control of the Attorney General. The Attorney General may authorize the assistant attorney general in charge of the Claims Division to perform any of the duties imposed upon the Attorney General by the State Tort Claims Act and may employ other persons, firms, or corporations to investigate claims under the act.

Source: Laws 1969, c. 756, § 14, p. 2850; Laws 1988, LB 864, § 33.

81-8,223 Award; acceptance; effect.

Any award made under the State Tort Claims Act and accepted by the claimant shall be final and conclusive on all officers of the State of Nebraska except when procured by means of fraud. The acceptance by the claimant of such award shall be final and conclusive on the claimant and shall constitute a complete release by the claimant of any claim against the state and against the employee of the state whose act or omission gave rise to the claim by reason of the same subject matter.

Source: Laws 1969, c. 756, § 15, p. 2850; Laws 1988, LB 864, § 34.

81-8,224 Award; certification; payment; review, when.

(1) Any award to a claimant and any judgment in favor of a claimant under the State Tort Claims Act shall be certified by the Risk Manager or State Claims Board to the Director of Administrative Services who shall promptly issue a warrant for payment of such award or judgment out of the Tort Claims Fund or State Insurance Fund, as appropriate, if sufficient money is available in the fund, except that no portion in excess of fifty thousand dollars of any award or judgment shall be paid until such award or judgment has been reviewed by the Legislature and specific appropriation made therefor. All awards and judgments which arise out of the same facts and circumstances shall be reported to the Legislature if the aggregated amount exceeds fifty thousand dollars.

(2) Any award, judgment, or associated costs on a claim which is covered by liability insurance or by group self-insurance, the amount of which falls within the applicable policy's self-insured retention, shall be paid from the State Insurance Fund.

(3) Delivery of any warrant in satisfaction of an award or judgment shall be made only upon receipt of a written release by the claimant in a form approved by the State Claims Board.

Source: Laws 1969, c. 756, § 16, p. 2850; Laws 1984, LB 1028, § 3; Laws 1988, LB 864, § 35; Laws 2005, LB 485, § 2; Laws 2008, LB821, § 6; Laws 2019, LB418, § 10.

81-8,225 Tort Claims Fund; established; amount; investment; appropriation.

There is hereby established in the state treasury a Tort Claims Fund from which awards, judgments, and associated costs under the State Tort Claims Act may be paid, including appeal bonds or the reasonable costs associated with a required appearance before any tribunal. This fund shall be in such amount as the Legislature determines to be reasonably sufficient to meet anticipated

claims. When the amount of money in the fund is not sufficient to pay any awards or judgments under such act, the Risk Manager shall immediately advise the Legislature and request an emergency appropriation to satisfy such awards and judgments. 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 1969, c. 756, § 17, p. 2850; Laws 1971, LB 53, § 3; Laws 1981, LB 273, § 19; Laws 1988, LB 864, § 36; Laws 1995, LB 7, § 111; Laws 2005, LB 485, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-8,226 Report to Clerk of the Legislature; contents.

The Risk Manager shall report electronically to the Clerk of the Legislature all claims and judgments paid under the State Tort Claims Act. Such report shall include the name of each claimant, a statement of the amount claimed and the amount awarded, and a brief description of the claim including the agency and program or activity under which the claim arose. Each member of the Legislature shall receive an electronic copy of such report by making a request for it to the Risk Manager.

Source: Laws 1969, c. 756, § 18, p. 2851; Laws 1972, LB 1334, § 7; Laws 1979, LB 322, § 44; Laws 1981, LB 273, § 20; Laws 1988, LB 864, § 37; Laws 2012, LB782, § 174.

81-8,227 Tort claim; limitation of action.

(1) Except as provided in subsection (2) of this section, every tort claim permitted under the State Tort Claims Act shall be forever barred unless within two years after such claim accrued the claim is made in writing to the Risk Manager in the manner provided by such act. The time to begin suit under such act shall be extended for a period of six months from the date of mailing of notice to the claimant by the Risk Manager or State Claims Board as to the final disposition of the claim or from the date of withdrawal of the claim under section 81-8,213 if the time to begin suit would otherwise expire before the end of such period.

(2) The date of a qualifying pardon from the Board of Pardons, a final order by a court vacating a conviction, or a conviction that was reversed and remanded for a new trial and no subsequent conviction was obtained, whichever is later, shall be the date the claimant's claim shall accrue under the Nebraska Claims for Wrongful Conviction and Imprisonment Act for purposes of complying with the notice and filing requirements of the State Tort Claims Act. The Nebraska Claims for Wrongful Conviction and Imprisonment Act applies to a claimant who would have had a claim if the act had been in effect before August 30, 2009, or who has a claim on or after such date. If a claimant had a qualifying pardon from the Board of Pardons, a final order by a court vacating a conviction, or a conviction that was reversed and remanded for a new trial and no subsequent conviction was obtained, before August 30, 2009, the claimant's claim shall accrue under the Nebraska Claims for Wrongful Conviction and Imprisonment Act on August 30, 2009, for purposes of complying with the notice and filing requirements of the State Tort Claims Act.

(3) If a claim is made or filed under any other law of this state and a determination is made by a state agency or court that the State Tort Claims Act provides the exclusive remedy for the claim, the time to make a claim and begin suit under such act shall be extended for a period of six months from the date of the court order making such determination or the date of mailing of notice to the claimant of such determination by a state agency if the time to make the claim and to begin suit under such act would otherwise expire before the end of such period. The time to begin a suit under such act may be further extended as provided in subsection (1) of this section.

(4) If a claim is brought under the Nebraska Hospital-Medical Liability Act, the filing of a request for review under section 44-2840 shall extend the time to begin suit under the State Tort Claims Act an additional ninety days following the issuance of the opinion by the medical review panel if the time to begin suit under the State Tort Claims Act would otherwise expire before the end of such ninety-day period.

(5) This section and section 25-213 shall constitute the only statutes of limitations applicable to the State Tort Claims Act.

Source: Laws 1969, c. 756, § 19, p. 2851; Laws 1974, LB 949, § 3; Laws 1984, LB 692, § 21; Laws 1988, LB 864, § 38; Laws 2008, LB821, § 7; Laws 2009, LB260, § 11.

Cross References

Nebraska Claims for Wrongful Conviction and Imprisonment Act, see section 29-4601.

Nebraska Hospital-Medical Liability Act, see section 44-2855.

Under the State Tort Claims Act, if a claimant brings his or her claim before a claims board and elects to await final disposition instead of withdrawing the claim to file suit, a 6-month extension from the mailing of a denial applies regardless of whether final disposition was made before or after the 2-year limitation for suits. *Patterson v. Metropolitan Util. Dist.*, 302 Neb. 442, 923 N.W.2d 717 (2019).

The 6-month filing extension in this section runs from the first date on which the claim could have been withdrawn under section 81-8,213, not the date the claim is actually withdrawn. *Komar v. State*, 299 Neb. 301, 908 N.W.2d 610 (2018).

The beneficence of the discovery rule is not bestowed on a potential plaintiff where the potential plaintiff in fact discovers, or in the exercise of reasonable diligence should have discovered, an injury within the initial period of limitations running from the wrongful act or omission. *Carruth v. State*, 271 Neb. 433, 712 N.W.2d 575 (2006).

A claimant who files a tort claim with the Risk Manager of the State Claims Board 18 months or more after his or her claim has accrued, but within 2 years as provided in subsection (1) of this section, has 6 months to file suit from the date the board gives written notice to the claimant as to the final disposition of the claim. *Collins v. State*, 264 Neb. 267, 646 N.W.2d 618 (2002).

The discovery rule is applicable to the State Tort Claims Act, and in a case in which the plaintiff cannot reasonably become aware of the injury at the time of the act or omission, the discovery rule applies, and the period of limitations under the State Tort Claims Act begins to run when a potential plaintiff discovers, or in the exercise of reasonable diligence should discover, the existence of the injury. *Shlien v. Board of Regents*, 263 Neb. 465, 640 N.W.2d 643 (2002).

The 6-month time period contained in subsection (1) of this section is an extension of time, not a limitation, in those instances

where the claimant has filed a so-called fourth-quarter claim. A claimant who files a tort claim with the State Claims Board 18 months or more after his or her claim has accrued, but within the 2-year statute of limitations, has 6 months from the date of mailing of notice by the board as to the final disposition of the claim or from the date of withdrawal of the claim, in which to begin suit. *Sharkey v. Board of Regents of Univ. of Neb.*, 260 Neb. 166, 615 N.W.2d 889 (2000).

A claimant who files a tort claim with the risk manager of the State Claims Board 18 months or more after his or her claim has accrued, but within the 2-year statute of limitations, has 6 months from the first day on which the claim may be withdrawn from the claims board in which to begin suit. There is nothing in the State Tort Claims Act which contemplates the tolling of the limitations period or the granting of an extension of the limitations period because the claims board has set a date for hearing. *Hullinger v. Board of Regents*, 249 Neb. 868, 546 N.W.2d 779 (1996).

The language "time to begin suit" as used in this section means 2 years. *Coleman v. Chadron State College*, 237 Neb. 491, 466 N.W.2d 526 (1991).

A claimant who files a tort claim with the risk manager of the State Claims Board prior to 18 months after the claim has accrued and who, as a result, could have withdrawn a claim from the board prior to the expiration of the 2-year statute of limitations should be given an additional 6 months from the time the claimant could have withdrawn the claim from the board, rather than an additional 6 months from the time the claimant actually withdrew the claim, to file a complaint in the district court. A claimant cannot delay the expiration of the statute of limitations by choosing to delay the withdrawal of a claim from the board. *Komar v. State*, 24 Neb. App. 692, 897 N.W.2d 310 (2017).

81-8,228 Attorney's fees; expenses; allowance.

The court rendering a judgment for the claimant under the State Tort Claims Act, the Risk Manager or State Claims Board making an award under section

81-8,211, or the Attorney General settling a claim under section 81-8,218 shall determine and allow reasonable attorney's fees and expenses, to be paid out of but not in addition to the amount of judgment or award recovered, to the attorneys representing the claimant.

Source: Laws 1969, c. 756, § 20, p. 2852; Laws 1988, LB 864, § 39; Laws 2008, LB821, § 8.

81-8,229 Tort claims; remedy of State Tort Claims Act; exclusive.

From and after December 25, 1969, the authority of any state agency to sue or be sued in its own name shall not be construed to authorize suits against such state agency on tort claims except as authorized in the State Tort Claims Act. The remedies provided by such act for tort claims and suits against the state and employees of the state shall be exclusive.

Source: Laws 1969, c. 756, § 21, p. 2852; Laws 1988, LB 864, § 40; Laws 1989, LB 541, § 6.

81-8,230 State agency; payment of claims; construction of act.

Nothing in the State Tort Claims Act shall be deemed to repeal any provision of law authorizing any state agency to consider, ascertain, adjust, compromise, settle, determine, allow, or pay any claim other than a tort claim.

Source: Laws 1969, c. 756, § 22, p. 2852; Laws 1988, LB 864, § 41.

81-8,231 Claim under act; insurance coverage; effect.

Whenever a claim or suit under the State Tort Claims Act is covered by liability insurance or by group self-insurance provided by a risk management pool, the provisions of the liability insurance policy on defense and settlement of claims or the provisions of the agreement forming the risk management pool and related documents providing for defense and settlement of claims covered under such group self-insurance shall be applicable notwithstanding any inconsistent provisions of the act. The Attorney General and the State Claims Board shall cooperate with the insurance company or risk management pool.

Source: Laws 1969, c. 756, § 23, p. 2852; Laws 1987, LB 398, § 48; Laws 1988, LB 864, § 42; Laws 1989, LB 541, § 7.

Cross References

Risk management pool, defined, see section 44-4303.

81-8,232 Action against employee; act or omission of employee.

Nothing in the State Tort Claims Act shall be construed to prevent the state from bringing an action for recovery from an employee of the state when the state has made payment of an award or settlement growing out of the employee's act or omission under the State Tort Claims Act.

Source: Laws 1969, c. 756, § 24, p. 2852; Laws 1988, LB 864, § 43.

81-8,233 Employee; report property damage, injury, or death; cooperation in investigation.

When any employee is involved in any occurrence involving damage to or loss of property or personal injury or death, such employee as soon as practicable shall report full information on such occurrence to the head of the

agency by which he or she is employed. The head of the agency shall furnish immediately all available information on such occurrence to the Risk Manager. All employees shall cooperate fully with the Attorney General in the investigation of all tort claims. Failure to comply with the provisions of this section shall constitute grounds for dismissal from employment.

Source: Laws 1969, c. 756, § 25, p. 2852; Laws 1972, LB 1334, § 8; Laws 1981, LB 273, § 21.

81-8,234 Skatepark and bicycle motocross park; sign required; warning notice.

(1) The state shall post and maintain a sign at each skatepark and bicycle motocross park sponsored by the state containing the following warning notice: Under Nebraska law, the state is not liable for an injury to or the death of a participant in recreational activities resulting from the inherent risks of the recreational activities pursuant to section 81-8,219.

(2) The absence of a sign shall not give rise to liability on the part of the state.

Source: Laws 2007, LB564, § 5.

81-8,235 Act, how cited.

Sections 81-8,209 to 81-8,235 shall be known and may be cited as the State Tort Claims Act.

Source: Laws 1969, c. 756, § 27, p. 2853; Laws 1984, LB 590, § 3; Laws 2007, LB564, § 6.

81-8,236 Correctional institution incident; costs of prosecution; claim by county; Risk Manager; powers and duties.

(1) For purposes of this section:

(a) Correctional institution incident means an incident in which a crime or crimes are allegedly committed by one or more inmates confined in a state correctional institution;

(b) Costs of prosecution includes, but is not limited to, the costs of defense for indigent defendants, including attorney's fees and expert witness fees;

(c) Division means the risk management and state claims division of the Department of Administrative Services; and

(d) Threshold amount means the amount of property tax revenue raised by a county from a levy of two and one-half cents per one hundred dollars of taxable valuation of property subject to the levy. The threshold amount shall be determined using valuations for the year in which the correctional institution incident occurred.

(2) A county may file a claim with the division to recover the costs of prosecution relating to a correctional institution incident that occurs within the county. The county may recover only those costs that exceed the threshold amount for such county.

(3) The Risk Manager shall have the power and authority to receive claims, investigate claims, and otherwise carry out the responsibilities of this section. The division shall develop a claim form, publish claim procedures, and determine the supporting information required to perfect a claim.

(4) The Risk Manager shall submit claims received under this section to the Legislature in the same manner as provided in the State Miscellaneous Claims Act. The Legislature shall review the claim and make an appropriation for the claim if appropriate.

(5) This section shall apply to any correctional institution incident occurring on or after May 1, 2015. Claims described in this section shall have no time bar to recovery.

Source: Laws 2018, LB861, § 1.

Cross References

State Miscellaneous Claims Act, see section 81-8,294.

81-8,237 Transferred to section 81-8,298.

81-8,238 Transferred to section 81-8,299.

81-8,239 Transferred to section 81-8,300.

81-8,239.01 Risk Management Program; risk management and state claims division of the Department of Administrative Services; established; Risk Manager; powers and duties.

(1) For purposes of sections 81-8,239.01 to 81-8,239.08 and 81-8,239.11, unless the context otherwise requires, the definition of state agencies found in section 81-8,210 shall apply, except that such term shall not include the Board of Regents of the University of Nebraska.

(2) There is hereby established a division within the Department of Administrative Services to be known as the risk management and state claims division. The division shall be headed by the Risk Manager who shall be appointed by the Director of Administrative Services. The division shall be responsible for the Risk Management Program, which program is hereby created. The program shall consist of the systematic identification of exposures to risk of loss as provided in sections 11-201 to 11-203, 13-911, 25-2165, 43-1320, 44-1615, 44-1616, 48-194, 48-197, 48-1,103, 48-1,104, 48-1,107, 48-1,109, 81-8,212, 81-8,220, 81-8,225, 81-8,226, 81-8,233, 81-8,239.01 to 81-8,239.08, 81-8,239.11, 81-8,300, and 81-1801.02 and shall include the appropriate methods for dealing with such exposures in relation to the state budget pursuant to such sections. Such program shall be administered by the Risk Manager and shall include the operations of the State Claims Board and other operations provided in such sections.

(3) Under the Risk Management Program, the Risk Manager shall have the authority and responsibility to:

(a) Employ any personnel necessary to administer the Risk Management Program;

(b) Develop and maintain loss and exposure data on all state property and liability risks;

(c) Develop and recommend risk reduction or elimination programs for the state and its agencies and establish, implement, and monitor a statewide safety program;

(d) Determine which risk exposures shall be insured and which risk exposures shall be self-insured or assumed by the state;

(e) Establish standards for the purchase of necessary insurance coverage or risk management services at the lowest costs, consistent with good underwriting practices and sound risk management techniques;

(f) Be the exclusive negotiating and contracting agency to purchase insurance or risk management services and, after consultation with the state agency for which the insurance or services are purchased, enter into such contracts on behalf of the state and its agencies, officials, and employees to the extent deemed necessary and in the best interest of the state, and authorize payment for such purchase out of the appropriate funds created by section 81-8,239.02;

(g) Determine whether the state suffered a loss for which self-insured property loss funds have been created and authorize and administer payments for such loss from the State Self-Insured Property Fund for the purpose of replacing or rebuilding state property;

(h) Perform all duties assigned to the Risk Manager under the Nebraska Workers' Compensation Act and sections 11-201 to 11-203, 81-8,239.05, 81-8,239.07, 81-8,239.11, and 84-1601 to 84-1615;

(i) Approve the use of risk management pools by any department, agency, board, bureau, commission, or council of the State of Nebraska; and

(j) Recommend to the Legislature such legislation as may be necessary to carry out the purposes of the Risk Management Program and make appropriation requests for the administration of the program and the funding of the separate funds administered by the Risk Manager.

(4) No official or employee of any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act shall be considered a state official or employee for purposes of sections 81-8,239.01 to 81-8,239.06.

Source: Laws 1981, LB 273, § 23; Laws 1986, LB 811, § 143; Laws 1986, LB 1208, § 1; Laws 1987, LB 398, § 49; Laws 1989, LB 326, § 2; Laws 1989, LB 77, § 1; Laws 1989, LB 303, § 7; Laws 1991, LB 81, § 7; Laws 1992, LB 169, § 3; Laws 1992, LB 560, § 2; Laws 1992, Third Spec. Sess., LB 14, § 7; Laws 1996, LB 1248, § 2; Laws 1996, LB 1252, § 1; Laws 1999, LB 87, § 93; Laws 2001, LB 3, § 1; Laws 2007, LB256, § 6; Laws 2011, LB390, § 15.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

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

81-8,239.02 State Insurance Fund; State Self-Insured Property Fund; State Self-Insured Indemnification Fund; State Self-Insured Liability Fund; created; purposes; report; attorney's fees.

The following separate permanent revolving funds are established in the state treasury for use under the Risk Management Program according to the purposes for which each fund is established:

(1) The State Insurance Fund is hereby created for the purpose of purchasing insurance to cover property, fidelity, and liability risks of the state and workers' compensation claims against the state and other risks to which the state or its agencies, officials, or employees are exposed and for paying related expenses, including the costs of administering the Risk Management Program. The fund may receive deposits from assessments against state agencies to provide insur-

ance coverage as directed by the Risk Manager. The Risk Manager may retain in the fund sufficient money to pay for any deductibles, self-insured retentions, or copayments as may be required by such insurance policies and Risk Management Program expenses;

(2) The State Self-Insured Property Fund is hereby created for the purpose of replacing, repairing, or rebuilding state property which has incurred damage or is suffering other loss not fully covered by insurance and for paying related expenses. The fund may receive deposits from assessments against state agencies to provide property coverage as directed by the Risk Manager. The Risk Manager may assess state agencies to provide self-insured property coverage;

(3) The State Self-Insured Indemnification Fund is hereby created for the purpose of paying indemnification claims under section 81-8,239.05. Indemnification claims shall include payments for awards, settlements, and associated costs, including appeal bonds and reasonable costs and attorney's fees associated with a required appearance by agency legal counsel or other legal counsel hired, with prior approval of the Attorney General, to represent the agency, official, or employee before any tribunal. The fund may receive deposits from assessments against state agencies to pay for the costs associated with providing and supporting indemnification claims. The creation of this fund shall not be interpreted as expanding the liability exposure of the state or its agencies, officials, or employees; and

(4)(a) The State Self-Insured Liability Fund is hereby created for the purpose of paying compensable liability and fidelity claims against the state or its agencies, officials, or employees which are not fully covered by insurance and for which there is insufficient agency funding and for which a legislative appropriation is made under section 81-8,239.11.

(b) The fund may be used to pay claims against the state or its agencies, officials, or employees for which there is a specific provision of law for the resolution of such claims but which are not otherwise payable from the State Insurance Fund, State Self-Insured Property Fund, State Self-Insured Indemnification Fund, Workers' Compensation Claims Revolving Fund, or Tort Claims Fund. Such claims shall include payments for awards, settlements, and associated costs, including appeal bonds and reasonable costs and attorney's fees associated with a required appearance by agency legal counsel or other legal counsel hired, with prior approval of the Attorney General, to represent the agency, official, or employee before any tribunal.

(c) A claim for reasonable costs and attorney's fees described in subdivision (b) of this subsection shall be paid from the State Self-Insured Liability Fund if such claim results from the inability of the Attorney General to represent an agency, official, or employee due to a conflict of interest. A conflict of interest shall not be deemed to exist when the Attorney General is a party to such claim or represents a party to such claim.

(d) The creation of this fund shall not be interpreted as expanding the liability exposure of the state or its agencies, officials, or employees.

(e) The Risk Manager shall report electronically all claims and judgments paid from the State Self-Insured Liability Fund to the Clerk of the Legislature annually. The report shall include the name of the claimant, the amount claimed and paid, and a brief description of the claim, including any agency, program, and activity under which the claim arose. Any member of the

Legislature may receive an electronic copy of the report by making a request to the Risk Manager.

Source: Laws 1981, LB 273, § 24; Laws 1986, LB 811, § 144; Laws 1986, LB 1208, § 2; Laws 1989, LB 77, § 2; Laws 1994, LB 1211, § 4; Laws 1996, LB 1248, § 3; Laws 2001, LB 3, § 2; Laws 2005, LB 485, § 4; Laws 2007, LB256, § 8; Laws 2011, LB378, § 25; Laws 2012, LB782, § 175; Laws 2019, LB418, § 11; Laws 2022, LB922, § 9.

81-8,239.03 Risk Manager; present budget request; contents; deficiency appropriation; procedure; investment.

The Risk Manager shall present a budget request as provided in subdivision (1) of section 81-1113 for the Risk Management Program which shall separately state the amount requested for the Tort Claims Fund, State Insurance Fund, State Self-Insured Property Fund, State Self-Insured Indemnification Fund, and Workers' Compensation Claims Revolving Fund, and such budget shall be based on the projected needs for such funds. If the Risk Manager does not assess state agencies for any of the funds listed in this section, the amount of expenditures paid from the fund on behalf of any non-general-fund agency shall be separately stated and paid into the funds from an appropriation to such non-general-fund agency. If the amount of money in any of such funds is not sufficient to pay any awards or judgments authorized by sections 48-192 to 48-1,109 or the State Tort Claims Act, the Risk Manager shall immediately advise the Legislature and request an emergency appropriation to satisfy such awards and judgments. Any money in such funds available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the State Insurance Fund shall be credited to the General Fund.

Source: Laws 1981, LB 273, § 25; Laws 1986, LB 811, § 145; Laws 1988, LB 864, § 57; Laws 1994, LB 1211, § 5; Laws 1995, LB 7, § 112; Laws 2007, LB256, § 9; Laws 2016, LB1092, § 3; Laws 2024, First Spec. Sess., LB3, § 33.
Effective date August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

State Tort Claims Act, see section 81-8,235.

81-8,239.04 Money or property recovered by state; disposition.

All money or property recovered by or returned to the state, including but not limited to dividends, money recovered pursuant to litigation, or the salvage value of damaged property for damages relating to either a liability or property loss for which money from the State Insurance Fund, State Self-Insured Property Fund, State Self-Insured Indemnification Fund, State Self-Insured Liability Fund, Workers' Compensation Claims Revolving Fund, or Tort Claims Fund has been paid, shall be deposited in the respective fund, except that such money or property recovered under the terms of an insurance policy, the

premiums for which were paid solely by a cash fund agency and purchased at its request, shall be deposited in the respective cash fund.

Source: Laws 1981, LB 273, § 26; Laws 1986, LB 811, § 146; Laws 1994, LB 1211, § 6; Laws 2007, LB256, § 10.

81-8,239.05 Indemnification of state officials and employees; when; Attorney General; duties; attorney's fees; report.

(1) The State of Nebraska shall indemnify its officials and employees and its past officials and employees for money damages and reasonable costs incurred as a result of an act or omission occurring in the course and scope of employment of such official or employee after May 22, 1981. Such official's or employee's right to indemnification shall include the payments of awards, settlements, and associated costs, including appeal bonds and reasonable costs and attorney's fees associated with a required appearance by agency legal counsel or other legal counsel hired, with prior approval of the Attorney General, to represent the agency, official, or employee before any tribunal.

(2) Subsection (1) of this section shall not apply in case of malfeasance in office or willful or wanton neglect of duty. This section shall not be interpreted as an expansion of any state official's or employee's personal liability.

(3) The Attorney General shall notify the Risk Manager when an official or employee is being represented by the Attorney General or has engaged competent counsel approved by the Attorney General. The reasonable costs of litigation, including appeal bonds, or the reasonable costs and attorney's fees of any appearance by agency legal counsel or other legal counsel hired, with prior approval of the Attorney General, to represent the agency, official, or employee before any tribunal shall be paid by the Risk Manager from the State Self-Insured Indemnification Fund.

(4) The Attorney General shall file copies of all awards and settlements and any final court approval with the Risk Manager and shall request that the Risk Manager make the required payments, if funds are available, from the State Self-Insured Indemnification Fund, except that any portion of an award or settlement which is for punitive damages may only be paid with the approval of the Legislature. The official or employee may file a claim under the State Miscellaneous Claims Act if payment is not made.

(5) The Risk Manager shall report electronically all claims and judgments paid from the State Self-Insured Indemnification Fund to the Clerk of the Legislature annually. The report shall include the name of the claimant, the amount claimed and paid, and a brief description of the claim, including any agency, program, and activity under which the claim arose. Any member of the Legislature may receive an electronic copy of the report by making a request to the Risk Manager.

Source: Laws 1981, LB 273, § 27; Laws 1986, LB 1208, § 3; Laws 1989, LB 77, § 3; Laws 2007, LB256, § 11; Laws 2012, LB782, § 176; Laws 2022, LB922, § 10.

Cross References

State Miscellaneous Claims Act, see section 81-8,294.

81-8,239.06 Civil action against state officer or employee; Attorney General; represent; cooperation required; payment for defense; when required.

(1) If any civil action is brought against any state officer or employee, such state official or employee may file a written request for counsel with the Attorney General asserting that such civil action is based in fact upon an alleged act or omission in the course and scope of employment. If any state officer or employee is requested to appear before a tribunal and the state may have an interest, such state official or employee may file a written request for representation at the tribunal by the Attorney General asserting that the request to appear is based upon an alleged act or omission in the course and scope of employment. The Attorney General shall thereupon appear and defend or represent that person unless after investigation he or she finds that the claim or demand does not arise out of an alleged act or omission occurring in the course and scope of employment or that the act or omission complained of amounted to malfeasance in office or willful or wanton neglect of duty, in which case the Attorney General shall give that person written notice that defense of the claim or representation before the tribunal has been rejected.

(2) Any official or employee of the state against whom a claim is made or of whom an appearance is requested, which is not rejected by the Attorney General pursuant to subsection (1) of this section, shall cooperate fully with the Attorney General in the defense of such claim or in the appearance. If the Attorney General determines that such official or employee has not cooperated or has otherwise acted to prejudice the defense of the claim or the appearance, the Attorney General may at any time reject the defense of the claim or representation before the tribunal.

(3) If the Attorney General rejects the defense of a claim pursuant to subsection (1) of this section or if it is established by the judgment ultimately rendered on the claim that the act or omission complained of was not in the course or scope of employment or amounted to willful or wanton neglect of duty, no public money shall be paid in settlement of such claim or in payment of any judgment against such official or employee. Such action by the Attorney General shall not prejudice the right of the state official or employee to assert and establish as a defense that the claim arose out of an alleged act or omission occurring in the course and scope of employment or that the act or omission complained of did not amount to malfeasance in office or willful wanton neglect of duty. If the official or employee is successful in asserting such defense, he or she shall be indemnified for the reasonable costs of defending the claim.

(4) If a state official or employee has been defended by the Attorney General and it is established by the judgment ultimately rendered on the claim that the act or omission complained of was not covered by section 81-8,239.05, the judgment against that person shall provide for payment to the state of the state's costs, including a reasonable attorney's fee.

Source: Laws 1981, LB 273, § 28; Laws 1986, LB 1208, § 4; Laws 1989, LB 77, § 4.

81-8,239.07 Risk Manager; self-insure; risk management services; procure insurance; amount of protection; premium; payments.

The Risk Manager, acting as agent for the state agencies, may (1) self-insure and contract for related risk management services, (2) purchase a liability insurance policy or policies, or (3) use any combination of self-insurance and insurance to protect the agencies and their employees and other persons

authorized to operate a vehicle by an agency against loss occasioned by negligence in the operation of any trucks, automobiles, snowplows, road graders, or other vehicles. Any such policy shall be purchased by public bidding conducted by the Risk Manager upon terms and forms prepared by him or her and shall have limits for death, bodily injury, and property damage that are the same as would be required by law for a private individual. The premium on the policy or policies shall be paid by the Risk Manager from the State Insurance Fund created in section 81-8,239.02. The Risk Manager shall authorize and administer the payment of self-insured losses and payment for risk management services from the State Insurance Fund, State Self-Insured Property Fund, State Self-Insured Indemnification Fund, or State Self-Insured Liability Fund as appropriate.

Source: Laws 1967, c. 379, § 2, p. 1190; Laws 1969, c. 756, § 32, p. 2854; Laws 1969, c. 513, § 2, p. 2102; Laws 1981, LB 273, § 16; R.S.1943, (1988), § 60-1008; Laws 1989, LB 326, § 1; Laws 2007, LB256, § 12.

This section evidences general legislative policy to accept public financial responsibility in area of automobile accidents. *Brown v. City of Omaha*, 183 Neb. 430, 160 N.W.2d 805 (1968).

81-8,239.08 Civil action against provider of medical or dental services; Attorney General; represent; indemnification of provider.

Any person who, at the request of the director of a state agency, provides medical or dental services to a person in the custody of the state may be represented by the Attorney General in the same manner as a state officer or employee under sections 81-8,239.05 and 81-8,239.06 in any civil action under the federal Civil Rights Act of 1871, as amended, 42 U.S.C. 1983, which arose as a result of providing such services. A person providing such services shall also be indemnified for liability for violations of civil rights in the same manner as a state officer or employee under section 81-8,239.05.

Source: Laws 1992, LB 560, § 1.

81-8,239.09 Risk Management Administration Cash Fund; created; use; investment.

There is hereby created the Risk Management Administration Cash Fund. The fund shall be administered by the Risk Manager. The fund shall consist of miscellaneous fees for services provided by the Risk Manager and shall be used to pay for expenses of the risk management and state claims program.

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

Source: Laws 1994, LB 1211, § 1; Laws 1995, LB 7, § 113.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-8,239.10 Repealed. Laws 2001, LB 3, § 4.

81-8,239.11 Settlements and judgments; state agency; Attorney General; filing required; insufficient funds; Risk Manager; duties.

A state agency head shall file copies of all settlements, and a state agency head or the Attorney General shall file copies of all final, nonappealable judgments, of all self-insured liability claims with the Risk Manager. If the state agency has insufficient funds to pay the settlement or judgment, the state agency shall notify and provide documentation of such insufficient funds to the Risk Manager. The Risk Manager shall then submit the settlement or judgment to the Legislature in the same manner as provided in the State Miscellaneous Claims Act. The Legislature shall review the settlement or judgment and make an appropriation if appropriate.

Source: Laws 2007, LB256, § 7; Laws 2022, LB922, § 11.

Cross References

State Miscellaneous Claims Act, see section 81-8,294.

(q) PUBLIC COUNSEL

81-8,240 Terms, defined.

As used in sections 81-8,240 to 81-8,254, unless the context otherwise requires:

(1) Administrative agency shall mean any department, board, commission, or other governmental unit, any official, any employee of the State of Nebraska acting or purporting to act by reason of connection with the State of Nebraska, any corporation, partnership, business, firm, governmental entity, or person who is providing health and human services to individuals or service delivery, service coordination, or case management under contract with the State of Nebraska and who is subject to the jurisdiction of the office of Public Counsel as required by section 73-401, any regional behavioral health authority, any community-based behavioral health services provider that contracts with a regional behavioral health authority, and any county or municipal correctional or jail facility and employee thereof acting or purporting to act by reason of connection with the county or municipal correctional or jail facility; but shall not include (a) any court, (b) any member or employee of the Legislature or the Legislative Council, (c) the Governor or his or her personal staff, (d) any political subdivision or entity thereof except a county or municipal correctional or jail facility or a regional behavioral health authority, (e) any instrumentality formed pursuant to an interstate compact and answerable to more than one state, or (f) any entity of the federal government; and

(2) Administrative act shall include every action, rule, regulation, order, omission, decision, recommendation, practice, or procedure of an administrative agency.

Source: Laws 1969, c. 762, § 1, p. 2879; Laws 1997, LB 622, § 121; Laws 2008, LB467, § 1; Laws 2012, LB821, § 41.

81-8,241 Public Counsel; established; powers and duties; appointment.

The office of Public Counsel is hereby established to exercise the authority and perform the duties provided by sections 81-8,240 to 81-8,254, the Office of Inspector General of Nebraska Child Welfare Act, and the Office of Inspector General of the Nebraska Correctional System Act. The Public Counsel shall be appointed by the Legislature, with the vote of two-thirds of the members

required for approval of such appointment from nominations submitted by the Executive Board of the Legislative Council.

Source: Laws 1969, c. 762, § 2, p. 2879; Laws 2012, LB821, § 42; Laws 2015, LB598, § 19.

Cross References

Office of Inspector General of Nebraska Child Welfare Act, see section 43-4301.

Office of Inspector General of the Nebraska Correctional System Act, see section 47-901.

81-8,242 Public Counsel; qualifications.

The Public Counsel shall be a person well equipped to analyze problems of law, administration, and public policy, and during such person's term of office shall not be actively involved in partisan affairs. No person may serve as Public Counsel within two years of the last day on which such person served as a member of the Legislature, or while such person is a candidate for or holds any other state office, or while such person is engaged in any other occupation for reward or profit.

Source: Laws 1969, c. 762, § 3, p. 2879; Laws 2020, LB1144, § 5.

81-8,243 Public Counsel; term; removal; vacancy; salary.

The Public Counsel shall serve for a term of six years, unless removed by vote of two-thirds of the members of the Legislature upon their determining that the Public Counsel has become incapacitated or has been guilty of neglect of duty or misconduct. If the office of Public Counsel becomes vacant for any cause, the deputy public counsel shall serve as acting public counsel until a Public Counsel has been appointed for a full term. The Public Counsel shall receive such salary as is set by the Executive Board of the Legislative Council.

Source: Laws 1969, c. 762, § 4, p. 2880; Laws 2020, LB1144, § 6.

81-8,244 Public Counsel; personnel; appointment; compensation; authority; appoint Inspector General of Nebraska Child Welfare; appoint Inspector General of the Nebraska Correctional System.

(1)(a) The Public Counsel may select, appoint, and compensate as he or she sees fit, within the amount available by appropriation, such assistants and employees as he or she deems necessary to discharge the responsibilities under sections 81-8,240 to 81-8,254. He or she shall appoint and designate one assistant to be a deputy public counsel, one assistant to be a deputy public counsel for corrections, one assistant to be a deputy public counsel for institutions, and one assistant to be a deputy public counsel for welfare services.

(b) Such deputy public counsels shall be subject to the control and supervision of the Public Counsel.

(c) The authority of the deputy public counsel for corrections shall extend to all facilities and parts of facilities, offices, houses of confinement, and institutions which are operated by the Department of Correctional Services and all county or municipal correctional or jail facilities.

(d) The authority of the deputy public counsel for institutions shall extend to all mental health institutions and facilities operated by the Department of Health and Human Services, to all veterans institutions operated by the Department of Veterans' Affairs, and to all regional behavioral health authorities that provide services and all community-based behavioral health services

providers that contract with a regional behavioral health authority to provide services, for any individual who was a patient within the prior twenty-four months of a state-owned and state-operated regional center, and to all complaints pertaining to administrative acts of the department, authority, or provider when those acts are concerned with the rights and interests of individuals placed within those institutions and facilities or receiving community-based behavioral health services.

(e) The authority of the deputy public counsel for welfare services shall extend to all complaints pertaining to administrative acts of administrative agencies when those acts are concerned with the rights and interests of individuals involved in the welfare services system of the State of Nebraska.

(f) The Public Counsel may delegate to members of the staff any authority or duty under sections 81-8,240 to 81-8,254 except the power of delegation and the duty of formally making recommendations to administrative agencies or reports to the Governor or the Legislature.

(2) The Public Counsel shall appoint the Inspector General of Nebraska Child Welfare as provided in section 43-4317. The Inspector General of Nebraska Child Welfare shall have the powers and duties provided in the Office of Inspector General of Nebraska Child Welfare Act.

(3) The Public Counsel shall appoint the Inspector General of the Nebraska Correctional System as provided in section 47-904. The Inspector General of the Nebraska Correctional System shall have the powers and duties provided in the Office of Inspector General of the Nebraska Correctional System Act.

Source: Laws 1969, c. 762, § 5, p. 2880; Laws 1976, LB 687, § 1; Laws 1994, LB 1224, § 87; Laws 2008, LB467, § 2; Laws 2012, LB821, § 43; Laws 2015, LB598, § 20; Laws 2019, LB600, § 20.

Cross References

Office of Inspector General of Nebraska Child Welfare Act, see section 43-4301.

Office of Inspector General of the Nebraska Correctional System Act, see section 47-901.

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) Carry out his or her duties under the Office of Inspector General of the Nebraska Correctional System Act. If any of the provisions of sections 81-8,240 to 81-8,254 conflict with the provisions of the Office of Inspector General of the Nebraska Correctional System Act, the provisions of such act shall control;

(10) 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

(11) 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; Laws 2015, LB598, § 21.

Cross References

Office of Inspector General of Nebraska Child Welfare Act, see section 43-4301.

Office of Inspector General of the Nebraska Correctional System Act, see section 47-901.

State Government Effectiveness Act, see section 81-2701.

81-8,246 Public Counsel; particular administrative acts; review.

In selecting matters for attention, the Public Counsel shall particularly review an administrative act that might be:

- (1) Contrary to law or regulation;
- (2) Unreasonable, unfair, oppressive, or inconsistent with the general course of an administrative agency's judgments;
- (3) Mistaken in law or arbitrary in ascertainties of fact;
- (4) Improper in motivation or based on irrelevant considerations;
- (5) Unclear or inadequately explained when reasons should have been revealed; or
- (6) Inefficiently performed.

The Public Counsel may also work to strengthen procedures and practices which lessen the risk that objectionable administrative acts will occur.

Source: Laws 1969, c. 762, § 7, p. 2881; Laws 2020, LB1144, § 7.

81-8,247 Public Counsel; complaint; investigation; decision; notify complainant.

The Public Counsel may receive a complaint from any person concerning an administrative act. The Public Counsel shall conduct a suitable investigation into the things complained of unless the Public Counsel believes that:

- (1) The complainant has another remedy available which the complainant could reasonably be expected to use;
 - (2) The grievance pertains to a matter outside the Public Counsel's power;
 - (3) The complainant's interest is insufficiently related to the subject matter;
 - (4) The complaint is trivial, frivolous, vexatious, or not made in good faith;
 - (5) Other complaints are more worthy of attention;
 - (6) The Public Counsel's resources are insufficient for adequate investigation;
- or
- (7) The complaint has been too long delayed to justify present examination of its merit.

The Public Counsel's declining to investigate a complaint shall not bar the Public Counsel from proceeding on the Public Counsel's own motion to inquire into related problems. After completing consideration of a complaint, whether or not it has been investigated, the Public Counsel shall suitably inform the complainant and the administrative agency involved.

Source: Laws 1969, c. 762, § 8, p. 2882; Laws 2020, LB1144, § 8.

81-8,248 Public Counsel; complaint; conclusion or recommendation; consult with agency or person.

Before announcing a conclusion or recommendation that expressly or impliedly criticizes an administrative agency or any person, the Public Counsel shall consult with that agency or person.

Source: Laws 1969, c. 762, § 9, p. 2882.

81-8,249 Public Counsel; agency; information; recommendations.

(1) If, having considered a complaint and whatever material the Public Counsel deems pertinent, the Public Counsel is of the opinion that an administrative agency should (a) consider the matter further, (b) modify or cancel an administrative act, (c) alter a regulation or ruling, (d) explain more fully the administrative act in question, or (e) take any other step, the Public Counsel shall make recommendations to the administrative agency. If the Public Counsel so requests, the agency shall, within the time specified, inform the Public Counsel about the action taken on such recommendations or the reasons for not complying with them.

(2) If the Public Counsel believes that an administrative action has been dictated by a statute whose results are unfair or otherwise objectionable, the Public Counsel shall notify the Legislature of such views concerning desirable statutory change.

Source: Laws 1969, c. 762, § 10, p. 2882; Laws 2020, LB1144, § 9.

81-8,250 Public Counsel; conclusions; report; inclusions.

The Public Counsel may report conclusions and suggestions by transmitting them to the Governor, the Legislature or any of its committees, the press, and others who may be concerned. When publishing an opinion adverse to an administrative agency, the Public Counsel shall include any statement the administrative agency may have made to the Public Counsel by way of explaining its past difficulties or its present rejection of the Public Counsel's proposals.

Source: Laws 1969, c. 762, § 11, p. 2883; Laws 2020, LB1144, § 10.

81-8,251 Public Counsel; reports; time; contents.

(1) In addition to whatever reports he or she may make from time to time, the Public Counsel shall on or about February 15 of each year report to the Clerk of the Legislature and to the Governor concerning the exercise of his or her functions during the preceding calendar year. The report submitted to the Clerk of the Legislature shall be submitted electronically. In discussing matters with which he or she has dealt, the Public Counsel need not identify those immediately concerned if to do so would cause needless hardship. So far as the annual report may criticize named agencies or officials, it must include also their replies to the criticism. Each member of the Legislature shall receive an electronic copy of such report by making a request for it to the Public Counsel.

(2) On or before December 15 of each year, the Public Counsel shall submit a report electronically to the Clerk of the Legislature as required under section 83-104 regarding state institutions.

Source: Laws 1969, c. 762, § 12, p. 2883; Laws 1979, LB 322, § 45; Laws 2012, LB782, § 177; Laws 2020, LB1144, § 11.

81-8,252 Public Counsel; public officer or employee; acted to warrant criminal proceedings; refer to proper authorities.

If the Public Counsel has reason to believe that any public officer or employee has acted in a manner warranting criminal or disciplinary proceedings, the Public Counsel shall refer the matter to the appropriate authorities.

Source: Laws 1969, c. 762, § 13, p. 2883; Laws 2020, LB1144, § 12.

81-8,253 Public Counsel; proceedings, opinion, expression; not reviewable by court; not subject to testify or produce evidence.

No proceeding, opinion, or expression of the Public Counsel shall be reviewable in any court. Neither the Public Counsel nor any member of the Public Counsel's staff shall be required to testify or produce evidence in any judicial or administrative proceeding concerning matters within the Public Counsel's official cognizance, except in a proceeding brought to enforce sections 81-8,240 to 81-8,254.

Source: Laws 1969, c. 762, § 14, p. 2883; Laws 2020, LB1144, § 13.

81-8,254 Violations; penalty; state employee; complaint; effect.

A person who willfully obstructs or hinders the proper exercise of the Public Counsel's functions, or who willfully misleads or attempts to mislead the Public Counsel's inquiries, shall be guilty of a Class II misdemeanor. No employee of the State of Nebraska, who files a complaint pursuant to sections 81-8,240 to 81-8,254, shall be subject to any penalties, sanctions, or restrictions in connection with such employee's employment because of such complaint.

Source: Laws 1969, c. 762, § 15, p. 2883; Laws 1977, LB 39, § 301; Laws 2020, LB1144, § 14.

(r) COMMISSION ON THE STATUS OF WOMEN

81-8,255 Repealed. Laws 2009, LB 154, § 27.

81-8,256 Repealed. Laws 2009, LB 154, § 27.

81-8,257 Repealed. Laws 2009, LB 154, § 27.

81-8,258 Repealed. Laws 2009, LB 154, § 27.

81-8,259 Repealed. Laws 2009, LB 154, § 27.

81-8,260 Repealed. Laws 2009, LB 154, § 27.

81-8,260.01 Repealed. Laws 2009, LB 154, § 27.

81-8,260.02 Repealed. Laws 2009, LB 154, § 27.

81-8,261 Repealed. Laws 1981, LB 545, § 52.

(s) COMMISSION ON LATINO-AMERICANS

81-8,262 Commission on Latino-Americans; created; term, defined.

There is hereby created the Commission on Latino-Americans. For purposes of sections 81-8,262 to 81-8,271.01, commission means the Commission on Latino-Americans.

Source: Laws 1972, LB 1081, § 1; Laws 2010, LB139, § 1.

81-8,263 Commission; members; appointment; term.

The commission shall consist of nine members who shall be appointed by the Governor. Of the initial appointees, three shall be appointed to one-year terms, three to two-year terms, and three to three-year terms. Appointees to any

vacancy which may occur shall be appointed only for the unexpired term of the member such appointee replaces. After the initial appointees have served their initial terms, all appointees shall be appointed for a three-year term. The Governor or his appointee shall be an ex officio member of the commission with the power to vote.

Source: Laws 1972, LB 1081, § 2.

81-8,264 Commission; officers.

The commission shall elect one of its members as chairman and one as secretary to serve a one-year term.

Source: Laws 1972, LB 1081, § 3.

81-8,265 Commission; functions.

The functions of the commission shall be to:

(1) Gather and disseminate information and conduct hearings, conferences, and special studies on problems and programs concerning Latino-Americans;

(2) Serve the needs of Latino-Americans, especially in the fields of education, employment, health, housing, welfare, and recreation by offering such services as it may establish for the translation of documents and for the direct assistance of clients, exclusive of legal representation, in matters relating to any federal department or agency or any department or agency of the state or a political subdivision thereof;

(3) Develop, coordinate, and assist public and private organizations and coordinate and assist the efforts of state departments and agencies to serve the needs of Latino-Americans;

(4) Propose new programs concerning Latino-Americans;

(5) Evaluate existing programs and proposed legislation concerning Latino-Americans;

(6) Stimulate public awareness of the problems of Latino-Americans by conducting a program of public education and encourage the Governor and the Legislature to develop programs to deal with these problems; and

(7) Conduct training programs for community leadership and service project staff.

Source: Laws 1972, LB 1081, § 4; Laws 1983, LB 83, § 1; Laws 2010, LB139, § 2.

81-8,266 Commission; meetings; quorum.

The full commission shall meet at least four times a year. The chairperson or any three members may call additional meetings. A majority of members shall constitute a quorum.

Source: Laws 1972, LB 1081, § 5; Laws 1974, LB 506, § 1; Laws 1979, LB 582, § 1; Laws 1980, LB 923, § 1.

81-8,267 Commission; members; compensation; expenses.

Members shall receive thirty-five dollars per day for each day spent in the performance of their official duties. Members shall receive reimbursement for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1972, LB 1081, § 6; Laws 1974, LB 506, § 2; Laws 1981, LB 204, § 186; Laws 2020, LB381, § 108.

81-8,268 Commission; director; qualifications; employ.

The commission shall employ a director. He shall be qualified by education and experience to assume the responsibilities of such office.

Source: Laws 1972, LB 1081, § 7.

81-8,269 Director; duties.

The director shall be the administrative officer of the commission and shall serve the commission by gathering information, disseminating findings of fact and other information, forwarding proposals and evaluations to the Governor, the Legislature, and various state agencies, carrying out public education programs, conducting hearings and conferences, and performing other duties necessary for the proper operation of the commission.

Source: Laws 1972, LB 1081, § 8.

81-8,270 Director; employ personnel.

The director may employ any subordinate personnel necessary to assist him or her in the performance of his or her duties, including clerical staff and technical advisors. The director may employ assistant directors if necessary to develop, assist, and cooperate with local commissions on Latino-Americans.

Source: Laws 1972, LB 1081, § 9; Laws 1980, LB 923, § 2; Laws 2010, LB139, § 3.

81-8,271 Commission; powers.

The commission shall have all powers necessary to carry out the functions and duties specified in sections 81-8,262 to 81-8,271, including power to establish advisory committees on special subjects, to receive or apply for and receive gifts, grants, contributions, and other funds from the federal government, private agencies, affiliated associations, and individuals, and to contract with public and private groups to conduct its business.

Source: Laws 1972, LB 1081, § 10; Laws 1983, LB 83, § 2.

81-8,271.01 Commission on Latino-Americans Cash Fund; created; use; investment.

The Commission on Latino-Americans Cash Fund is created. The Commission on Latino-Americans shall use the fund for commission functions described in sections 81-8,262 to 81-8,271. Money credited to the fund shall include any monetary gifts, grants, and donations. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any money remaining in the Commission on Mexican-Ameri-

cans Cash Fund on July 15, 2010, shall be transferred to the Commission on Latino-Americans Cash Fund on such date.

Source: Laws 2000, LB 1363, § 3; Laws 2004, LB 940, § 2; Laws 2010, LB139, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(t) NEBRASKA AMERICAN REVOLUTION BICENTENNIAL COMMISSION

81-8,272 Repealed. Laws 1985, LB 8, § 1.

81-8,273 Repealed. Laws 1985, LB 8, § 1.

81-8,274 Repealed. Laws 1985, LB 8, § 1.

81-8,275 Repealed. Laws 1985, LB 8, § 1.

(u) REAL ESTATE APPRAISERS

81-8,276 Repealed. Laws 1990, LB 1153, § 67.

81-8,277 Repealed. Laws 1990, LB 1153, § 67.

81-8,278 Repealed. Laws 1990, LB 1153, § 67.

81-8,279 Repealed. Laws 1990, LB 1153, § 67.

81-8,280 Repealed. Laws 1990, LB 1153, § 67.

81-8,281 Repealed. Laws 1978, LB 659, § 5.

81-8,282 Repealed. Laws 1990, LB 1153, § 67.

81-8,283 Repealed. Laws 1990, LB 1153, § 67.

81-8,284 Repealed. Laws 1990, LB 1153, § 67.

81-8,285 Repealed. Laws 1990, LB 1153, § 67.

81-8,286 Repealed. Laws 1990, LB 1153, § 67.

81-8,287 Repealed. Laws 1990, LB 1153, § 67.

81-8,288 Repealed. Laws 1990, LB 1153, § 67.

81-8,289 Repealed. Laws 1990, LB 1153, § 67.

81-8,290 Repealed. Laws 1990, LB 1153, § 67.

81-8,291 Repealed. Laws 1990, LB 1153, § 67.

81-8,292 Repealed. Laws 1990, LB 1153, § 67.

81-8,293 Repealed. Laws 1990, LB 1153, § 67.

(v) STATE MISCELLANEOUS CLAIMS ACT

81-8,294 Act, how cited.

Sections 81-8,294 to 81-8,301 shall be known and may be cited as the State Miscellaneous Claims Act.

Source: Laws 1988, LB 864, § 44; Laws 2007, LB339, § 2.

81-8,295 Miscellaneous claim, defined.

As used in the State Miscellaneous Claims Act, miscellaneous claim shall mean any claim against the state for which there is no other specific provision of law for the resolution of such claim.

Source: Laws 1988, LB 864, § 45.

81-8,296 State Claims Board; miscellaneous claims; powers.

The State Claims Board shall have the power and authority to receive and investigate miscellaneous claims against the state.

Source: Laws 1988, LB 864, § 46.

81-8,297 State Claims Board; general powers.

The State Claims Board shall have the power and authority to receive, investigate, and otherwise carry out its duties with regard to (1) all claims under the State Miscellaneous Claims Act, (2) all claims under sections 25-1802 to 25-1807, (3) all claims under the State Contract Claims Act, (4) all claims under the In the Line of Duty Compensation Act, (5) all requests on behalf of any department, board, or commission of the state for waiver or cancellation of money or charges when necessary for fiscal or accounting procedures, and (6) all claims filed under section 66-1531. All such claims or requests and supporting documents shall be filed with the Risk Manager and shall be designated by number, name of claimant as requester, and short title. Nothing in this section shall be construed to be a waiver of the sovereign immunity of the state beyond what is otherwise provided by law.

The board shall adopt and promulgate such rules and regulations as are necessary to carry out the powers granted in this section. The Attorney General shall be the legal advisor to the board for purposes of this section and may authorize the assistant attorney general in charge of the Claims Division to perform any of his or her duties under this section.

Source: Laws 1988, LB 864, § 47; Laws 1998, LB 1161, § 36; Laws 2021, LB255, § 6.

Cross References

In the Line of Duty Compensation Act, see section 81-8,315.
State Contract Claims Act, see section 81-8,302.

81-8,298 State Claims Board; meetings; hearings; notice.

The State Claims Board shall meet at such times and places and shall make such investigation of each claim or request referred to in section 81-8,297 as it determines necessary. If the board deems a hearing to be necessary or advisa-

ble on any claim or request so filed, it shall give to the claimant at least ten days' notice by regular mail of the time and place of hearing.

Source: Laws 1943, c. 129, § 3, p. 433; R.S.1943, § 81-859; Laws 1957, c. 242, § 61, p. 867; Laws 1967, c. 588, § 2, p. 2001; R.S.Supp.,1967, § 81-859; Laws 1969, c. 756, § 29, p. 2853; R.S.1943, (1987), § 81-8,237; Laws 1988, LB 864, § 48.

81-8,299 State Claims Board; powers; duties.

The State Claims Board shall, for the purposes contemplated by the State Contract Claims Act, the State Miscellaneous Claims Act, the In the Line of Duty Compensation Act, and sections 25-1802 to 25-1807 and 66-1531, have the right, power, and duty to (1) administer oaths, (2) compel the attendance of witnesses and the production of books, papers, and documents and issue subpoenas for such purposes, and (3) punish the disobedience of such a subpoena or subpoenas, the refusal of a witness to be sworn or testify, or the failure to produce books, papers, and documents, as required by such subpoena or subpoenas so issued, as contempt, in the same manner as are officers who are authorized to take depositions.

Source: Laws 1943, c. 129, § 4, p. 433; R.S.1943, § 81-860; Laws 1969, c. 756, § 30, p. 2853; R.S.1943, (1987), § 81-8,238; Laws 1988, LB 864, § 49; Laws 1998, LB 1161, § 37; Laws 2021, LB255, § 7.

Cross References

In the Line of Duty Compensation Act, see section 81-8,315.

State Contract Claims Act, see section 81-8,302.

81-8,300 Risk Manager; State Claims Board; claims; filing; investigation; duties; review by Legislature; payment.

(1) After investigation, the Risk Manager or State Claims Board shall either approve, approve with conditions or limitations, or disapprove of each claim or request and append to the claim or request a concise statement of the facts brought out in such investigation upon which its approval or disapproval is based. If any claim is approved in an amount of more than five thousand dollars, the approval of the board is required. Such claim or request, together with the original papers supporting it and the appended statement, shall be filed with the Risk Manager in the manner prescribed by the State Claims Board. The Risk Manager shall promptly notify each claimant of the decision by the Risk Manager or State Claims Board on his or her claim by regular mail. The notification shall include (a) the decision of the Risk Manager or State Claims Board, (b) a statement that a claimant dissatisfied with the decision of the Risk Manager may have his or her claim reviewed by the board or a statement that a claimant dissatisfied with the decision of the board may have his or her claim reviewed by the Legislature upon application, (c) the procedure for making an application for review, and (d) the time limit for making such application.

(2) If the claimant is dissatisfied with the decision of the Risk Manager, he or she may file an application for review by the board. If the claimant is dissatisfied with the decision of the board, he or she may file an application for review by the Legislature. The application for review shall be filed with the Risk Manager in the manner prescribed by the board. The application for review

shall be filed within sixty days after the date of the decision which is being reviewed.

(3) Each claim which has been approved or for which an application for review with the Legislature has been filed and each request referred to in section 81-8,297 shall be delivered electronically by the Risk Manager to the chairperson of the Business and Labor Committee of the Legislature at the next regular session of the Legislature convening after the date of the decision of the board. The Risk Manager may direct the payment by the state agency involved of any claim not in excess of five thousand dollars if such payment is agreed to by the head of the agency involved. The State Claims Board may direct payment by the state agency involved of any claim not in excess of fifty thousand dollars if such payment is agreed to by the head of the agency involved and the agency has sufficient funds to pay the claim. If claims approved by the Risk Manager or State Claims Board arise out of the same facts and circumstances, they shall be aggregated. If the Risk Manager or State Claims Board does not direct the payment of a claim as set forth in this section or the claim exceeds the dollar limitations set forth in this section, the claim shall be reviewed by the Legislature and an appropriation made therefor if appropriate. The Risk Manager shall report electronically all claims and judgments paid under the State Miscellaneous Claims Act to the Clerk of the Legislature and the chairperson of the Business and Labor Committee of the Legislature. The report shall include the name of the claimant, a statement of the amount claimed and paid, and a brief description of the claim including the agency and program or activity under which the claim arose. Any member of the Legislature may receive an electronic copy of the report by making a request to the Risk Manager.

Source: Laws 1943, c. 129, § 5, p. 433; R.S.1943, § 81-861; Laws 1959, c. 438, § 1, p. 1474; Laws 1961, c. 427, § 3, p. 1336; Laws 1967, c. 588, § 3, p. 2001; R.S.Supp.,1967, § 81-861; Laws 1969, c. 756, § 31, p. 2854; Laws 1971, LB 565, § 1; Laws 1981, LB 273, § 29; Laws 1984, LB 1028, § 4; R.S.1943, (1987), § 81-8,239; Laws 1988, LB 864, § 50; Laws 2008, LB821, § 9; Laws 2012, LB782, § 178.

81-8,300.01 Statute of limitation.

Claims described in subdivision (4) of section 81-8,297 shall be forever barred unless the claim is filed with the Risk Manager within the time period prescribed in section 81-8,318. Claims described in subdivisions (5) and (6) of section 81-8,297 and claims relating to expiration of state warrants shall have no time bar to recovery. Except as provided in section 25-213, all other claims permitted under the State Miscellaneous Claims Act shall be forever barred unless the claim is filed with the Risk Manager within two years after the time the claim accrued.

Source: Laws 2007, LB339, § 3; Laws 2021, LB255, § 8.

81-8,301 Acceptance of award; effect.

Any award made under the State Contract Claims Act, the State Miscellaneous Claims Act, the In the Line of Duty Compensation Act, or section 25-1806 or 66-1531 and accepted by the claimant shall be final and conclusive on all officers of the State of Nebraska except when procured by means of fraud. The

acceptance by the claimant of such award shall be final and conclusive on the claimant and shall constitute a complete release by the claimant of any claim against the state and against the employee of the state whose act or omission gave rise to the claim by reason of the same subject matter.

Source: Laws 1988, LB 864, § 51; Laws 1998, LB 1161, § 38; Laws 2021, LB255, § 9.

Cross References

In the Line of Duty Compensation Act, see section 81-8,315.

State Contract Claims Act, see section 81-8,302.

(w) STATE CONTRACT CLAIMS ACT

81-8,302 Act, how cited.

Sections 81-8,302 to 81-8,306 shall be known and may be cited as the State Contract Claims Act.

Source: Laws 1988, LB 864, § 52.

81-8,303 Terms, defined.

For purposes of the State Contract Claims Act, unless the context otherwise requires:

(1) Contract claim shall mean a claim against the state involving a dispute regarding a contract between the State of Nebraska or a state agency and the claimant other than employment contracts covered by the State Personnel System or entered into pursuant to the State Employees Collective Bargaining Act;

(2) Contracting agency shall mean the state agency which is a party to a contract which gives rise to the contract claim; and

(3) State agency shall mean all departments, agencies, boards, bureaus, and commissions of the State of Nebraska and corporations the primary function of which is to act as, and while acting as, instrumentalities or agencies of the State of Nebraska but shall not include corporations that are essentially private corporations or entities created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. State agency shall not be construed to include any contractor with the State of Nebraska.

Source: Laws 1988, LB 864, § 53; Laws 1991, LB 81, § 8; Laws 1999, LB 87, § 94.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

State Employees Collective Bargaining Act, see section 81-1369.

A cause of action for misrepresentation is not a "dispute regarding a contract" under subdivision (1) of this section, because the gravamen of the case is in tort and is independent from any underlying contract. *Zawaideh v. Nebraska Dept. of Health & Human Servs.*, 285 Neb. 48, 825 N.W.2d 204 (2013).

81-8,304 Contract claims; filing procedure.

All contract claims shall be filed with the Risk Manager in the manner prescribed by the State Claims Board. Contract claims shall be filed on forms provided by the Risk Manager, and each claimant shall include at least the following information: (1) A copy of the contract allegedly breached; (2) the manner in which the contract was allegedly breached; and (3) the damages

incurred as a result of the alleged breach. The Risk Manager shall immediately advise the Attorney General and the contracting agency in writing of the filing of any such claim. The contracting agency shall cause an investigation to be made of all such claims. The Attorney General shall serve as a legal advisor to the State Claims Board on all such claims.

Source: Laws 1988, LB 864, § 54.

81-8,305 State Claims Board; submission of claim; procedure; action in district court; when.

(1) If agreed to by the claimant and the contracting agency, the State Claims Board shall have the authority to consider, ascertain, adjust, compromise, settle, determine, or allow any contract claim. Upon receipt of a contract claim, the Risk Manager shall immediately notify the claimant and the contracting agency of the option of having the dispute submitted to the State Claims Board.

(2) If the claimant and the contracting agency agree to submit the dispute to the State Claims Board as provided in subsection (1) of this section, the board shall resolve such dispute in the manner provided under the State Miscellaneous Claims Act. For claims submitted to the board under this subsection, the contracting agency shall provide the board with all documents and information relating to the claim which the contracting agency obtained during its investigation.

(3) If either the claimant or the contracting agency notifies the Risk Manager in writing within ninety days after mailing of the notice required in subsection (1) of this section that the claimant or the contracting agency objects to the submission of the dispute to the State Claims Board, the board shall have no further jurisdiction over the claim and the claimant may initiate an action in the district court of Lancaster County. The action in the district court of Lancaster County must be filed with the district court within two years after the date the Risk Manager receives the written notification of objection or the claim shall be forever barred.

Source: Laws 1988, LB 864, § 55; Laws 2008, LB821, § 10.

Cross References

State Miscellaneous Claims Act, see section 81-8,294.

This section does not violate article VIII, section 9, of the Nebraska Constitution. *Pavers, Inc. v. Board of Regents*, 276 Neb. 559, 755 N.W.2d 400 (2008).

81-8,306 Claims; when barred; exclusive remedy.

Except as provided in section 25-213, every contract claim permitted under the State Contract Claims Act shall be forever barred unless the claim is filed with the Risk Manager within two years of the time at which the claim accrued. The State Contract Claims Act shall provide the exclusive remedy for resolving contract claims.

Source: Laws 1988, LB 864, § 56.

For purposes of this section, the claim accrues when an injury occurs and the injured party has the right to seek redress by instituting and maintaining a lawsuit. *Baldwin Carpet v. Builders, Inc.*, 3 Neb. App. 40, 523 N.W.2d 33 (1994).

(x) NEBRASKA LEWIS AND CLARK BICENTENNIAL COMMISSION

81-8,307 Repealed. Laws 2009, LB 154, § 27.

81-8,308 Repealed. Laws 2009, LB 154, § 27.

(y) NEBRASKA SESQUICENTENNIAL COMMISSION

81-8,309 Nebraska Sesquicentennial Commission; members; vacancy; termination.

The Nebraska Sesquicentennial Commission is hereby established. The commission shall consist of seventeen members to be appointed by the Governor within sixty days after July 1, 2014. The commission shall include members from all regions of the state, representing all major interests and a diverse array of industries. No more than eight of the members shall be affiliated with the same political party. The members shall select a chairperson and a vice-chairperson, and all members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The Governor shall fill any vacancy occurring on the commission by appointment. For administrative and budgetary purposes only, the commission shall be housed within the Nebraska State Historical Society. The existence of the commission and terms of the members shall terminate on June 30, 2018.

Source: Laws 2014, LB744, § 1.

81-8,310 Nebraska Sesquicentennial Commission; duties; powers; report.

(1) The Nebraska Sesquicentennial Commission shall develop programs and plans for official observance of the one hundred fiftieth anniversary of Nebraska statehood in 2017. The commission shall work closely with various state agencies, boards, commissions, and political subdivisions, including the State Department of Education, the Department of Transportation, the Nebraska State Historical Society, the Nebraska State Fair Board, the Game and Parks Commission, and the Nebraska Tourism Commission, to execute commemorative events and to implement educational activities with emphasis on events and activities that promote Nebraska and its economy by focusing on the state's history, cultural diversity, and unique geography. The commission may also seek the guidance and support of any other groups or organizations the commission deems necessary or helpful in fulfilling its purpose.

(2) The commission may employ personnel, contract for services, and receive, expend, and allocate gifts, grants, and donations to aid in the performance of its duties. The commission is empowered to expend and allocate any appropriations authorized by the Legislature to carry out the purposes of sections 81-8,309 and 81-8,310.

(3) The commission shall expend and allocate at least five percent of the money in the Nebraska 150 Sesquicentennial Plate Proceeds Fund on January 1, 2017, for awarding one or more grants to any person who applies to the commission for support for a local sesquicentennial event or project according to standards and guidelines determined by the commission.

(4) The commission shall report electronically to the Legislature on or before July 1 in 2016, 2017, and 2018 detailing the expenditures made from the fund pursuant to this section.

Source: Laws 2014, LB744, § 2; Laws 2015, LB220, § 10; Laws 2017, LB339, § 282.

(z) SEMIQUINCENTENNIAL COMMISSION

81-8,311 Semiquincentennial Commission; members; vacancy; termination.

(1) The Semiquincentennial Commission is created. The commission shall be housed within the Nebraska State Historical Society for administrative and budgetary purposes.

(2) The commission shall consist of seventeen members.

(3) The Legislature intends for the commission to include members from all regions of the state, representing all major interests and a diverse array of industries.

(4) The commission shall include the following members:

(a) The Director of the Nebraska State Historical Society or the designee of the director, who shall serve as the chairperson;

(b) The Director of Economic Development or the designee of such person;

(c) The Commissioner of Education or the designee of such person; and

(d) The President of the University of Nebraska or the designee of such person;

(5) The commission shall include at least one member from each of the following subdivisions to be appointed by the Governor before September 1, 2021:

(a) A Native American from a federally recognized Indian tribe, as of January 1, 2021, residing within the State of Nebraska. Such member shall be appointed from a list of five nominees submitted by the Commission on Indian Affairs;

(b) An African American who is a legal resident of the State of Nebraska. Such member shall be appointed from a list of five nominees submitted by the Commission on African American Affairs;

(c) A Latino-American who is a legal resident of the State of Nebraska. Such member shall be appointed from a list of five nominees submitted by the Commission on Latino-Americans;

(d) A curator or director of a private cultural institution as defined in section 58-807.01 or a professional historian;

(e) A member of the Nebraska Tourism Commission;

(f) A representative from the Nebraska Humanities Council;

(g) A legal resident of the first congressional district;

(h) A legal resident of the second congressional district; and

(i) A legal resident of the third congressional district.

(6) The same individual shall not fulfill the requirements of more than one subdivision of subsections (4) and (5) of this section.

(7) No more than eight of the members shall be affiliated with the same political party.

(8) Any vacancy on the commission of an appointed member occurring after the initial appointment of members shall be filled by the Governor by appointment.

(9) The commission shall terminate on June 30, 2027.

Source: Laws 2021, LB275, § 1.

81-8,312 Semiquincentennial Commission; meeting; officers; expenses; powers and duties.

(1) The Semiquincentennial Commission shall hold its first meeting no later than September 1, 2022.

(2) The members shall select a vice-chairperson and a secretary.

(3) Members shall receive no compensation for the performance of their duties as members of the commission, except that such members shall receive reimbursement for expenses as provided in sections 81-1174 to 81-1177.

(4) The commission may employ personnel and contract for services and shall remit any gifts, grants, or donations to the State Treasurer for credit to the Semiquincentennial Commission Fund. The commission shall expend and allocate any appropriations authorized by the Legislature to carry out the purposes of the commission.

Source: Laws 2021, LB275, § 2.

81-8,313 Semiquincentennial; point of contact; official observance; cooperation required.

(1) The Semiquincentennial Commission is the point of contact for state and national organizations and events related to the Semiquincentennial of the United States and may also seek the guidance and support of any party.

(2) The Semiquincentennial Commission shall develop programs and plans for the official observance of the two hundred fiftieth anniversary of the founding of the United States, as marked by the Declaration of Independence in 1776.

(3) The commission shall cooperate with the United States Semiquincentennial Commission and various state agencies, boards, commissions, departments, and political subdivisions in order to execute commemorative events and to implement educational activities, events, and celebrations related to the Semiquincentennial of the United States.

(4) The commission shall promote under-represented groups from the American Revolutionary War, including, but not limited to, women, American Indians, and persons of color.

Source: Laws 2021, LB275, § 3.

81-8,314 Semiquincentennial Commission Fund; created; use; investment; termination.

(1) The Semiquincentennial Commission Fund is created. Such fund shall consist of money appropriated by the Legislature and gifts, grants, or donations from any source, including federal, state, public, and private sources.

(2) The Semiquincentennial Commission Fund shall be utilized for the purpose of administering the Semiquincentennial Commission and executing commemorative activities and implementing educational activities, events, and celebrations related to the Semiquincentennial of the United States.

(3) Money received by the Semiquincentennial Commission shall be remitted to the State Treasurer for credit to the Semiquincentennial Commission Fund. Any money in the Semiquincentennial Commission Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4)(a) The State Treasurer shall transfer the unobligated balance in the Semiquincentennial Commission Fund to the Historical Society Fund on June 1, 2027.

(b) The Semiquincentennial Commission Fund terminates on June 30, 2027, and the State Treasurer shall transfer any money in the fund on such date to the Historical Society Fund.

Source: Laws 2021, LB275, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(aa) IN THE LINE OF DUTY COMPENSATION ACT

81-8,315 Act, how cited.

Sections 81-8,315 to 81-8,319 shall be known and may be cited as the In the Line of Duty Compensation Act.

Source: Laws 2021, LB255, § 1.

81-8,316 Terms, defined.

For purposes of the In the Line of Duty Compensation Act:

(1) Firefighter means a member of a paid or volunteer fire department in Nebraska, including a member of a rescue squad associated with a paid or volunteer fire department in Nebraska;

(2)(a) Killed in the line of duty means losing one's life as a result of an injury or illness arising on or after January 1, 2022, in connection with the active performance of duties as a public safety officer if the death occurs within three years from the date the injury was received or illness was diagnosed and if that injury or illness arose from violence or other accidental cause.

(b) Killed in the line of duty excludes death resulting from the willful misconduct or intoxication of the public safety officer;

(3) Law enforcement officer has the same meaning as in section 81-1401;

(4) Public safety officer means:

(a) A firefighter;

(b) A law enforcement officer;

(c) A member of an emergency medical services ambulance squad operated by a political subdivision or by a private, nonprofit ambulance service, but excluding any employee of a private, for-profit ambulance service; or

(d) A correctional officer employed by a jail or by the Department of Correctional Services;

(5) Risk Manager means the Risk Manager appointed under section 81-8,239.01; and

(6) State Claims Board means the board created under section 81-8,220.

Source: Laws 2021, LB255, § 2; Laws 2022, LB717, § 1.

81-8,317 Compensation; when paid; amount; treatment; payment to public safety officer's designee or heir; procedure; effect on employer.

(1) If a public safety officer is killed in the line of duty, compensation shall be paid as provided in the In the Line of Duty Compensation Act to recognize the ultimate sacrifice made by such public safety officer.

(2) The amount of compensation to be paid under the act shall be as follows:

(a) For deaths occurring during calendar year 2022, the amount of such compensation shall be two hundred fifty thousand dollars; and

(b) For deaths occurring in calendar year 2023 and each calendar year thereafter, the amount of such compensation shall be equal to the compensation amount from the previous calendar year increased by the percentage increase, if any, in the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve months ending on June 30 of such previous calendar year.

(3) The person entitled to receive such compensation shall be determined as follows:

(a) If the public safety officer designated a person to receive the compensation in accordance with subsection (4) of this section, the compensation shall be paid to the designated person; or

(b) If no person is designated by the public safety officer or if the designated person is not alive at the death of the public safety officer, the compensation shall be paid in accordance with the laws of this state regarding intestate succession.

(4) The Risk Manager shall prescribe a form that may be used by a public safety officer to designate a person to receive the compensation. The public safety officer shall file such form with his or her employer or, if he or she is a volunteer, with the entity for which the volunteer service is provided.

(5) Amounts paid under the In the Line of Duty Compensation Act shall not be considered:

(a) Compensation under the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, the State Employees Retirement Act, or any other retirement plan administered by the Public Employees Retirement Board and shall not be eligible for deferral under any deferred compensation plan administered by the Public Employees Retirement Board; or

(b) Regular pay or salary under the Police Officers Retirement Act or the Cities of the First Class Firefighters Retirement Act.

(6) An employer of the public safety officer shall not have any right of subrogation under section 48-118 with respect to compensation paid under the In the Line of Duty Compensation Act.

Source: Laws 2021, LB255, § 3; Laws 2022, LB717, § 2; Laws 2024, LB686, § 16.

Effective date July 19, 2024.

Cross References

Cities of the First Class Firefighters Retirement Act, see section 16-1020.

County Employees Retirement Act, see section 23-2331.

Judges Retirement Act, see section 24-701.01.

Nebraska State Patrol Retirement Act, see section 81-2014.01.

Police Officers Retirement Act, see section 16-1001.

School Employees Retirement Act, see section 79-901.

State Employees Retirement Act, see section 84-1331.

81-8,318 Compensation; claim; requirements; Risk Manager; State Claims Board; powers and duties.

(1) To receive compensation under the In the Line of Duty Compensation Act, a claim for the compensation shall be filed with the Risk Manager within three years after the date of death of the public safety officer who was killed in the line of duty. Such claim shall be on a form prescribed by the Risk Manager and shall include:

(a) The name, address, and title or position of the public safety officer who was killed in the line of duty;

(b) A copy of the form filed in accordance with subsection (4) of section 81-8,317, if any. If no such form has been filed, the claim shall include the name and address of the person or persons to whom compensation is payable under subdivision (3)(b) of section 81-8,317;

(c) A sworn statement providing a full factual account of the circumstances resulting in or the course of events causing the death of the public safety officer; and

(d) Such other information as the Risk Manager reasonably requires.

(2) The Risk Manager shall send written notice to all claimants within two weeks after the initiation of a claim indicating whether or not the claim is complete. For purposes of this subsection, a claim is complete if a claimant has submitted to the Risk Manager all documents and information required under subsection (1) of this section. If a claim is incomplete, the Risk Manager shall include in the written notice a list of the documents or information which the claimant must submit in order for the claim to be complete. If a claim is complete, an investigation of the claim shall be made in the manner provided in the State Tort Claims Act in accordance with section 81-8,212. Upon completion of such investigation, and no later than one hundred eighty days after receipt of a complete claim, the State Claims Board shall approve or deny such claim and the Risk Manager shall send written notice to the claimant stating whether the claim has been approved or denied. If a claim is denied, the notice shall include the reason or reasons for the denial. If a claimant is dissatisfied with a denial, he or she may file an application for review with the district court for Lancaster County in accordance with sections 81-8,213 and 81-8,214. If a claim is approved, compensation shall be paid to the claimants entitled to such compensation in accordance with section 81-8,211.

(3) This section shall apply to any claim arising on or after January 1, 2022.

Source: Laws 2021, LB255, § 4; Laws 2024, LB196, § 1.
Effective date April 17, 2024.

Cross References

State Tort Claims Act, see section 81-8,235.

81-8,319 Rules and regulations.

The State Claims Board may adopt and promulgate rules and regulations to carry out the In the Line of Duty Compensation Act.

Source: Laws 2021, LB255, § 5.

ARTICLE 9

STATE COOPERATION WITH FEDERAL GOVERNMENT

Section	
81-901.	Authority of state or political subdivision to withhold tax; payment to proper officer; record.
81-902.	Tax Commissioner; forms and records.
81-903.	Repealed. Laws 1947, c. 317, § 2.
81-904.	Expired. Laws 1945, c. 231, § 1.
81-905.	Expired. Laws 1945, c. 231, § 2.
81-906.	Expired. Laws 1945, c. 232, § 1.
81-906.01.	Expired. Laws 1951, c. 1, § 1.
81-907.	Surplus property; purchase or receive from government.
81-908.	Surplus property; advertisement for and submission of bids not necessary.
81-909.	Department of Correctional Services; surplus property; act for recipient; negotiate with appropriate agencies and institutions.
81-910.	State Department of Education; assist public schools; secure funds, services, and commodities made available by federal government.
81-911.	Public schools; contracts in securing funds, services, and commodities; filed in office of State Department of Education; channeled and administered.
81-912.	Federal Surplus Property Fund; created; purpose; investment.
81-913.	Surplus and excess property program; legislative intent.
81-914.	Department of Correctional Services; implementation of surplus and excess property plan.
81-915.	Repealed. Laws 1981, LB 536, § 8.
81-916.	Property and assets relating to surplus and excess property programs; transferred to Department of Correctional Services; when.
81-917.	Surplus and excess property program; employees of Department of Transportation; transferred to Department of Correctional Services; conditions; benefits.
81-918.	Department of Correctional Services; adopt rules and regulations.

81-901 Authority of state or political subdivision to withhold tax; payment to proper officer; record.

The State of Nebraska, any political subdivision thereof, any municipal corporation or any public body or agency created by the laws of this state is authorized (1) to withhold from any wages or salaries paid by it to any person, such portion thereof as may be required to be withheld by any law of the United States relating to internal revenue; (2) to pay the sum so withheld to the appropriate internal revenue collector at the time and in the manner provided by any such internal revenue law; and (3) to keep and make such records, reports and returns as are provided by such internal revenue law, or the regulations promulgated thereunder.

Source: Laws 1943, c. 233, § 1, p. 784; R.S.1943, § 81-901; Laws 1945, c. 230, § 1, p. 678; Laws 1947, c. 317, § 1, p. 959.

81-902 Tax Commissioner; forms and records.

The Tax Commissioner, upon behalf of the state, any municipal corporation or any public body or agency created by the laws of this state and the governing body thereof and, upon behalf of any political subdivision of the state, is authorized to prescribe such forms and records as may be necessary to carry out the provisions of this section and section 81-901.

Source: Laws 1943, c. 233, § 2, p. 784; R.S.1943, § 81-902.

81-903 Repealed. Laws 1947, c. 317, § 2.

81-904 Expired. Laws 1945, c. 231, § 1.

81-905 Expired. Laws 1945, c. 231, § 2.

81-906 Expired. Laws 1945, c. 232, § 1.

81-906.01 Expired. Laws 1951, c. 1, § 1.

81-907 Surplus property; purchase or receive from government.

The State of Nebraska, its political subdivisions and instrumentalities, and tax-supported institutions are authorized to purchase or receive surplus property from the government of the United States or any government agency thereof.

Source: Laws 1945, c. 234, § 1, p. 693; Laws 1977, LB 548, § 5.

81-908 Surplus property; advertisement for and submission of bids not necessary.

In making purchases under sections 81-907 to 81-909, it shall not be necessary to first advertise for and require submission of bids.

Source: Laws 1945, c. 234, § 2, p. 693.

81-909 Department of Correctional Services; surplus property; act for recipient; negotiate with appropriate agencies and institutions.

The Department of Correctional Services shall, upon behalf of the state, and may, upon behalf of any political subdivision, instrumentality, and tax-supported institution of the state, be designated to act for the recipient and negotiate with the appropriate agencies and institutions of the United States for the purchase or receipt of surplus property under such regulations as may be prescribed by federal law.

Source: Laws 1945, c. 234, § 3, p. 693; Laws 1977, LB 548, § 6; Laws 1981, LB 536, § 1; Laws 1982, LB 767, § 1.

81-910 State Department of Education; assist public schools; secure funds, services, and commodities made available by federal government.

The State Department of Education shall cooperate with and assist the public schools and public educational institutions in securing funds, services, and commodities which may be made available to them by the federal government or its agencies.

Source: Laws 1945, c. 239, § 1, p. 718; Laws 1977, LB 548, § 7.

81-911 Public schools; contracts in securing funds, services, and commodities; filed in office of State Department of Education; channeled and administered.

A copy of all contracts, agreements or arrangements made by any public school or public educational institution, under the supervision of the State Department of Education, in securing funds, services, and commodities from the federal government or its agencies, as provided by section 81-910, shall be filed in the office of the department. Any federal funds made available for

public schools in this state shall be channeled through the department and be administered in conformity with the laws of this state.

Source: Laws 1945, c. 239, § 2, p. 718; Laws 1947, c. 318, § 1(1), p. 960; Laws 1977, LB 548, § 8.

81-912 Federal Surplus Property Fund; created; purpose; investment.

There is hereby established in the Department of Correctional Services a revolving fund to be known as the Federal Surplus Property Fund. The Director of Administrative Services, upon receipt of proper vouchers approved by the Department of Correctional Services, shall issue warrants out of the Federal Surplus Property Fund for the purpose of administering the program and for purchasing, packing, handling, and transportation of equipment from the federal government as provided by section 81-914 but never in excess of the amount specifically appropriated. All receipts for purchasing, packing, handling, and transportation of such equipment shall be remitted to the State Treasurer for credit to the Federal Surplus Property Fund. Any money in the Federal Surplus Property 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 1947, c. 318, § 1(1), p. 960; Laws 1969, c. 584, § 107, p. 2413; Laws 1977, LB 548, § 9; Laws 1981, LB 536, § 2; Laws 1982, LB 767, § 2; Laws 1995, LB 7, § 115.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-913 Surplus and excess property program; legislative intent.

It is the intent of the Legislature that a single state agency shall, in cooperation with other state agencies and political subdivisions, carry out the provisions of Public Law 94-519.

Source: Laws 1977, LB 548, § 1.

81-914 Department of Correctional Services; implementation of surplus and excess property plan.

The Department of Correctional Services shall be responsible for the implementation of a state plan to comply with Public Law 94-519 dealing with surplus and excess property.

Source: Laws 1977, LB 548, § 2; Laws 1981, LB 536, § 3; Laws 1982, LB 767, § 3.

81-915 Repealed. Laws 1981, LB 536, § 8.

81-916 Property and assets relating to surplus and excess property programs; transferred to Department of Correctional Services; when.

Effective July 1, 1982, all property, assets, and liabilities relating to those federal surplus and excess property programs which are consolidated by Public

Law 94-519 and operated by the Department of Transportation shall be transferred to the Department of Correctional Services.

Source: Laws 1977, LB 548, § 4; Laws 1981, LB 536, § 4; Laws 1982, LB 767, § 4; Laws 2017, LB339, § 283.

81-917 Surplus and excess property program; employees of Department of Transportation; transferred to Department of Correctional Services; conditions; benefits.

All employees employed in those federal surplus and excess property programs which are consolidated by Public Law 94-519 and have been transferred to the Department of Transportation may be transferred to the Department of Correctional Services. All employees so transferred shall be: (1) Employed under and compensated through the State Personnel System; and (2) considered as new employees solely for purposes of performance evaluation and subject to all applicable policies and procedures for such transfer. All employees so transferred shall keep all accrued benefits such as sick leave, vacation leave, and retirement benefits after such transfer has been completed.

Source: Laws 1977, LB 548, § 11; Laws 1981, LB 536, § 5; Laws 1982, LB 767, § 5; Laws 2017, LB339, § 284.

81-918 Department of Correctional Services; adopt rules and regulations.

The Department of Correctional Services shall adopt and promulgate rules and regulations necessary to carry out sections 81-907 and 81-909 to 81-918.

Source: Laws 1977, LB 548, § 12; Laws 1981, LB 536, § 6; Laws 1982, LB 767, § 6.

ARTICLE 10

STATE-OWNED MOTOR VEHICLES

Section

- 81-1001. Repealed. Laws 1969, c. 770, § 11.
- 81-1002. Repealed. Laws 1969, c. 770, § 11.
- 81-1003. Repealed. Laws 1969, c. 770, § 11.
- 81-1004. Repealed. Laws 1969, c. 770, § 11.
- 81-1005. Repealed. Laws 1969, c. 770, § 11.
- 81-1006. Repealed. Laws 1969, c. 770, § 11.
- 81-1007. Repealed. Laws 1969, c. 770, § 11.
- 81-1008. Transportation services bureau; created; responsibility.
- 81-1008.01. Transportation services bureau; purposes.
- 81-1009. Chief of transportation services bureau; appointment; qualifications.
- 81-1010. Chief of transportation services bureau; duties; responsibilities; Transportation Services Bureau Revolving Fund; created; use; investment.
- 81-1011. Terms, defined.
- 81-1012. Repealed. Laws 1987, LB 22, § 4.
- 81-1013. Agencies owning vehicles paid for other than from General Fund; transfer title to transportation services bureau; reimbursement by credit against future charges.
- 81-1014. Privately owned vehicle; mileage allowance; conditions.
- 81-1015. State-owned vehicles; title in bureau; purchases; restrictions.
- 81-1016. Rules and regulations.
- 81-1017. Sections; exceptions.
- 81-1018. State-owned vehicles that are passenger cars; intermediate or compact class or smaller; legislative intent.
- 81-1019. Bureau fleet vehicle; use state fuel; surcharge.

Section	
81-1020.	Permanent assignment of bureau fleet vehicle; approval required.
81-1021.	Identification requirements; exceptions.
81-1022.	Nebraska State Patrol; additional equipment and marking required.
81-1023.	Identification or marking; violation; penalty.
81-1024.	Personal use prohibited; penalty.
81-1025.	Reports; contents; open to public inspection; exception.

81-1001 Repealed. Laws 1969, c. 770, § 11.

81-1002 Repealed. Laws 1969, c. 770, § 11.

81-1003 Repealed. Laws 1969, c. 770, § 11.

81-1004 Repealed. Laws 1969, c. 770, § 11.

81-1005 Repealed. Laws 1969, c. 770, § 11.

81-1006 Repealed. Laws 1969, c. 770, § 11.

81-1007 Repealed. Laws 1969, c. 770, § 11.

81-1008 Transportation services bureau; created; responsibility.

There is hereby created within the Department of Administrative Services the transportation services bureau which shall provide service and guidance to all state agencies in the utilization, operation, and servicing of bureau fleet vehicles and the utilization of privately owned vehicles used for state purposes. The transportation services bureau shall be responsible for monitoring all transportation requirements of the state and maintaining complete records thereon.

Source: Laws 1969, c. 770, § 1, p. 2918; Laws 2012, LB779, § 1.

81-1008.01 Transportation services bureau; purposes.

The purposes of the transportation services bureau are to centralize title to and insure efficient utilization and proper maintenance of all state-owned vehicles, to rent passenger vehicles from a third-party fleet primarily for transporting state employees from one job location to another, and to provide vehicle transportation services to all state agencies, boards, and commissions.

Source: Laws 1981, LB 381, § 39; Laws 2012, LB779, § 2.

81-1009 Chief of transportation services bureau; appointment; qualifications.

The Director of Administrative Services shall appoint as chief of the transportation services bureau any person who has had not less than three years' experience in a position or positions which include responsibility for management, purchase, lease or control of a system of transportation for a private or governmental enterprise. No person shall hold the position of chief of the transportation services bureau who is directly or indirectly interested in any company engaged in furnishing transportation services or equipment, except that an investment in stock of such a company in an amount determined by the director to be insignificant shall not be considered disqualifying.

Source: Laws 1969, c. 770, § 2, p. 2919.

81-1010 Chief of transportation services bureau; duties; responsibilities; Transportation Services Bureau Revolving Fund; created; use; investment.

The chief of the transportation services bureau shall have the following duties and responsibilities:

(1) To establish standards which a state agency must meet for the full-time assignment of state-owned vehicles;

(2) To create a motor pool or motor pools of bureau fleet vehicles for the use of agencies whose travel requirements do not meet the standards established under subdivision (1) of this section;

(3) To repair, maintain, and lease to state agencies state-owned vehicles and approve the acquisition, sale, or trade of each and every state-owned vehicle made by the materiel division of the Department of Administrative Services. The bureau may provide for repair and maintenance pursuant to subdivision (8) of this section;

(4) To consult with the various state agencies using bureau fleet vehicles and write specifications for state-owned vehicles to be purchased by the materiel division;

(5) To provide for the purchase only of state-owned vehicles used primarily for the transportation of state employees from funds received from the sale of surplus state-owned vehicles;

(6) To present to the accounting division of the Department of Administrative Services cost and maintenance records of state-owned vehicles and cost records of rented bureau fleet vehicles so that the various state agencies which use bureau fleet vehicles may be billed for such use. Income arising from these billings shall be deposited to the Transportation Services Bureau Revolving Fund, which fund is hereby created. All expenses of acquisition, operation, and maintenance of state-owned vehicles used primarily for transportation of state employees and of rental of bureau fleet vehicles shall be paid from such fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund. Money in the Transportation Services Bureau Revolving Fund may be transferred to the General Fund at the direction of the Legislature. The Department of Administrative Services shall develop a system of time and mileage charges for the purpose of billing the various state agencies for their vehicle usage. The daily, weekly, or monthly charge shall cover all fixed expenses of such vehicles, and the mileage charge shall cover the variable costs of operation;

(7) To monitor the utilization of permanently assigned bureau fleet vehicles and enforce minimum utilization standards by withdrawing permanently assigned bureau fleet vehicles from agencies which are not meeting the standards established under subdivision (1) of this section;

(8) To enter into service agreements for the repair and maintenance of bureau fleet vehicles when it is determined that such action would be to the economic advantage of the state;

(9) To insure compliance with section 81-1021 for all state-owned vehicles; and

(10) To enter into rental agreements with any third-party fleet owner in the name of the State of Nebraska for passenger vehicles for use primarily for transportation of state employees for transportation in their official duties from one job location to another when it is determined that such action would be to the economic advantage of the state.

Source: Laws 1969, c. 770, § 3, p. 2919; Laws 1971, LB 28, § 6; Laws 1972, LB 1452, § 2; Laws 1976, LB 977, § 1; Laws 1981, LB 381, § 11; Laws 1983, LB 469, § 7; Laws 1993, LB 370, § 483; Laws 2012, LB779, § 3; Laws 2024, First Spec. Sess., LB3, § 34. Effective date August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1011 Terms, defined.

For purposes of sections 81-1008 to 81-1025:

(1) Bureau means the transportation services bureau of the Department of Administrative Services;

(2) Bureau fleet vehicle includes any state-owned vehicle and any passenger vehicle rented from a third-party fleet owner for use by a state employee for transportation in his or her official duties from one job location to another; and

(3)(a) State-owned vehicle means all passenger vehicles acquired primarily for the purpose of transporting state employees in their official duties from one job location to another.

(b) State-owned vehicle does not include special-use vehicles, such as buses, laundry trucks, mail trucks, airport security vehicles, or military trucks and cars; vehicles which are considered a duty station, such as vehicles used by the Nebraska State Patrol, the Nebraska Oil and Gas Conservation Commission, or conservation officers of the Game and Parks Commission; or those vehicles which, by nature of their usage, require the installation or carrying of special equipment which precludes the use of such vehicles for multiple agency transportation usage.

Source: Laws 1969, c. 770, § 4, p. 2920; Laws 1975, LB 474, § 1; Laws 1980, LB 709, § 5; Laws 2012, LB779, § 4.

81-1012 Repealed. Laws 1987, LB 22, § 4.

81-1013 Agencies owning vehicles paid for other than from General Fund; transfer title to transportation services bureau; reimbursement by credit against future charges.

On May 23, 1981, all state agencies owning vehicles used primarily for transportation of persons which were paid for wholly or partially by funds other than the General Fund shall transfer title to such vehicles to the transportation services bureau. The transportation services bureau shall compute the value of such vehicles at the time of transfer and give credit to the appropriate agency and program for the portion of such value based on the percentage of original purchase cost charged to appropriations other than from the General Fund. To get such credit each agency shall make available the

appropriate accounting data. Such credit shall be applied against future daily, weekly, or monthly charges but not against future mileage charges.

Source: Laws 1969, c. 770, § 6, p. 2920; Laws 1981, LB 381, § 13.

81-1014 Privately owned vehicle; mileage allowance; conditions.

No agency shall allow mileage reimbursement charges on travel expense vouchers of state officers or employees unless there is filed with the expense voucher a statement signed by the director of the agency or his or her authorized representative declaring that the use of a privately owned vehicle was authorized according to the provisions of section 81-1176. State officers or employees may be authorized to use their personal automobiles on state business at the convenience of the agency, or at the convenience of the state officer or employee, as previously agreed upon by the officer or employee and the agency involved, and shall receive a mileage reimbursement for each mile actually and necessarily traveled in each calendar month as provided in section 81-1176.

Source: Laws 1969, c. 770, § 7, p. 2920; Laws 1975, LB 8, § 1; Laws 1981, LB 381, § 14.

81-1015 State-owned vehicles; title in bureau; purchases; restrictions.

Subject to section 81-1013, the bureau shall own and hold title, in the name of the State of Nebraska, to all state-owned vehicles. All purchases of state-owned vehicles and automotive equipment shall be made or approved by the bureau. The Director of Administrative Services shall not approve any voucher for the purchase of any passenger car unless submitted by the bureau.

Source: Laws 1969, c. 770, § 8, p. 2921; Laws 1975, LB 474, § 2; Laws 1981, LB 381, § 15; Laws 2012, LB779, § 5.

81-1016 Rules and regulations.

The bureau shall adopt and promulgate rules and regulations necessary to administer sections 81-1008 to 81-1025.

Source: Laws 1969, c. 770, § 9, p. 2921; Laws 2012, LB779, § 6.

81-1017 Sections; exceptions.

Sections 81-1008 to 81-1025 do not apply to any court or the motor vehicles thereof, except that such vehicles shall be titled as provided in section 81-1013.

Source: Laws 1969, c. 770, § 10, p. 2921; Laws 1975, LB 474, § 3; Laws 2010, LB722, § 3; Laws 2012, LB779, § 7.

81-1018 State-owned vehicles that are passenger cars; intermediate or compact class or smaller; legislative intent.

(1) The Legislature hereby declares that the purpose and intent of this section are to take positive steps to reduce the consumption of gasoline in this state and to make the most efficient and economical use of the nation's resources and the state's funds.

(2) After August 24, 1975, all state-owned vehicles that are passenger cars purchased, leased, rented, or approved for purchase, lease, or rent by the bureau shall be of the intermediate, compact, or subcompact class. Not less

than fifty percent of such state-owned vehicles shall be of the compact or subcompact class unless the costs to operate and maintain such vehicles are not to the advantage of the state or such requirement fails to meet the intent of sections 81-1008 to 81-1025. For purposes of this section, classes shall be as defined by motor vehicle manufacturers.

Source: Laws 1975, LB 474, § 4; Laws 1981, LB 381, § 16; Laws 1984, LB 933, § 14; Laws 2012, LB779, § 8; Laws 2014, LB974, § 7.

81-1019 Bureau fleet vehicle; use state fuel; surcharge.

(1) Any person using a bureau fleet vehicle shall, whenever possible, obtain fuel from state-owned facilities.

(2) The bureau may place a surcharge on any agency whose employees have not complied with subsection (1) of this section.

Source: Laws 1981, LB 381, § 17; Laws 2012, LB779, § 9.

81-1020 Permanent assignment of bureau fleet vehicle; approval required.

Any agency which has a permanently assigned bureau fleet vehicle shall, prior to assigning such vehicle to an employee on a twenty-four-hour basis, obtain written approval from the chief of the transportation services bureau.

Source: Laws 1981, LB 381, § 18; Laws 2012, LB779, § 10.

81-1021 Identification requirements; exceptions.

(1) All motor vehicles acquired by the State of Nebraska except any vehicle rented as a bureau fleet vehicle shall be indelibly and conspicuously lettered, in plain letters of a contrasting color or reflective material:

(a) On each side thereof with the words State of Nebraska and following such words the name of whatever board, department, bureau, division, institution, including the University of Nebraska or state college, office, or other state expending agency of the state to which the motor vehicle belongs; and

(b) On the back thereof with the words State of Nebraska.

(2) This section shall not apply to motor vehicles used or controlled by:

(a) The Nebraska State Patrol, the Public Service Commission, the Game and Parks Commission, deputy state sheriffs employed by the Nebraska Brand Committee and State Fire Marshal for state law enforcement purposes, inspectors employed by the Nebraska Liquor Control Commission, and persons employed by the Tax Commissioner for state revenue enforcement purposes, the exemption for state law enforcement purposes and state revenue enforcement purposes being confined strictly to the seven agencies specifically named;

(b) The Department of Health and Human Services or the Department of Correctional Services for the purpose of apprehending and returning escaped offenders or parole violators to facilities in the Department of Correctional Services and transporting offenders and personnel of the Department of Correctional Services and patients and personnel of the Department of Health and Human Services who are engaged in off-campus program activities;

(c) The Military Department;

(d) Vocational rehabilitation counselors and the Department of Health and Human Services for the purposes of communicable disease control, for the prevention and control of those communicable diseases which endanger the

public health, or used by the Department of Health and Human Services in the enforcement of drug control laws or for other investigation purposes;

(e) The Department of Agriculture for special investigative purposes;

(f) The Nebraska Motor Vehicle Industry Licensing Board for investigative purposes;

(g) The Insurance Fraud Prevention Division of the Department of Insurance for investigative purposes; and

(h) The Department of Justice.

Source: Laws 1939, c. 94, § 2, p. 409; C.S.Supp.,1941, § 60-1201; R.S. 1943, § 60-1001; Laws 1951, c. 202, § 1, p. 758; Laws 1951, c. 203, § 1, p. 759; Laws 1957, c. 278, § 1, p. 1008; Laws 1959, c. 300, § 1, p. 1127; Laws 1965, c. 390, § 1, p. 1247; Laws 1969, c. 512, § 1, p. 2099; Laws 1969, c. 513, § 1, p. 2100; Laws 1972, LB 1295, § 1; Laws 1973, LB 201, § 1; Laws 1973, LB 563, § 5; Laws 1975, LB 253, § 1; Laws 1984, LB 933, § 1; R.S.1943, (1988), § 60-1001; Laws 1993, LB 370, § 484; Laws 1993, LB 575, § 47; Laws 1996, LB 1044, § 862; Laws 1996, LB 1155, § 79; Laws 1999, LB 326, § 11; Laws 2007, LB296, § 753; Laws 2012, LB779, § 11; Laws 2019, LB418, § 12.

81-1022 Nebraska State Patrol; additional equipment and marking required.

In addition to the requirements of section 81-1021, all motor vehicles used by the Nebraska State Patrol for patrol purposes shall be (1) equipped with a flashing red light on the top thereof with controls therefor readily accessible to the driver and (2) on the back thereof indelibly and conspicuously lettered with the words State Patrol in plain letters of reflective material not less than two inches in height and with not less than one-fourth inch stroke.

Source: Laws 1965, c. 390, § 2, p. 1248; Laws 1967, c. 391, § 6, p. 1217; R.S.1943, (1988), § 60-1001.01; Laws 1993, LB 370, § 485.

81-1023 Identification or marking; violation; penalty.

Any employee or officer of the State of Nebraska who operates or has under his or her control any state-owned vehicle, any other motor vehicle acquired by the State of Nebraska, or any unit of road machinery which is not numbered, lettered, or marked as required by section 81-1021, or who violates any of the other provisions of sections 60-3,105, 60-3,106, 81-1021, and 81-1022 shall be deemed guilty of official misconduct in office for a palpable omission of duty and upon conviction thereof shall be guilty of a Class II misdemeanor. The court shall have the power to add to the judgment that any officer so convicted shall be removed from office or employment.

Source: Laws 1939, c. 94, § 4, p. 411; C.S.Supp.,1941, § 60-1203; R.S. 1943, § 60-1004; Laws 1978, LB 748, § 34; Laws 1987, LB 22, § 3; R.S.1943, (1988), § 60-1004; Laws 1993, LB 370, § 486; Laws 2005, LB 274, § 282; Laws 2012, LB779, § 12.

81-1024 Personal use prohibited; penalty.

No officer or employee of the State of Nebraska shall use any motor vehicle owned by the State of Nebraska for any personal use whatsoever. Any officer or employee who violates any of the provisions of this section shall be deemed

guilty of a Class V misdemeanor, and in addition thereto the officer or employee shall be deemed guilty of official misconduct in office for palpable omission of duty, and upon conviction thereof the court shall have the power to add to the judgment that any officer or employee so convicted shall be removed from office or employment.

Source: Laws 1941, c. 180, § 16, p. 710; C.S.Supp., 1941, § 60-1204; R.S. 1943, § 60-1005; Laws 1977, LB 39, § 88; Laws 1978, LB 748, § 35; R.S. 1943, (1988), § 60-1005; Laws 1993, LB 370, § 487.

81-1025 Reports; contents; open to public inspection; exception.

(1) Each operator of a bureau fleet vehicle shall report the points between which the bureau fleet vehicle traveled each time used, the odometer readings at such points, the time of arrival and departure, the necessity and purpose for such travel, the license number of such vehicle, and the department to which such vehicle is assigned.

(2)(a) Each operator of a special-use vehicle as prescribed in section 81-1011 or a motor vehicle in which a state agency other than the bureau holds the title shall follow the policy and use the travel report form which shall be established by the director or designated head of the state agency owning such vehicle. The form shall include, but not be limited to, the name of the operator, the license number of the vehicle, the total daily mileage or total hours of daily operation, and any other information the director or designated head deems relevant.

(b) State agencies leasing or renting bureau fleet vehicles from the bureau pursuant to sections 81-1008.01 and 81-1010 shall be required to report bureau fleet vehicle usage pursuant to subsection (1) of this section on travel forms prescribed by the chief of the transportation services bureau.

(3) Such travel reports shall be transmitted at the end of each month by every operator to the director or designated head of the operator's state agency, and such reports, after review by the director or designated head of the agency, shall be retained by the agency except the travel reports on bureau fleet vehicles leased or rented from the bureau. The travel reports on bureau fleet vehicles leased or rented from the bureau shall be transmitted to the chief of the transportation services bureau on or before the seventh day of the month following such use of a bureau fleet vehicle.

(4) Such travel reports shall thereafter be open to public inspection for a period of two years, after which they may be destroyed, except that when public inspection of a particular record would be detrimental to the investigation of a criminal case, such particular record shall be withheld from public inspection upon written certificate to that effect by the head of the law enforcement agency concerned.

(5) For purposes of this section, state agency shall include an agency, department, board, bureau, or commission of the state except the transportation services bureau.

Source: Laws 1959, c. 301, § 1, p. 1129; Laws 1961, c. 181, § 10, p. 542; R.S. 1943, (1988), § 60-1006; Laws 1993, LB 370, § 488; Laws 1993, LB 575, § 48; Laws 2012, LB 779, § 13.

STATE ADMINISTRATIVE DEPARTMENTS

ARTICLE 11

DEPARTMENT OF ADMINISTRATIVE SERVICES

(a) GENERAL PROVISIONS

Section	
81-1101.	Department of Administrative Services; declaration of legislative purpose.
81-1102.	Terms, defined.
81-1103.	Department of Administrative Services; creation; director; appointment; service.
81-1104.	Director of Administrative Services; qualifications.
81-1105.	Director of Administrative Services; compensation.
81-1106.	Director of Administrative Services; offices.
81-1107.	Director of Administrative Services; duties, powers, and responsibilities.
81-1107.01.	Director of Administrative Services; accountant; record keeper.
81-1107.02.	Director of Administrative Services; settlement of accounts; powers.
81-1107.03.	Director of Administrative Services; records; copies; fee; maintenance.
81-1107.04.	Director of Administrative Services; books and records; open to inspection.
81-1107.05.	Director of Administrative Services; interfund borrowing; powers and duties.
81-1108.	Department of Administrative Services; divisions; Director of Administrative Services; appointment of division heads; delegation of authority.
81-1108.01.	Administrator of divisions; compensation.
81-1108.02.	Department of Administrative Services Revolving Fund; created; use; investment.
81-1108.03.	Master Lease Program Trust Fund; created; use; investment.
81-1108.04.	Transferred to section 81-1108.12.
81-1108.05.	Shared Services Revolving Fund; created; use; investment.
81-1108.06.	Transferred to section 81-1108.41.
81-1108.07.	Transferred to section 81-1108.42.
81-1108.08.	Transferred to section 81-1108.43.
81-1108.09.	Sections; exceptions.
81-1108.10.	Terms, defined.
81-1108.11.	Department of Administrative Services; state building division; State Building Administrator; compensation.
81-1108.12.	State Building Administrator; qualifications.
81-1108.13.	State Building Administrator; oath.
81-1108.14.	State Building Administrator; bond or insurance.
81-1108.15.	State building division; functions and responsibilities; facilities planning, construction, and administration.
81-1108.16.	State Building Administrator; review program statements and contracts; file reports; contents; lease; approval of Department of Administrative Services.
81-1108.17.	Department of Administrative Services; custodian of state property; director; administrator; powers and duties; Capitol Buildings Parking Revolving Fund; created; purpose; use.
81-1108.18.	State Building Administrator; parking of motor vehicles; rules and regulations violations; personal responsibility for violation.
81-1108.19.	Repealed. Laws 1981, LB 545, § 52.
81-1108.20.	Administrator; employees; supplies.
81-1108.21.	Repealed. Laws 2004, LB 439, § 33.
81-1108.22.	State building division; responsibility; office space outside the State Capitol; rental; approval; required; lease contract; filed; administrator; duties; State Building Revolving Fund; created; use; investment; applicability of section, when.
81-1108.23.	Administrator; personnel.
81-1108.24.	State Emergency Capital Construction Contingency Fund; created; investment.
81-1108.25.	State Emergency Capital Construction Contingency Fund; purpose.
81-1108.26.	University of Nebraska; heat and power plant; control; use; costs.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Section

- 81-1108.27. State Capitol; state buildings; electric current; agreement.
- 81-1108.28. Board of Regents; Department of Health and Human Services and Department of Correctional Services; electric current; agreements.
- 81-1108.29. Board of Regents; Department of Administrative Services; heat, light, power; furnish; agreement.
- 81-1108.30. Nebraska State Fairgrounds; electric current; University of Nebraska may supply; when.
- 81-1108.31. State Capitol improvement district; powers.
- 81-1108.32. Nebraska Capitol Commission; creation; members; appointment; expenses.
- 81-1108.33. Transferred to section 81-1,113.
- 81-1108.34. Repealed. Laws 1987, LB 32, § 3.
- 81-1108.35. Repealed. Laws 1987, LB 32, § 3.
- 81-1108.36. State-owned or leased sites or structures; naming.
- 81-1108.37. Administrator; state office building; powers.
- 81-1108.38. Nebraska Capitol Commission; duties; powers.
- 81-1108.39. Repealed. Laws 1986, LB 746, § 1.
- 81-1108.40. Repealed. Laws 2009, LB 207, § 5.
- 81-1108.41. State comprehensive capital facilities plan; State Comprehensive Capital Facilities Planning Committee; program statement; appropriation for drawings and construction; contracts; approval; report; contents.
- 81-1108.42. Contract for construction, reconstruction, remodeling, or repair of capital facility; final payment; conditions.
- 81-1108.43. Capital construction project; prohibited acts; exceptions; warrant; when issued.
- 81-1108.44. Repealed. Laws 1987, LB 32, § 3.
- 81-1108.45. Repealed. Laws 1987, LB 32, § 3.
- 81-1108.46. Repealed. Laws 1987, LB 32, § 3.
- 81-1108.47. Repealed. Laws 1987, LB 32, § 3.
- 81-1108.48. Capitol furniture; sections; purposes.
- 81-1108.49. Original capitol furniture, defined.
- 81-1108.50. Office of the Nebraska Capitol Commission; identify and locate original capitol furniture.
- 81-1108.51. Original capitol furniture; inventory.
- 81-1108.52. Original capitol furniture; returned to State Capitol.
- 81-1108.53. Original capitol furniture; repaired; maintained; assignment.
- 81-1108.54. State building division; purpose.
- 81-1108.55. Competitive bids; award to lowest responsible bidder; elements considered; procurement reports.
- 81-1108.56. State building division or employee; financial or beneficial personal interest forbidden; gifts and rebates prohibited; violations; penalty.
- 81-1108.57. Centralization and coordination of real property; legislative intent.
- 81-1109. Director of Administrative Services; technical assistance to Governor; reports to Governor.
- 81-1110. Department of Administrative Services; accounting division; Accounting Administrator; qualifications; compensation.
- 81-1110.01. Accounting division; purpose.
- 81-1110.02. Repealed. Laws 2003, LB 11, § 1.
- 81-1110.03. Accounting Administrator; prepare schedule of fees.
- 81-1110.04. Accounting Division Revolving Fund; created; use; investment.
- 81-1110.05. Accounting division assessment payments; procedure.
- 81-1110.06. State Purchasing Card Distributive Fund; created; use; investment.
- 81-1110.07. Accounting Division Cash Fund; created; use; investment.
- 81-1111. Department of Administrative Services; Accounting Administrator; powers; duties; bureaus; created.
- 81-1111.01. Director of Administrative Services; preaudits authorized.
- 81-1111.02. Repealed. Laws 1988, LB 1079, § 9.
- 81-1111.03. Repealed. Laws 1988, LB 1079, § 9.
- 81-1111.04. Department of Administrative Services; Accounting Administrator; administratively establish funds.
- 81-1112. Department of Administrative Services; budget administrator; qualifications; compensation.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
- 81-1112.01. Budget division; purpose.
 - 81-1113. Budget division; powers; duties.
 - 81-1113.01. State budgets; department and agency budget requests; budget forms and instructions; when distributed; additional forms.
 - 81-1113.02. Repealed. Laws 1996, LB 966, § 4.
 - 81-1114. Department of Administrative Services; building division; powers, duties, and responsibilities.
 - 81-1114.01. Capital construction project; plan required; contents; revisions required; when; to whom submitted.
 - 81-1114.02. Capital construction project; state building division; review and comment.
 - 81-1115. Department of Administrative Services; budget division; budgetary planning; duties; responsibilities.
 - 81-1116. Information management services division; administrator; qualifications; pay.
 - 81-1116.01. Budget allowance; expend; restriction.
 - 81-1116.02. Information management services division; purpose.
 - 81-1117. Information management services administrator; powers, duties, and responsibilities; enumerated; restrictions on agency acquisitions; Information Management Revolving Fund; created; use; investment.
 - 81-1117.01. Imprest Payroll Distributive Fund; created; use.
 - 81-1117.02. Computer file data; release prohibited; written approval for release excepted; public records excepted.
 - 81-1117.03. Computer file data; release; violations; penalties.
 - 81-1117.04. Computer file data; public records defined.
 - 81-1117.05. State employee; payment of wages; methods authorized.
 - 81-1118. Transferred to section 81-152.
 - 81-1118.01. Transferred to section 81-155.
 - 81-1118.02. Transferred to section 81-157.
 - 81-1118.03. Repealed. Laws 2024, LB461, § 53.
 - 81-1118.04. Repealed. Laws 2024, LB461, § 53.
 - 81-1118.05. Transferred to section 73-804.
 - 81-1118.06. Repealed. Laws 2024, LB461, § 53.
 - 81-1118.07. Transferred to section 81-158.
 - 81-1119. Transferred to section 81-160.
 - 81-1120. Transferred to section 81-153.01.
 - 81-1120.01. Communications system; declaration of legislative purpose.
 - 81-1120.02. Terms, defined.
 - 81-1120.03. Office of Chief Information Officer; division of communications; creation; Director of Communications; appointment; qualifications.
 - 81-1120.04. Transferred to section 81-1120.17.
 - 81-1120.05. Transferred to section 81-1120.18.
 - 81-1120.06. Transferred to section 81-1120.19.
 - 81-1120.07. Transferred to section 81-1120.20.
 - 81-1120.08. Transferred to section 81-1120.22.
 - 81-1120.09. Transferred to section 81-1120.23.
 - 81-1120.10. Transferred to section 81-1120.24.
 - 81-1120.11. Transferred to section 81-1120.25.
 - 81-1120.12. Transferred to section 81-1120.26.
 - 81-1120.13. Transferred to section 81-1120.27.
 - 81-1120.14. Transferred to section 81-1120.28.
 - 81-1120.15. Director of Communications; powers, duties, and responsibilities.
 - 81-1120.16. Director of Communications; powers and duties; investigation; report.
 - 81-1120.17. Division of communications; powers and duties.
 - 81-1120.18. Division of communications; form advisory boards; expenses.
 - 81-1120.19. Division of communications; powers; limitation.
 - 81-1120.20. Joint use of communications; departments; agencies; cooperation.
 - 81-1120.21. Repealed. Laws 1994, LB 948, § 1.
 - 81-1120.22. Director of Communications; develop system of billings and charges; payment; deposit.
 - 81-1120.23. Repealed. Laws 2017, LB3, § 3.
 - 81-1120.24. Nebraska educational television network; exempt from sections; when.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Section

- 81-1120.25. Emergency; Governor; direct assumption of control.
- 81-1120.26. Director of Communications; state or political subdivision; gifts, property; accept; purpose; procedure.
- 81-1120.27. Telecommunications system; uses; member of Legislature; long-distance calls; designation as sensitive or confidential in nature; effect.
- 81-1120.28. Communications system; not to function as news agency; information; privileged; exceptions.
- 81-1120.29. Communications Revolving Fund; established; use; investment.
- 81-1120.30. Repealed. Laws 1986, LB 965, § 26.
- 81-1120.31. Repealed. Laws 1986, LB 965, § 26.
- 81-1120.32. Repealed. Laws 2000, LB 654, § 57.
- 81-1120.33. Repealed. Laws 2000, LB 654, § 57.
- 81-1120.34. Repealed. Laws 2000, LB 654, § 57.
- 81-1120.35. Transferred to section 86-551.
- 81-1120.36. Transferred to section 86-552.
- 81-1120.37. Transferred to section 86-562.
- 81-1120.38. Transferred to section 86-563.
- 81-1120.39. Repealed. Laws 2000, LB 654, § 57.
- 81-1120.40. Transferred to section 86-567.
- 81-1121. Warrants; preparation and issuance; funds transfer systems; payment by mistake; adjustment.
- 81-1122. Repealed. Laws 1995, LB 15, § 6.
- 81-1123. Repealed. Laws 1985, LB 12, § 1.
- 81-1124. Repealed. Laws 1985, LB 12, § 1.
- 81-1125. Repealed. Laws 1985, LB 12, § 1.
- 81-1125.01. Director of Administrative Services; reports and statements required; to whom made.
- 81-1126. Repealed. Laws 2016, LB978, § 5.
- 81-1127. Repealed. Laws 2016, LB978, § 5.
- 81-1128. Repealed. Laws 2016, LB978, § 5.
- 81-1129. Repealed. Laws 2016, LB978, § 5.
- 81-1130. Repealed. Laws 1976, LB 442, § 10.
- 81-1131. Repealed. Laws 1986, LB 1080, § 1.
- 81-1132. Repealed. Laws 1986, LB 1080, § 1.
- 81-1133. Repealed. Laws 1986, LB 1080, § 1.
- 81-1134. Repealed. Laws 1986, LB 1080, § 1.
- 81-1135. Repealed. Laws 1986, LB 1080, § 1.
- 81-1136. Repealed. Laws 1985, LB 421, § 6.
- 81-1137. Repealed. Laws 1986, LB 1080, § 1.
- 81-1138. Repealed. Laws 1986, LB 1080, § 1.
- 81-1139. Public Works and Economic Act; acceptance by State of Nebraska; state agencies, participate in excess property program.
- 81-1139.01. Stone Office Building; Department of Administrative Services; Department of Health and Human Services; limitations.

(b) STATE OFFICE WASTEPAPER RECYCLING

- 81-1140. Repealed. Laws 1986, LB 380, § 7.
- 81-1140.01. Transferred to section 81-1644.
- 81-1140.02. Transferred to section 81-1643.
- 81-1140.03. Transferred to section 81-1645.
- 81-1140.04. Transferred to section 81-1646.
- 81-1140.05. Transferred to section 81-1647.
- 81-1140.06. Transferred to section 81-1648.
- 81-1141. Repealed. Laws 1986, LB 380, § 7.
- 81-1142. Repealed. Laws 1986, LB 380, § 7.
- 81-1143. Repealed. Laws 1986, LB 380, § 7.
- 81-1144. Repealed. Laws 1986, LB 380, § 7.
- 81-1145. Repealed. Laws 1986, LB 380, § 7.
- 81-1146. Repealed. Laws 1986, LB 380, § 7.
- 81-1147. Repealed. Laws 1986, LB 380, § 7.
- 81-1148. Repealed. Laws 1986, LB 380, § 7.

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-1149. Repealed. Laws 1986, LB 380, § 7.
- 81-1150. Repealed. Laws 1986, LB 380, § 7.
- 81-1151. Repealed. Laws 1986, LB 380, § 7.
- 81-1152. Repealed. Laws 1986, LB 380, § 7.
- 81-1153. Repealed. Laws 1986, LB 380, § 7.
- 81-1154. Repealed. Laws 1986, LB 380, § 7.
- 81-1155. Repealed. Laws 1986, LB 380, § 7.
- 81-1156. Repealed. Laws 1986, LB 380, § 7.
- 81-1157. Repealed. Laws 1986, LB 380, § 7.
- 81-1158. Repealed. Laws 1986, LB 380, § 7.
- 81-1159. Repealed. Laws 1986, LB 380, § 7.
- 81-1160. Repealed. Laws 1986, LB 380, § 7.
- 81-1161. Repealed. Laws 1986, LB 380, § 7.

(c) FORMS MANAGEMENT PROGRAM

- 81-1162. Repealed. Laws 2007, LB 256, § 17.
- 81-1163. Repealed. Laws 2007, LB 256, § 17.
- 81-1164. Repealed. Laws 2007, LB 256, § 17.
- 81-1165. Repealed. Laws 2007, LB 256, § 17.
- 81-1166. Repealed. Laws 2007, LB 256, § 17.
- 81-1167. Repealed. Laws 2007, LB 256, § 17.
- 81-1168. Repealed. Laws 2007, LB 256, § 17.
- 81-1169. Repealed. Laws 2007, LB 256, § 17.

(d) REQUESTS FOR PAYMENTS FROM THE STATE

- 81-1170. Transferred to section 77-2106.03.
- 81-1170.01. Requests; examination and adjustment by department; warrants for mileage.
- 81-1170.02. Requests; second presentation prohibited.
- 81-1170.03. Request; allowance in part; issuance of warrant.
- 81-1170.04. Request for payment; form of vouchers.
- 81-1170.05. False statement; penalty.
- 81-1171. Debt or request; treatment as setoff; presentation to director; required.
- 81-1172. Repealed. Laws 1988, LB 864, § 72.
- 81-1173. Repealed. Laws 1988, LB 864, § 72.

(e) PAYMENT OF EXPENSES

- 81-1174. Reimbursement for expenses; request; contents; automobile; airplane; statement required; receipts; limitation.
- 81-1175. Reimbursement for expenses; vouchers; written authorization; exceptions.
- 81-1176. Mileage; rates; how computed; adjustments; application.
- 81-1177. Uniform traveling expense account form; prescribed.
- 81-1178. Member of any commission, committee, or board created by statute; expenses; reimbursement; manner.
- 81-1179. Member of any commission, committee, or board created in compliance with federal action; expenses; reimbursement from federal funds.
- 81-1180. Member of any state commission, council, committee, or board; reimbursement for expenses; when.
- 81-1181. Repealed. Laws 2020, LB381, § 149.
- 81-1182. Conference expenses; payment; when.
- 81-1182.01. Volunteers and certain service providers; expenses; payment; when.

(f) STATE GOVERNMENT RECYCLING MANAGEMENT ACT

- 81-1183. Act, how cited.
- 81-1184. Legislative intent.
- 81-1185. State government recyclable material, defined.
- 81-1186. Department; duties.
- 81-1187. Disposition of state government recyclable material.
- 81-1188. Resource Recovery Fund; created; use; investment.
- 81-1189. Rules and regulations.

Section

(g) INFORMATION TECHNOLOGY INFRASTRUCTURE ACT

- 81-1190. Transferred to section 86-501.
- 81-1191. Transferred to section 86-502.
- 81-1192. Transferred to section 86-525.
- 81-1193. Repealed. Laws 2000, LB 1349, § 14.
- 81-1194. Transferred to section 86-526.
- 81-1195. Transferred to section 86-527.
- 81-1196. Repealed. Laws 2000, LB 1349, § 14.
- 81-1196.01. Transferred to section 86-528.
- 81-1197. Repealed. Laws 2000, LB 1349, § 14.
- 81-1198. Repealed. Laws 2000, LB 1349, § 14.
- 81-1199. Transferred to section 86-529.
- 81-11,100. Repealed. Laws 2000, LB 1349, § 14.
- 81-11,101. Repealed. Laws 2000, LB 1349, § 14.
- 81-11,102. Transferred to section 86-530.
- 81-11,103. Repealed. Laws 2000, LB 1349, § 14.

(h) PERFORMANCE EVALUATION FOR CERTAIN ADMINISTRATIVE HEADS

- 81-11,104. Performance evaluation process; department; duties; recommendations; cost.

(i) NEBRASKA PUBLIC SAFETY COMMUNICATION SYSTEM REVOLVING FUND

- 81-11,105. Nebraska Public Safety Communication System Revolving Fund; created; use; investment.

(j) PUBLIC FUNDS

- 81-11,106. Public funds; record in state accounting system; investment; accounting division of Department of Administrative Services; duties.

(a) GENERAL PROVISIONS

81-1101 Department of Administrative Services; declaration of legislative purpose.

The purposes of sections 81-1101 to 81-1117.05 and 81-1121 are to:

- (1) Provide for the development and maintenance of a modern system of budgetary, inventory, and financial accounting;
- (2) Provide for development and maintenance of such modern and economical methods and systems for record keeping, accounting, expenditure planning and control as may be possible through timely adoption of modern technological developments;
- (3) Provide for centralized direction of services and service agencies;
- (4) Assure the development and operation of organizational and procedural innovations as may be expected to provide acceptable internal control of the handling and processing of public funds; and
- (5) Focus responsibility for execution of the financial policies of this state on the chief executive and provide assistants having the necessary technical skills for the achievement of that end.

Source: Laws 1965, c. 538, § 1, p. 1689; Laws 1995, LB 15, § 1; Laws 2024, LB461, § 41.

Effective date July 19, 2024.

81-1102 Terms, defined.

For purposes of sections 81-1101 to 81-1117.05 and 81-1121, unless the context otherwise requires:

(1) Gender with reference to the masculine or feminine gender shall be construed to apply to either or both genders;

(2) Executive budget means the budget proposed by the Governor to the Legislature as the basis of appropriations for the operation of and capital outlay by state government during the period covered by such budget;

(3) Approved budget means the executive or Governor's budget as modified by appropriations actions of the Legislature;

(4) Budgetary allotments means the plan of expenditures, by program, subprogram, activity, or object of expenditure under the approved budget for monthly or other applicable periods of time within each fiscal year, to which a department or agency may be held during such period of time within the fiscal year;

(5) Accrual system means the recording of revenue when earned and the recording of expenditures as soon as they result in liabilities, notwithstanding the fact that the receipt of the revenue or payment of the expenditure may take place, in whole or in part, in another accounting period;

(6) Double entry system means a system of bookkeeping which requires for every entry made to the debit side of an account or accounts an entry for a corresponding amount or amounts to the credit side of another account or accounts resulting in a self-balancing accounting system;

(7) Disbursement means payment from the state treasury;

(8) Expenditure means, when an accrual system has been established, total liability incurred by contract, purchase order, or payroll commitments or as otherwise provided by law, whether or not related disbursement has been made from the state treasury, and shall mean, until an accrual system has been established, disbursements from the state treasury;

(9) Revenue means, when an accrual system has been established, additions to assets which do not increase any liability or represent the recovery of an expenditure or disbursement or any part thereof or the cancellation of liabilities without a corresponding increase in other liabilities or a decrease in assets. Until an accrual system has been established, this term means additions to cash in the state treasury or for deposit in the state treasury only;

(10) Receipts means cash received, unless otherwise qualified;

(11) Encumbrances means charges to appropriation accounts to reflect obligations for which a part of the appropriation is reserved and which shall cease to be encumbrances when paid or when an actual liability is established in a proprietary account;

(12) Financing agreement means any bond, lease-purchase obligation, installment sales contract, or similar financial arrangement, for a period greater than one year, which is entered into by the state or any agency, board, or commission thereof, not including the University of Nebraska or state colleges, in accordance with the Constitution of Nebraska and statutes of this state, relating to capital construction, real property acquisition, and personal property acquisition;

(13) Proprietary account means those accounts designed to show actual financial position and operations such as actual assets, liabilities, surplus, revenue, and expenditures, as distinguished from budgetary accounts;

(14) Program means a major operation of the state government directed toward the achievement of a definite legal objective and which, in most instances, could be carried on independently of other major operations of the state as defined and described in the accounting and budgeting manuals on file in the office of the Director of Administrative Services;

(15) Subprogram means one or more operations of a department or agency of the state designed jointly to accomplish a major program objective as defined in the accounting and budgeting manuals on file in the office of the Director of Administrative Services;

(16) Activity means one or more operations of a department or agency of the state designed jointly to accomplish the objective of a subprogram to which it is related as defined in the accounting and budgeting manual on file in the office of the Director of Administrative Services;

(17) Budget request means the complete recitation, on forms prescribed by the budget division and in the manner prescribed by such division, of the operating and construction funds requests of a department or agency for the biennium next following the then current biennium;

(18) Department means the Department of Administrative Services; and

(19) Director means the Director of Administrative Services.

Source: Laws 1965, c. 538, § 2, p. 1690; Laws 1967, c. 593, § 1, p. 2014; Laws 1969, c. 804, § 1, p. 3029; Laws 1984, LB 933, § 15; Laws 1986, LB 258, § 36; Laws 1993, LB 544, § 1; Laws 1995, LB 15, § 2; Laws 1996, LB 1265, § 1; Laws 1998, LB 924, § 32; Laws 2024, LB461, § 42.
Effective date July 19, 2024.

81-1103 Department of Administrative Services; creation; director; appointment; service.

There is hereby created a department of government to be known as the Department of Administrative Services. The chief administrative officer of the department shall be the director to be known as the Director of Administrative Services. The director shall be appointed by the Governor, subject to confirmation by a majority vote of members of the Legislature. The director shall serve at the discretion of the Governor.

Source: Laws 1965, c. 538, § 3, p. 1693; Laws 1967, c. 578, § 2, p. 1909.

81-1104 Director of Administrative Services; qualifications.

Any person who is a graduate of an accredited four-year college or university program in public or business administration, arts, or sciences and who has had at least eight years of responsible management experience in development or administration of budgetary and accounting systems, management information systems, or systems and procedures planning, and who is not less than thirty years of age may be appointed as Director of Administrative Services. A masters or higher degree in the fields of public or business administration, economics, or statistics may be substituted for two years of experience as set forth above.

Source: Laws 1965, c. 538, § 4, p. 1694; Laws 1969, c. 805, § 1, p. 3042.

81-1105 Director of Administrative Services; compensation.

The compensation of the Director of Administrative Services shall be fixed by the Governor, subject to availability of appropriations.

Source: Laws 1965, c. 538, § 5, p. 1694.

81-1106 Director of Administrative Services; offices.

The Director of Administrative Services and the staff and division heads of such divisions as may be established within the Department of Administrative Services shall be housed in the State Capitol building or a state office building in the vicinity of the State Capitol building.

Source: Laws 1965, c. 538, § 6, p. 1694.

81-1107 Director of Administrative Services; duties, powers, and responsibilities.

The Director of Administrative Services is hereby vested with the duties, powers, and responsibilities involved in:

(1) The preparation of the executive budget and execution of the approved budget except as otherwise provided by law, including a system of periodic allotments for the management and regulation of expenditures and making surveys and studies for the purpose of improving administrative procedures, methods, and organization;

(2) The keeping of general accounts and the adoption and promulgation of appropriate rules, regulations, and administrative orders designed to assure a uniform and effective system of accounts and accounting, the approval of all vouchers, and the preparation and issuance of warrants for all purposes;

(3) The review and approval of financing agreements for the purposes of protecting the credit of the state, insuring the most advantageous terms, providing for proper accounting of financial transactions, complying with the approved budget, and promoting sound financial management.

Financing agreements related to real property acquisitions and capital construction projects within the Nebraska State Capitol Environs District, other than the State Capitol and capitol grounds, may be financed, if determined appropriate by the director, subject to legislative appropriation. Real property acquisitions or capital construction projects within the Nebraska State Capitol Environs District, other than the State Capitol and capitol grounds, shall not proceed without legislative appropriation and shall require the approval of both the Governor and the Executive Board of the Legislative Council.

Financing agreements related to real property acquisition and capital construction (a) for the State Capitol and capitol grounds or (b) outside the Nebraska State Capitol Environs District, shall not be financed without the express approval of the Legislature, and such legislative authorization shall include the maximum financing period for any project to be financed. The approval of such projects shall be through the capital construction budget process and shall be subject to legislative appropriation;

(4) The operation of such storerooms and warehouses as may be necessary;

(5) The allotment of space in state office buildings, other than the State Capitol, to the various departments and agencies according to their needs and the space available;

(6) The supervision of telephone, mailing, messenger, duplicating, data processing, and other like services adaptable to economical and centralized management;

(7) The planning, review, and preparation of a state capital construction budget;

(8) The development, maintenance, and operation of a statewide intergovernmental data services system; and

(9) The provision of assistance as requested by the Nebraska Information Technology Commission.

The director shall adopt a seal. The director may contract with another state agency to furnish centralized mailing, messenger, duplicating, and printing services in the interest of economy and efficiency in government while retaining ultimate direction and control.

Source: Laws 1965, c. 538, § 7, p. 1694; Laws 1975, LB 447, § 7; Laws 1989, LB 27, § 1; Laws 1993, LB 543, § 6; Laws 1993, LB 544, § 2; Laws 1995, LB 530, § 4; Laws 1996, LB 1265, § 2; Laws 1998, LB 924, § 33; Laws 2004, LB 439, § 17.

Cross References

Nebraska State Capitol Environs District, see section 90-303.

81-1107.01 Director of Administrative Services; accountant; record keeper.

The Director of Administrative Services is declared to be the general accountant of the state, and the keeper of all public accounts books, accounts, vouchers, documents, and all papers relating to the accounts and contracts of the state, and its revenue, debt and fiscal affairs, not required by law to be placed in some other office or kept by some other officer or person.

Source: R.S.1866, c. 4, § 2, p. 19; R.S.1913, § 5544; C.S.1922, § 4846; C.S.1929, § 84-302; R.S.1943, § 84-302; R.S.1943, (1981), § 84-302.

Under former act, Auditor of Public Accounts was necessary party to declaratory judgment action testing constitutionality of statute. *Haynes v. Anderson*, 163 Neb. 50, 77 N.W.2d 674 (1956).

The Auditor of Public Accounts represents the state in settlements between the State Treasurer and county treasurers. *State v. Ure*, 102 Neb. 648, 168 N.W. 644 (1918).

81-1107.02 Director of Administrative Services; settlement of accounts; powers.

The Director of Administrative Services, whenever he may think it necessary to the proper settlement of any account, may examine the parties, witnesses or others, on oath or affirmation, touching any matter material to be known in the settlement of such account.

Source: R.S.1866, c. 4, § 7, p. 23; R.S.1913, § 5549; C.S.1922, § 4851; C.S.1929, § 84-307; R.S.1943, § 84-307; R.S.1943, (1981), § 84-307.

Under former law, Auditor of Public Accounts was authorized to inquire of parties interested and to call and examine wit-

nesses with respect to facts before issuance of warrant. *Fischer v. Marsh*, 113 Neb. 153, 202 N.W. 422 (1925).

81-1107.03 Director of Administrative Services; records; copies; fee; maintenance.

All accounts, vouchers, and documents settled or to be settled by the Director of Administrative Services shall be of record in his or her office and copies

thereof, authenticated by his or her official seal, shall be furnished to any person interested therein who shall require the same, upon the payment to the director of an amount established by the director, not to exceed actual costs for every copy. Such records may be maintained in any acceptable photographic form in lieu of the original record pursuant to section 25-1281 when authorization is given by the State Records Administrator.

Source: R.S.1866, c. 4, § 8, p. 23; R.S.1913, § 5550; C.S.1922, § 4852; C.S.1929, § 84-308; Laws 1941, c. 190, § 1, p. 759; C.S.Supp.,1941, § 84-308; R.S.1943, § 84-308; Laws 1955, c. 348, § 1, p. 1067; Laws 1973, LB 224, § 13; Laws 1984, LB 933, § 18; R.S.Supp.,1986, § 84-308.

81-1107.04 Director of Administrative Services; books and records; open to inspection.

All the books, papers, letters and transactions pertaining to the office of Director of Administrative Services shall be open to the inspection of a committee of the Legislature, which shall examine and settle all the director's accounts.

Source: R.S.1866, c. 4, § 14, p. 24; R.S.1913, § 5555; C.S.1922, § 4857; C.S.1929, § 84-313; R.S.1943, § 84-313; R.S.1943, (1981), § 84-313.

81-1107.05 Director of Administrative Services; interfund borrowing; powers and duties.

(1) The Director of Administrative Services may initiate interfund borrowing among the various revolving funds within the Department of Administrative Services, except that at no time shall the aggregate advances from all lending funds exceed five hundred thousand dollars.

(2) The director shall report to the budget administrator of the budget division of the department and the Legislative Fiscal Analyst:

(a) The amount of each interfund loan processed or repaid and the date of the transaction; and

(b) An explanation of each interfund loan transaction.

The report submitted to the Legislative Fiscal Analyst shall be submitted electronically.

(3) By July 15 each year, the director shall report to the budget administrator and the Legislative Fiscal Analyst the:

(a) Outstanding aggregate balances advanced from the respective revolving funds within the department as of the preceding June 30; and

(b) Outstanding aggregate balances borrowed by each fund from the respective revolving funds within the department as of the preceding June 30.

The report submitted to the Legislative Fiscal Analyst shall be submitted electronically.

Source: Laws 2001, LB 96, § 2; Laws 2012, LB782, § 179.

81-1108 Department of Administrative Services; divisions; Director of Administrative Services; appointment of division heads; delegation of authority.

The Department of Administrative Services shall fulfill the functions in the administration of state government of fiscal control, of centralizing services, of personnel services, and of risk management. There shall be separate divisions within the department to assist in fulfilling these functions. The divisions shall be the accounting division and the budget division in the area of fiscal control, the information management services division, materiel division, state building division, and division of communications in the area of centralized services, the personnel division and the Division of Employee Relations in the area of personnel services, and the risk management and state claims division in the area of risk management. The Director of Administrative Services shall appoint a separate administrator as head of each division other than the Division of Employee Relations, the division of communications, and the information management services division. The director shall have the responsibility and authority for directing and coordinating the programs and activities of the several divisions and shall be empowered to remove the administrators of any of the several divisions other than the Chief Negotiator at his or her discretion. The director shall have the power to delegate authority for administration of sections 81-1101 to 81-1189 and 81-1301 to 81-1391 and the Risk Management Program to any of the division heads as he or she may deem appropriate except as otherwise provided by law.

Source: Laws 1965, c. 538, § 8, p. 1965; Laws 1967, c. 593, § 2, p. 2017; Laws 1969, c. 804, § 2, p. 3032; Laws 1971, LB 675, § 2; Laws 1974, LB 1048, § 32; Laws 1992, Third Spec. Sess., LB 14, § 8; Laws 1993, LB 543, § 7; Laws 1998, LB 924, § 34; Laws 2000, LB 654, § 23; Laws 2002, LB 406, § 1; Laws 2006, LB 921, § 1.

Cross References

Risk Management Program, see section 81-8,239.01.

81-1108.01 Administrator of divisions; compensation.

The compensation of the administrators of the division of communications and the information management services division shall be fixed by the Chief Information Officer subject to availability of appropriations. The compensation of all other administrators shall be fixed by the director subject to availability of appropriations.

Source: Laws 1969, c. 804, § 3, p. 3033; Laws 2006, LB 921, § 2.

81-1108.02 Department of Administrative Services Revolving Fund; created; use; investment.

There is hereby created the Department of Administrative Services Revolving Fund. The fund shall be administered by the Department of Administrative Services. The fund shall consist of assessments against each division within the department and miscellaneous fees for services provided by the department. The money in the fund shall be used to defray the administrative expenses incurred by the department.

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

Source: Laws 1994, LB 1194, § 1; Laws 1995, LB 7, § 116.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1108.03 Master Lease Program Trust Fund; created; use; investment.

The Master Lease Program Trust Fund is created. The fund shall consist of lease payments made by state agencies and shall be used to pay any lessor who is a party to any financing agreement sponsored by the Department of Administrative Services. The fund shall be administered by the Accounting Administrator. 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. On a monthly basis the accounting division of the Department of Administrative Services shall administratively transfer all interest earnings credited to the fund to the Accounting Division Revolving Fund within ten days after the end of each month.

Source: Laws 1997, LB 314, § 7; Laws 2000, LB 1216, § 23.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1108.04 Transferred to section 81-1108.12.**81-1108.05 Shared Services Revolving Fund; created; use; investment.**

There is hereby created the Shared Services Revolving Fund. The fund shall be administered by the Department of Administrative Services. The fund shall consist of money received from state agencies, boards, commissions, political subdivisions, and other governmental entities for shared services provided by the department. Shared services include, but are not limited to, human resource management including payroll processing, process improvement projects, and financial services. Billings for shared services shall be adequate to cover actual and necessary expenses associated with providing these services. The fund shall be used to pay for the administrative expenses incurred by the department to provide such services. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2017, LB331, § 12.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1108.06 Transferred to section 81-1108.41.**81-1108.07 Transferred to section 81-1108.42.****81-1108.08 Transferred to section 81-1108.43.****81-1108.09 Sections; exceptions.**

Nothing in sections 81-1108.09 and 81-1108.41 to 81-1108.43 shall apply to any actions of the Legislature in contracting for the planning, design, construction, or leasing of capital facilities for any state use.

Source: Laws 1969, c. 772, § 7, p. 2925; Laws 1974, LB 1048, § 37.

81-1108.10 Terms, defined.

As used in sections 81-1108.09 to 81-1108.43, unless the context otherwise requires:

(1) Division means the state building division charged with the responsibility of statewide facilities planning, facilities construction, and statewide facilities administration, which division shall be a part of and subject to the supervision of the office of the Director of Administrative Services; and

(2) Administrator means the State Building Administrator.

Source: Laws 1974, LB 1048, § 1; Laws 1998, LB 1129, § 19; Laws 2024, LB461, § 43.

Effective date July 19, 2024.

81-1108.11 Department of Administrative Services; state building division; State Building Administrator; compensation.

There is hereby established a division within the Department of Administrative Services to be known as the state building division, to be headed by a State Building Administrator appointed by the Director of Administrative Services. The compensation of such administrator shall be fixed by the Director of Administrative Services subject to availability of appropriations.

Source: Laws 1974, LB 1048, § 2.

81-1108.12 State Building Administrator; qualifications.

The State Building Administrator shall be a person who has (1)(a) a bachelor's degree or higher degree from an accredited college or university or (b) at least five years' experience in property management or building management and (2) at least four years' administrative experience in planning, design, or construction of major construction projects.

Source: Laws 1969, c. 772, § 2, p. 2923; R.R.S.1943, § 81-1108.04; Laws 1974, LB 1048, § 3; Laws 2010, LB721, § 1.

81-1108.13 State Building Administrator; oath.

The administrator shall, before entering upon the duties of his office, subscribe and take the constitutional oath of office, which shall be filed in the office of the Secretary of State.

Source: Laws 1974, LB 1048, § 4.

81-1108.14 State Building Administrator; bond or insurance.

The administrator shall, before entering upon the discharge of the duties of his office, be bonded or insured as required by section 11-201. The premium shall be paid by the state.

Source: Laws 1974, LB 1048, § 5; Laws 1978, LB 653, § 34; Laws 2004, LB 884, § 43.

81-1108.15 State building division; functions and responsibilities; facilities planning, construction, and administration.

(1) Except as provided in the Nebraska State Capitol Preservation and Restoration Act, the division shall have the primary functions and responsibilities of statewide facilities planning, facilities construction, and facilities admin-

istration and shall adopt and promulgate rules and regulations to carry out this section.

(2) Facilities planning shall include the following responsibilities and duties:

(a) To maintain utilization records of all state-owned, state-occupied, and vacant facilities;

(b) To coordinate comprehensive capital facilities planning;

(c) To define and review program statements based on space utilization standards;

(d) To prepare or review planning and construction documents;

(e) To develop and maintain time-cost schedules for capital construction projects;

(f) To assist the Governor and the Legislative Fiscal Analyst in the preparation of the capital construction budget recommendations;

(g) To maintain a complete inventory of all state-owned, state-occupied, and vacant sites and structures and to review the proposals for naming such sites and structures;

(h) To determine space needs of all state agencies and establish space-allocation standards; and

(i) To cause a state comprehensive capital facilities plan to be developed.

(3) Facilities construction shall include the following powers and duties:

(a) To maintain close contact with and conduct inspections of each project so as to assure execution of time-cost schedules and efficient contract performance if such project's total design and construction cost is equal to or greater than the project cost set by subdivision (1)(a) of section 81-1108.43 as adjusted by subsection (2) of section 81-1108.43;

(b) To perform final acceptance inspections and evaluations; and

(c) To coordinate all change or modification orders and progress payment orders.

(4) Facilities administration shall include the following powers and duties:

(a) To serve as state leasing administrator or agent for all facilities to be leased for use by the state and for all state-owned facilities to be rented to state agencies or other parties subject to section 81-1108.22. The division shall remit the proceeds from any rentals of state-owned facilities to the State Treasurer for credit to the State Building Revolving Fund and the State Building Renewal Assessment Fund;

(b) To provide all maintenance, repairs, custodial duties, security, and administration for all buildings and grounds owned or leased by the State of Nebraska except as provided in subsections (5) and (6) of this section;

(c) To be responsible for adequate parking and the designation of parking stalls or spaces, including access aisles, in offstreet parking facilities for the exclusive use of handicapped or disabled or temporarily handicapped or disabled persons pursuant to section 18-1737;

(d) To ensure that all state-owned, state-occupied, and vacant facilities are maintained or utilized to their maximum capacity or to dispose of such facilities through lease, sale, or demolition;

(e) To submit electronically an annual report to the Appropriations Committee of the Legislature and the Committee on Building Maintenance regarding

the amount of property leased by the state and the availability of state-owned property for the needs of state agencies;

(f) To report monthly time-cost data on projects to the Governor and the Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically;

(g) To administer the State Emergency Capital Construction Contingency Fund;

(h) To submit status reports to the Governor and the Legislative Fiscal Analyst after each quarter of a construction project is completed detailing change orders and expenditures to date. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically. Such reports shall be required on all projects costing an amount equal to or greater than the amount set forth in subdivision (1)(a) of section 81-1108.43 as adjusted by subsection (2) of section 81-1108.43 and on such other projects as may be designated by the division; and

(i) To submit a final report on each project to the Governor and the Legislative Fiscal Analyst. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically. Such report shall include, but not be limited to, a comparison of final costs and appropriations made for the project, change orders, and modifications and whether the construction complied with the related approved program statement. Such reports shall be required on all projects costing an amount equal to or greater than the amount set forth in subdivision (1)(a) of section 81-1108.43 as adjusted by subsection (2) of section 81-1108.43 and on such other projects as may be designated by the division.

(5) Subdivisions (4)(b), (c), and (d) of this section shall not apply to (a) state-owned facilities to be rented to state agencies or other parties by the University of Nebraska, the Nebraska state colleges, the Department of Transportation, and the Board of Educational Lands and Funds, (b) buildings and grounds owned or leased for use by the University of Nebraska, the Nebraska state colleges, and the Board of Educational Lands and Funds, (c) buildings and grounds owned, leased, or operated by the Department of Correctional Services, (d) facilities to be leased for nonoffice use by the Department of Transportation, (e) buildings or grounds owned or leased by the Game and Parks Commission if the application of such subdivisions to the buildings or grounds would result in ineligibility for or repayment of federal funding, (f) buildings or grounds of the state park system, state recreation areas, state historical parks, state wildlife management areas, or state recreational trails, or (g) other buildings or grounds owned or leased by the State of Nebraska which are specifically exempted by the division because the application of such subdivisions would result in the ineligibility for federal funding or would result in hardship on an agency, board, or commission due to other exceptional or unusual circumstances, except that nothing in this subdivision shall prohibit the assessment of building rental depreciation charges to tenants of facilities owned by the state and under the direct control and maintenance of the division.

(6) Security for all buildings and grounds owned or leased by the State of Nebraska in Lincoln, Nebraska, except the buildings and grounds described in subsection (5) of this section, shall be the responsibility of the Nebraska State Patrol. The Nebraska State Patrol shall consult with the Governor, the Chief Justice, the Executive Board of the Legislative Council, and the State Capitol

Administrator regarding security policy within the State Capitol and capitol grounds.

(7) Each member of the Legislature shall receive an electronic copy of the reports required by subdivisions (4)(f), (h), and (i) of this section by making a request for them to the State Building Administrator. The information on such reports shall be submitted to the division by the agency responsible for the project.

Source: Laws 1974, LB 1048, § 6; Laws 1976, LB 1006, § 9; Laws 1979, LB 322, § 47; Laws 1981, LB 381, § 19; Laws 1987, LB 32, § 2; Laws 1992, LB 1241, § 21; Laws 1995, LB 530, § 5; Laws 1998, LB 299, § 4; Laws 2000, LB 1216, § 25; Laws 2001, LB 666, § 2; Laws 2001, LB 809, § 10; Laws 2004, LB 439, § 18; Laws 2004, LB 1092, § 8; Laws 2012, LB782, § 180; Laws 2016, LB978, § 2; Laws 2017, LB320, § 4; Laws 2017, LB339, § 285.

Cross References

Nebraska State Capitol Preservation and Restoration Act, see section 72-2201.

81-1108.16 State Building Administrator; review program statements and contracts; file reports; contents; lease; approval of Department of Administrative Services.

(1) The administrator shall review program statements and contracts and file a written report on each program statement and contract reviewed pursuant to the provisions of section 81-1108.41. Such administrator shall file subsequent reviews and reports upon completion of the planning or design phase of the project indicating the compatibility of the project with capital construction plans, probable cost of the project, accepted cost standard, and the relationship of the project to the state comprehensive capital facilities plan and to other agency or departmental capital facilities pursuant to the provisions of section 81-1108.41.

(2) No contract for the leasing of real property shall be awarded without the approval of the Department of Administrative Services, and no such contract shall be awarded if:

(a) There is state-owned property which is adequate or which through cost-effective renovation, as determined by the division, could be made adequate to meet the using agency's needs; or

(b) It has not been arranged through the bidding process provided in rules and regulations adopted by the division. The rules and regulations shall be in accordance with sections 73-101, 81-1108.55, and 81-1108.56 and shall be otherwise consistent with sections 81-145 to 81-161.06 to the greatest extent possible.

All contracts for purchases or leases shall be open to inspection by the Legislature during normal business hours.

Source: Laws 1974, LB 1048, § 7; Laws 1975, LB 359, § 12; Laws 1979, LB 322, § 48; Laws 1981, LB 381, § 20; Laws 1992, LB 1241, § 22; Laws 1995, LB 530, § 6; Laws 2024, LB461, § 44.
Effective date July 19, 2024.

81-1108.17 Department of Administrative Services; custodian of state property; director; administrator; powers and duties; Capitol Buildings Parking Revolving Fund; created; purpose; use.

(1) The Department of Administrative Services shall be the custodian of the state laboratory and laboratory grounds, the Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska except as exempted under subsections (5) and (6) of section 81-1108.15 or as provided in the Nebraska State Capitol Preservation and Restoration Act.

(2) To aid in the performance of his or her duties, the Director of Administrative Services shall appoint an administrator. The administrator, under the direction of the director, shall have complete control and all powers necessary to properly maintain the state laboratory and laboratory grounds, the Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska except as exempted under subsections (5) and (6) of section 81-1108.15 or as provided in the Nebraska State Capitol Preservation and Restoration Act.

(3) Except as provided in the act, the administrator, under the direction of the director, is authorized to (a) lease space or provide facilities for the parking of state officers' and employees' vehicles as well as bureau fleet vehicles as defined in section 81-1011, (b) lease, rent, or permit for use as apartments, dwellings, offices, and parking areas any or all of the property acquired for parking or for future building needs, (c) lease state property to the federal government or political subdivisions of the state using the system of charges in subsection (4) of this section, and (d) lease state property to a private entity to provide services necessary for state operations or for the convenience of state officers and employees when the space is not needed for public use. All leases shall contain the provision that upon notice that such property is needed for public use, the use or occupancy of the property shall cease. All money received as rent from any property acquired shall be remitted to the State Treasurer and credited to the State Building Revolving Fund, except that receipts from parking charges for employee, public, and state vehicle parking shall be credited to the Capitol Buildings Parking Revolving Fund, which fund is hereby created, for the purposes of providing and maintaining parking for state employees and visitors.

(4) The system of charges for state buildings and facilities shall include an amount sufficient to (a) accurately reflect operating costs, including routine maintenance and repair costs, and (b) fund building renewal projects under the Deferred Building Renewal Act and renovation, remodeling, and repair projects beyond the scope of the act. The proceeds received under subdivision (a) of this subsection shall be remitted to the State Treasurer for credit to the State Building Revolving Fund. The proceeds received under subdivision (b) of this subsection shall be remitted to the State Treasurer for credit to the State Building Renewal Assessment Fund. The administrator shall develop a system of equitable billings and charges for parking facilities under his or her control and used by state employees and state vehicles. The system of charges shall include an amount sufficient to cover the operating, maintenance, and repair costs associated with the parking facilities. The administrator, under policies and procedures established by the Director of Administrative Services, may expend funds from time to time credited to the Capitol Buildings Parking Revolving Fund for the purposes of obtaining, operating, and maintaining

parking facilities for employees and visitors. All money derived from any source other than that to be credited to the State Building Revolving Fund, the Capitol Buildings Parking Revolving Fund, the Department of Administrative Services Cash Fund, the State Building Renewal Assessment Fund, or other appropriate revolving fund shall be remitted to the State Treasurer and credited to the General Fund.

(5) The administrator shall see that all parts and apartments of the buildings leased are properly ventilated and kept clean and in order.

(6) The administrator shall at all times have charge of and supervision over the police, janitors, and other employees in and about the state laboratory and laboratory grounds, the Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska except as exempted under subsections (5) and (6) of section 81-1108.15 or as provided in the Nebraska State Capitol Preservation and Restoration Act. The administrator shall institute, in the name of the state and with the advice of the Attorney General, civil and criminal proceedings against any person for injury or threatened injury to any public property in the state laboratory and laboratory grounds, the Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska under his or her control, or for committing or threatening to commit a nuisance in or on the buildings or lands.

(7) The administrator shall keep in his or her office a complete record containing all plans and surveys of the state laboratory and grounds, the Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska and of underground construction under such buildings and lands. This subsection shall not apply to the State Capitol and capitol grounds.

Source: Laws 1929, c. 192, § 1, p. 677; C.S.1929, § 72-707; Laws 1937, c. 161, § 1, p. 625; Laws 1939, c. 94, § 1, p. 407; Laws 1941, c. 144, § 1, p. 573; C.S.Supp.,1941, § 72-707; R.S.1943, § 72-706; Laws 1955, c. 278, § 1, p. 879; Laws 1961, c. 354, § 2, p. 1114; Laws 1965, c. 436, § 2, p. 1388; Laws 1965, c. 439, § 1, p. 1394; Laws 1965, c. 538, § 23, p. 1711; Laws 1967, c. 468, § 1, p. 1457; Laws 1971, LB 675, § 1; R.R.S.1943, § 72-706; Laws 1974, LB 1048, § 8; Laws 1976, LB 986, § 4; Laws 1979, LB 576, § 3; Laws 1981, LB 381, § 21; Laws 1983, LB 607, § 3; Laws 1993, LB 311, § 3; Laws 1995, LB 530, § 7; Laws 1997, LB 314, § 10; Laws 1998, LB 1100, § 21; Laws 2004, LB 439, § 19; Laws 2008, LB744, § 1; Laws 2009, LB207, § 3; Laws 2012, LB779, § 14.

Cross References

Deferred Building Renewal Act, see section 81-190.

Nebraska State Capitol Preservation and Restoration Act, see section 72-2201.

81-1108.18 State Building Administrator; parking of motor vehicles; rules and regulations; violations; personal responsibility for violation.

In order to promote the public safety and welfare, the administrator shall adopt and promulgate rules and regulations governing the parking of motor vehicles on the (1) approaches to the capitol, in consultation with the State Capitol Administrator, and (2) lands owned or leased by the State of Nebraska and under the State Building Administrator's control. The rules and regulations

may limit, restrict, or prohibit parking on such land. Notwithstanding the provisions of the Administrative Procedure Act, the rules and regulations shall become effective upon posting notice of the rules and regulations on or about the premises to be regulated. If any vehicle is found upon any regulated premises in violation of this section or the rules and regulations adopted pursuant to this section and the driver cannot be determined, the owner or person in whose name such vehicle is registered shall be held responsible for such violation.

Source: Laws 1955, c. 278, § 2, p. 880; Laws 1965, c. 538, § 24, p. 1713; Laws 1967, c. 468, § 2, p. 1459; R.R.S.1943, § 72-706.01; Laws 1974, LB 1048, § 9; Laws 1976, LB 986, § 5; Laws 1977, LB 39, § 303; Laws 1979, LB 576, § 4; Laws 1995, LB 530, § 8; Laws 2004, LB 439, § 20.

Cross References

Administrative Procedure Act, see section 84-920.

81-1108.19 Repealed. Laws 1981, LB 545, § 52.

81-1108.20 Administrator; employees; supplies.

The administrator, with the consent of the Governor, shall employ all necessary assistants, engineers, janitors, custodians, and caretakers, fix their compensation, and terminate such employment from time to time as necessary for the efficient and economical discharge of his or her duties. The administrator shall purchase, through the materiel division of the Department of Administrative Services, such supplies, material, and equipment as may be necessary for the proper maintenance of the state laboratory and laboratory grounds, the Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska except as exempted under subsections (5) and (6) of section 81-1108.15 or as provided in the Nebraska State Capitol Preservation and Restoration Act. The total expenditures for such purposes shall not exceed the appropriations made for such purposes.

Source: Laws 1929, c. 192, § 1, p. 677; C.S.1929, § 72-707; Laws 1937, c. 161, § 1, p. 625; Laws 1939, c. 94, § 1, p. 407; Laws 1941, c. 144, § 1, p. 573; C.S.Supp.,1941, § 72-707; R.S.1943, § 72-709; Laws 1955, c. 278, § 5, p. 882; R.R.S.1943, § 72-709; Laws 1974, LB 1048, § 11; Laws 1995, LB 530, § 9; Laws 2004, LB 439, § 21.

Cross References

Nebraska State Capitol Preservation and Restoration Act, see section 72-2201.

81-1108.21 Repealed. Laws 2004, LB 439, § 33.

81-1108.22 State building division; responsibility; office space outside the State Capitol; rental; approval; required; lease contract; filed; administrator; duties; State Building Revolving Fund; created; use; investment; applicability of section, when.

(1) The division shall have the responsibility of providing office space in leased and state-owned buildings in the proximity of the State Capitol and in other locations.

(2) When any board, agency, commission, or department of the state government not otherwise specifically authorized by law desires to use funds available for the purpose of renting office space outside of the State Capitol, it shall

submit a request to the Director of Administrative Services. If the director approves the lease, the terms and location shall be approved by the director and the administrator in writing and the leases shall be entered into and administered by the administrator on behalf of the board, agency, commission, or department. A copy of all such lease contracts shall be kept on file by the state building division and shall be open to inspection by the Legislature and the public during normal business hours.

(3)(a) The administrator shall develop a system of charges to cover basic rental, maintenance, renovations, and operation of such leased and owned properties. The charges to state agencies, boards, commissions, or departments of state government shall be paid from funds available for the purpose of renting space on a regular basis and placed, as applicable, in the State Building Revolving Fund and the State Building Renewal Assessment Fund. The administrator shall make payments for basic rentals, renovations, and maintenance and operational costs of all leased and owned buildings from the State Building Revolving Fund except for expenses relating to security provided by the Nebraska State Patrol as provided in subdivision (b) of this subsection.

(b) The State Building Revolving Fund is created. The fund shall be administered by the administrator. The fund shall consist of rental charges and other receipts collected pursuant to contractual agreements between the state building division and other entities as authorized by law. The fund shall only be used to support the operation of the state building division as provided by law, except that the Legislature shall make fund transfers each fiscal year through the budget process from the State Building Revolving Fund to the Capitol Security Revolving Fund to help pay non-general-fund costs associated with the operation of the state capitol security division of the Nebraska State Patrol. Any money in the State Building Revolving Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

(4) The charges for such leased and owned properties shall only be adjusted by the administrator on July 1. Prior to any adjustment in the system of charges, the Department of Administrative Services, on or before December 1 of the year preceding the effective date of such adjustment, shall provide electronic notification to the Committee on Building Maintenance, the Clerk of the Legislature, and the Legislative Fiscal Analyst of the proposed adjustment to the system of charges.

(5) Commencing on April 18, 1992, all leases of real property entered into by any state agency, board, commission, or department shall be subject to this section. Leases held by a state agency, board, commission, or department on such date shall be valid until the lease contract is terminated or is subject to renewal. The division shall monitor all such leases and determine when the lease is subject to renewal. Once the determination is made, the division shall cancel the lease as of the renewal date and shall treat the need of the agency, board, commission, or department as an original request for space and subject to this section. This subsection shall not apply to (a) state-owned facilities to be rented to state agencies or other parties by the University of Nebraska, the Nebraska state colleges, the Department of Transportation, and the Board of Educational Lands and Funds, (b) facilities to be leased for use by the University of Nebraska, the Nebraska state colleges, and the Board of Educational

Lands and Funds, (c) facilities to be leased for nonoffice use by the Department of Transportation, or (d) facilities controlled by the State Department of Education, which were formerly controlled by the Nebraska School for the Visually Handicapped, to be rented to state agencies or other parties by the department.

Source: Laws 1961, c. 353, § 1, p. 1113; Laws 1963, c. 421, § 1, p. 1347; R.R.S.1943, § 72-701.08; Laws 1974, LB 1048, § 13; Laws 1975, LB 359, § 13; Laws 1979, LB 576, § 5; Laws 1992, LB 1241, § 23; Laws 1995, LB 530, § 11; Laws 1998, LB 1100, § 22; Laws 1999, LB 813, § 57; Laws 2004, LB 439, § 22; Laws 2004, LB 1092, § 9; Laws 2007, LB322, § 26; Laws 2012, LB782, § 181; Laws 2017, LB339, § 286; Laws 2024, First Spec. Sess., LB3, § 35.

Effective date August 21, 2024.

Cross References

Committee on Building Maintenance, see section 81-185.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

81-1108.23 Administrator; personnel.

The administrator may employ architects, drafters, specialized engineers, and other professional personnel to provide plans, working drawings, and specifications required for the adequate maintenance, improvement, construction, and reconstruction of the state laboratory and grounds, Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska and under the administrator's control and may employ secretarial and administrative personnel necessary to carry out this section.

Source: Laws 1955, c. 329, § 2, p. 1027; R.R.S.1943, § 72-709.02; Laws 1974, LB 1048, § 14; Laws 1995, LB 530, § 12; Laws 2004, LB 439, § 23.

81-1108.24 State Emergency Capital Construction Contingency Fund; created; investment.

There is hereby created for the use of the Department of Administrative Services a fund to be known as the State Emergency Capital Construction Contingency Fund, to consist of such money as shall be appropriated to such fund by the Legislature. Any money in such 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 1974, LB 1048, § 15; Laws 1995, LB 7, § 117.

Cross References

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

81-1108.25 State Emergency Capital Construction Contingency Fund; purpose.

The proceeds of the State Emergency Capital Construction Contingency Fund created by section 81-1108.24 shall be expended by the Department of Administrative Services as and when approved by the Governor. Such proceeds shall be expended to supplement available funds for construction projects when needed

for emergency construction, repair, or remodeling. For the purposes of this section emergency shall mean that a clear and foreseeable danger is created and that without institution of appropriate measures to reduce or alleviate such danger the health, safety, or welfare of the citizens of this state or the purposes of the facility will be or will continue to be threatened.

Source: Laws 1974, LB 1048, § 16.

81-1108.26 University of Nebraska; heat and power plant; control; use; costs.

The heat and power plant of the University of Nebraska, together with tunnels and conduits appurtenant thereto, shall be operated and maintained under the immediate control of the Board of Regents of the University of Nebraska. Such plant shall supply heat, light, and power for use at the University of Nebraska, the State Capitol, including the executive mansion, and the Nebraska State Historical Society. At the sole discretion of the Director of Administrative Services, in consultation with the Board of Regents, alternative sources of heat, power, and light may be utilized, and in such event, adequate notice of any change shall be given to the Board of Regents. Cost of operation and maintenance of the plant and its appurtenances shall in the first instance be borne by the Board of Regents. The cost of operation, repairs, and maintenance shall be apportioned between the University of Nebraska, the State Capitol, including the executive mansion, and the Nebraska State Historical Society, upon the percentage of heat, light, and power received by each. At the end of each month, the Board of Regents shall forward to the administrator a bill for the share of the cost of operation for such month chargeable to the State Capitol, including the executive mansion, and to the Director of the Nebraska State Historical Society for the share of the cost of operation for such month chargeable to the Nebraska State Historical Society. The Board of Regents shall forward annually to the administrator a statement for the share of the cost of repairs and maintenance chargeable to the State Capitol, including the executive mansion, and to the Director of the Nebraska State Historical Society for the share of the cost of repairs and maintenance chargeable to the Nebraska State Historical Society. If no objection in writing is made by the administrator or the Director of the Nebraska State Historical Society within ten days after the receipt of such statements, they shall constitute valid obligations to be paid in the manner prescribed by law for payment of operating expenses of the State Capitol and by the Nebraska State Historical Society from funds appropriated for that purpose by the Legislature. In case objection shall be made, the Board of Regents and the administrator or the Director of the Nebraska State Historical Society, whichever shall object, shall endeavor to arrive at a proper charge and, in case of inability to do so, shall submit the matter to arbitration, one arbitrator to be named by each party and the third to be chosen by those so named. The amount fixed by the arbitrators shall constitute a valid obligation to be paid in the manner indicated above.

Source: Laws 1929, c. 193, § 2, p. 678; C.S.1929, § 72-902; R.S.1943, § 72-710; Laws 1949, c. 216, § 1, p. 613; Laws 1951, c. 240, § 1, p. 847; R.R.S.1943, § 72-710; Laws 1974, LB 1048, § 17; Laws 1998, LB 1129, § 20; Laws 2024, LB1169, § 1.
Effective date July 19, 2024.

81-1108.27 State Capitol; state buildings; electric current; agreement.

The Board of Regents of the University of Nebraska is authorized to furnish and to enter into agreements with the Department of Health and Human Services and the Department of Correctional Services to furnish a supply of electric current to such departments at the line now maintained or hereafter constructed between the electric power plant at the Department of Correctional Services adult correctional facility and the State Capitol, which power shall be furnished by the heating plant located upon the city campus of the University of Nebraska at Lincoln, except that such electrical service to the Department of Health and Human Services and the Department of Correctional Services for distribution to other state buildings and institutions shall be furnished only if the same may be generated and furnished without impairment or reduction of the power necessary to proper and efficient operation of the University of Nebraska and the State Capitol, including the executive mansion.

Source: Laws 1949, c. 216, § 2, p. 614; Laws 1973, LB 563, § 10; R.R.S.1943, § 72-710.01; Laws 1974, LB 1048, § 18; Laws 1996, LB 1044, § 863.

81-1108.28 Board of Regents; Department of Health and Human Services and Department of Correctional Services; electric current; agreements.

The Department of Health and Human Services and the Department of Correctional Services are authorized to furnish and to enter into agreements with the Board of Regents of the University of Nebraska to furnish a supply of electric current to the Board of Regents of the University of Nebraska at the line now maintained, or hereafter constructed, between the electric power plant at the University of Nebraska and the State Capitol, which power shall be furnished by the electric power plant located at the Department of Correctional Services adult correctional facility, except that such electrical service to the Board of Regents shall be furnished only if the same may be generated and furnished without impairment or reduction of the power necessary to proper and efficient operation of state buildings and institutions dependent upon the Department of Correctional Services adult correctional facility power plant.

Source: Laws 1949, c. 216, § 3, p. 614; Laws 1973, LB 563, § 11; R.R.S.1943, § 72-710.02; Laws 1974, LB 1048, § 19; Laws 1996, LB 1044, § 864.

81-1108.29 Board of Regents; Department of Administrative Services; heat, light, power; furnish; agreement.

The Board of Regents of the University of Nebraska is authorized to furnish and to enter into agreements with the Department of Administrative Services to furnish heat, light, and power for use at any building leased by the State of Nebraska. Any such agreement shall provide for the apportionment of costs in the same manner as is provided in section 81-1108.26.

Source: Laws 1967, c. 468, § 7, p. 1461; R.R.S.1943, § 72-710.03; Laws 1974, LB 1048, § 20.

81-1108.30 Nebraska State Fairgrounds; electric current; University of Nebraska may supply; when.

The Board of Regents of the University of Nebraska is authorized to furnish and to enter into agreements with the Nebraska State Fair Board to furnish a supply of electric current to the Nebraska State Fairgrounds and buildings,

which shall be furnished by the heating plant located upon the city campus of the University of Nebraska at Lincoln, except that such electric service shall be furnished only if the same may be generated and furnished without impairment or reduction of the power necessary to proper and efficient operation of the University of Nebraska and the State Capitol, including the executive mansion.

Source: Laws 1931, c. 62, § 1, p. 170; C.S.Supp.,1941, § 72-905; R.S. 1943, § 72-711; Laws 1949, c. 216, § 4, p. 615; R.R.S.1943, § 72-711; Laws 1974, LB 1048, § 21; Laws 2002, LB 1236, § 19.

81-1108.31 State Capitol improvement district; powers.

Whenever any improvement district for the opening, widening, or otherwise improving Fifteenth Street in the city of Lincoln, Nebraska, which connects, adjoins, and is adjacent to the State Capitol and the University of Nebraska, is created by the Mayor and the City Council of the city of Lincoln, Nebraska, the President of the Board of Regents of the University of Nebraska and the State Capitol Administrator are hereby authorized to sign petitions for the creation of an improvement district including that portion of Fifteenth Street in Lincoln, Nebraska, leading from the State Capitol to the university campus. This is for no other purpose than to form a plan and program, with the gathering of data and cost for the improvement of that portion of Fifteenth Street. Such plan shall be submitted electronically to the Legislature which shall render its approval or rejection before any liability whatsoever for the consummation of such plan shall be fixed or made. Neither the Board of Regents of the University of Nebraska nor the administrator shall expend any money, nor shall the provisions of this section be construed to authorize the expenditure of any public funds whatsoever, except for the preliminary survey incident to the formation of such improvement plans, until the same shall have been authorized by a specific appropriation of the Legislature for the purpose based on the tentative plans so formulated and submitted to the Legislature as contemplated in this section.

Source: Laws 1927, c. 147, § 1, p. 396; C.S.1929, § 72-801; R.S.1943, § 72-712; Laws 1974, LB 1048, § 22; Laws 2004, LB 439, § 24; Laws 2012, LB782, § 182.

81-1108.32 Nebraska Capitol Commission; creation; members; appointment; expenses.

The Nebraska Capitol Commission is hereby created. The commission shall consist of the Governor, the Speaker of the Legislature, the Chief Justice of the Supreme Court, the dean of the College of Architecture at the University of Nebraska-Lincoln, the Director of the Nebraska State Historical Society, and three other residents of Nebraska appointed by the Governor. One appointive member shall be appointed from each congressional district. The terms of the appointive members shall be staggered so that one term expires on March 1, 1994, one term expires on March 1, 1995, and one term expires on March 1, 1996. As the terms of the appointive members expire, the Governor shall, on or before March 1 of each year, appoint or reappoint a member of the commission for a term of three years to succeed the member whose term expires. Any member appointed after March 1 shall serve for the remaining portion of the three-year term.

The Governor shall serve as the chairperson of the Nebraska Capitol Commission, the Speaker of the Legislature shall serve as the vice-chairperson of the commission, and the State Capitol Administrator or his or her representative shall serve as the nonvoting secretary of the commission.

In the absence of the Governor, he or she may designate the Lieutenant Governor as his or her representative. In the absence of the Speaker of the Legislature, he or she may designate the chairperson of the Executive Board of the Legislative Council or the Clerk of the Legislature as his or her representative. In the absence of the Chief Justice of the Supreme Court, he or she may designate the State Court Administrator as his or her representative. Representatives of the Governor, the Speaker of the Legislature, and the Chief Justice shall have full voting privileges for the meeting in attendance.

The members of such commission shall be reimbursed for expenses while away from home engaged in the performance of their duties as members of the commission as provided in sections 81-1174 to 81-1177.

Source: Laws 1949, c. 211, § 1, p. 601; Laws 1965, c. 440, § 1, p. 1396; R.R.S.1943, § 72-716; Laws 1974, LB 1048, § 23; Laws 1981, LB 204, § 189; Laws 1993, LB 311, § 4; Laws 1999, LB 297, § 1; Laws 2004, LB 439, § 25; Laws 2005, LB 684, § 4; Laws 2008, LB752, § 1; Laws 2012, LB1116, § 1; Laws 2020, LB381, § 109.

81-1108.33 Transferred to section 81-1,113.

81-1108.34 Repealed. Laws 1987, LB 32, § 3.

81-1108.35 Repealed. Laws 1987, LB 32, § 3.

81-1108.36 State-owned or leased sites or structures; naming.

Except when sites or structures are named by statute, the administrator, after considering any recommendations of the Nebraska Capitol Commission, shall review the proposals of the various agencies and commissions for the naming of state-owned or leased sites or structures. Unless otherwise provided by statute, sites or structures shall not be named for citizens who are active elected officials or active employees of the State of Nebraska. Subsequent to review, the proposed name shall be approved by the Governor and the Legislature.

Source: Laws 1974, LB 1048, § 27; Laws 1978, LB 955, § 1; Laws 1981, LB 351, § 2; Laws 1993, LB 311, § 5.

81-1108.37 Administrator; state office building; powers.

After July 1, 1974, the administrator is authorized to enter into an agreement with the city of Lincoln, Nebraska, pursuant to the provisions of sections 72-1401 to 72-1408, providing for the supplying by the city of Lincoln to the State of Nebraska of a state office building to be located on block 91, original plat of Lincoln, Nebraska, and the providing of parking facilities for motor vehicles and related services on the north half of blocks 92 and 96, all in the original plat of Lincoln, Nebraska. The administrator is authorized to convey to the city of Lincoln all of the real estate described herein for the purposes described.

Source: Laws 1973, LB 447, § 2; R.S.Supp.,1973, § 72-716.04; Laws 1974, LB 1048, § 28.

81-1108.38 Nebraska Capitol Commission; duties; powers.

(1) It shall be the duty of the Nebraska Capitol Commission to provide advice to the Office of the Nebraska Capitol Commission in carrying out this section. The office shall (a) establish policies and guidelines for the implementation of the approved Capitol Landscape Restoration Master Plan on and around the capitol grounds, (b) participate with the commission created pursuant to section 90-306 to (i) formulate a landscape restoration plan for all other state-owned property within the Nebraska State Capitol Environs District and (ii) conserve, protect, and enhance the environs and vistas of the State Capitol, and (c) review the proposed construction and repairs of buildings in and around the State Capitol and all other state-owned property located within the Nebraska State Capitol Environs District. The office, with the advice of the Nebraska Capitol Commission, may adopt and promulgate rules and regulations to carry out this subsection.

(2) The commission shall hold meetings on a quarterly basis or as needed. The commission shall meet at least annually with the Nebraska State Capitol Environs Commission to discuss and coordinate projects that may impact the capitol and its environs. The meeting with the Nebraska State Capitol Environs Commission may be held in conjunction with one of the meetings of the Nebraska Capitol Commission required by this subsection.

(3) In addition to any other rights and powers conferred upon the commission, it shall monitor and advise the State Building Administrator in exercising the power of eminent domain on behalf of the state for the purpose of acquiring sites or buildings for state use. The administrator may for such purpose take, hold, and condemn for the state any and all necessary property. The procedure to condemn property shall be exercised in the manner set forth in sections 76-701 to 76-726.

Source: Laws 1949, c. 211, § 3, p. 601; Laws 1955, c. 279, § 1, p. 883; Laws 1965, c. 440, § 2, p. 1397; Laws 1967, c. 469, § 1, p. 1462; R.R.S.1943, § 72-718; Laws 1974, LB 1048, § 29; Laws 1993, LB 311, § 6; Laws 1999, LB 297, § 2; Laws 2004, LB 439, § 26.

81-1108.39 Repealed. Laws 1986, LB 746, § 1.

81-1108.40 Repealed. Laws 2009, LB 207, § 5.

81-1108.41 State comprehensive capital facilities plan; State Comprehensive Capital Facilities Planning Committee; program statement; appropriation for drawings and construction; contracts; approval; report; contents.

(1) The division shall cause a state comprehensive capital facilities plan to be developed. The plan shall project the state's facilities needs for a period of six years and shall be based on programmatic projections and input from each state agency. To aid in the development of the plan, the Governor shall appoint a State Comprehensive Capital Facilities Planning Committee with representatives from various state agencies. The committee shall develop and adopt comprehensive planning guidelines and a process of project prioritization. The state comprehensive capital facilities plan shall be submitted electronically to the Committee on Building Maintenance for review before such plan shall be submitted to the Governor and the Legislative Fiscal Analyst on or before November 15 prior to the beginning of each biennium. The plan submitted to the Legislative Fiscal Analyst shall be submitted electronically. The plan shall

be based on priorities developed by the State Comprehensive Capital Facilities Planning Committee. The University of Nebraska and any Nebraska state college shall not be required to comply with or be subject to the provisions of this section since these agencies are subject to and participate in statewide facilities planning developed by the Coordinating Commission for Postsecondary Education pursuant to the Coordinating Commission for Postsecondary Education Act.

(2) An appropriation for drawings and construction may be made only after submission of an acceptable program statement on or before September 15 of the year previous to the initiation of such appropriation. Such program statement shall include, but not be limited to, (a) an assessment of the compatibility of the project with the state comprehensive capital facilities plan and the agency or departmental comprehensive capital facilities plan, (b) the identification of the impact of the project on the space utilization of other facilities under the control of the agency or department, and (c) the identification of the future impact on the agency or departmental programmatic needs, demand for utilities in excess of current capacity, parking needs, street and road needs, and site acquisition needs. Such program statement shall be submitted to the division and the Legislative Fiscal Analyst. The program statement submitted to the Legislative Fiscal Analyst shall be submitted electronically.

(3) No contract for the planning, design, or construction of a new facility or major modification or repair of an existing facility provided for by any state appropriation may be initiated unless an acceptable program statement has been approved by the Governor, the agency or department has submitted to the division a certificate from the Committee on Building Maintenance that there is no state-owned property which is adequate or which through cost-effective renovation, as determined by the division, could be made adequate to meet the agency's or department's needs, and the conditions of the contracts are approved in writing by the division, except that the provisions of this section shall not apply to projects when the total design and construction cost of the project is less than the limit established by the division. Such program statements and contracts shall be reviewed by the division.

(4) The division shall file a written report on each program statement and contract reviewed with the Governor and the Legislative Fiscal Analyst. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically. This report shall cover the consistency of the project with the state comprehensive capital facilities plan and the agency or departmental comprehensive capital facilities plan. A subsequent review and report upon completion of the planning or design phase of the project shall indicate the compatibility of the project with the agency or departmental comprehensive capital facilities plan, compare the probable cost of the project with accepted cost standards for similar construction projects, and review the relationship of the project to other state agency or departmental capital facilities in the same complex.

Source: Laws 1969, c. 772, § 4, p. 2923; R.R.S.1943, § 81-1108.06; Laws 1974, LB 1048, § 34; Laws 1976, LB 986, § 7; Laws 1979, LB 38, § 1; Laws 1981, LB 381, § 22; Laws 1992, LB 1241, § 24; Laws 1995, LB 530, § 14; Laws 2000, LB 654, § 24; Laws 2012, LB782, § 184.

Cross References

Committee on Building Maintenance, see section 81-185.

Coordinating Commission for Postsecondary Education, see Article VII, section 14, Constitution of Nebraska and section 85-1403. **Coordinating Commission for Postsecondary Education Act**, see section 85-1401.

These sections held not applicable to the Board of Regents other officers or agencies. *Board of Regents v. Exon*, 199 Neb. 146, 256 N.W.2d 330 (1977).
which cannot delegate its constitutional powers and duties to

81-1108.42 Contract for construction, reconstruction, remodeling, or repair of capital facility; final payment; conditions.

The Director of Administrative Services shall not issue his warrant for final payment for any contract for the construction, reconstruction, remodeling, or repair of any capital facility for any state agency or department unless there is on file in his office the certificate of a professional engineer or architect that, to the best of his knowledge, all work under the contract substantially conforms to the plans and specifications and that the contract has been fully and satisfactorily performed except for the making of the final payment.

Source: Laws 1969, c. 772, § 5, p. 2924; R.R.S.1943, § 81-1108.07; Laws 1974, LB 1048, § 35.

81-1108.43 Capital construction project; prohibited acts; exceptions; warrant; when issued.

(1) No state agency or department shall:

(a) Perform for itself any of the services normally performed by a professional engineer or architect in the preparation of plans and specifications for the construction, reconstruction, or alteration of any building or in the administration of the construction documents and final approval of the project when the total project cost is four hundred thousand dollars or more; and

(b) Employ its own work force for any such construction, reconstruction, or alteration of capital facilities when the total project cost is fifty thousand dollars or more.

(2) The Department of Administrative Services shall adjust the dollar amounts in subsection (1) of this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustments shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, as selected by the department.

(3) This section shall not apply to the Department of Transportation or to any public power district, public power and irrigation district, irrigation district, or metropolitan utilities district. If, during the program statement review provided for under section 81-1108.41, it is determined that existing or standard plans and specifications are available or required for the project, the division may authorize an exemption from this section. The Director of Administrative Services shall not issue any warrant in payment for any work on a capital construction project unless the state agency or department files a certificate that it has complied with the provisions of this section.

Source: Laws 1969, c. 772, § 6, p. 2924; R.R.S.1943, § 81-1108.08; Laws 1974, LB 1048, § 36; Laws 1979, LB 38, § 2; Laws 1995, LB 530, § 15; Laws 1997, LB 622, § 122; Laws 1998, LB 1129, § 21; Laws 2007, LB256, § 13; Laws 2016, LB978, § 3; Laws 2017, LB339, § 287.

81-1108.44 Repealed. Laws 1987, LB 32, § 3.

81-1108.45 Repealed. Laws 1987, LB 32, § 3.**81-1108.46 Repealed. Laws 1987, LB 32, § 3.****81-1108.47 Repealed. Laws 1987, LB 32, § 3.****81-1108.48 Capitol furniture; sections; purposes.**

The purposes of sections 81-1108.48 to 81-1108.53 are to:

- (1) Provide for identification and classification of all original capitol furniture;
- (2) Provide a central inventory of original capitol furniture;
- (3) Provide for the return of all identified original furniture to the capitol; and
- (4) Provide for distribution and assignment of original capitol furniture.

Source: Laws 1980, LB 885, § 1.

81-1108.49 Original capitol furniture, defined.

As used in sections 81-1108.48 to 81-1108.53, unless the context otherwise requires, original capitol furniture shall mean all furniture, furnishings, and accessories including, but not limited to, desks, chairs, files, tables, couches, bookcases, credenzas, lights, lamps, clocks, trash receptacles, and hall trees.

Source: Laws 1980, LB 885, § 2.

81-1108.50 Office of the Nebraska Capitol Commission; identify and locate original capitol furniture.

The Office of the Nebraska Capitol Commission shall identify all furniture originally purchased for the State Capitol. The office shall review the inventories and physical spaces of all agencies, boards, and commissions of the legislative, executive, and judicial branches to locate each item. From the items identified and located, the office shall establish a classification system identifying each item by style, type, and condition.

Source: Laws 1980, LB 885, § 3; Laws 2004, LB 439, § 27.

81-1108.51 Original capitol furniture; inventory.

The Office of the Nebraska Capitol Commission shall establish and maintain an inventory of all original furniture including, but not limited to, its style, type, condition, location, and assignment.

Source: Laws 1980, LB 885, § 4; Laws 2004, LB 439, § 28.

81-1108.52 Original capitol furniture; returned to State Capitol.

All agencies, boards, and commissions are directed to return all original capitol furniture to the State Capitol upon written notice by the State Capitol Administrator. Such furniture shall be surplus to the Office of the Nebraska Capitol Commission at no cost.

Source: Laws 1980, LB 885, § 5; Laws 2004, LB 439, § 29.

81-1108.53 Original capitol furniture; repaired; maintained; assignment.

All original capitol furniture shall be repaired and maintained by the Office of the Nebraska Capitol Commission and shall be made available to occupants of

the State Capitol. Assignment of original furniture shall be made at the discretion of the State Capitol Administrator. The original furniture shall remain in the State Capitol at all times. Any agency that is relocated from the State Capitol shall make other provision for its furniture needs, and original furniture currently being used by such agency shall be eligible for reassignment by the administrator.

Source: Laws 1980, LB 885, § 6; Laws 2004, LB 439, § 30.

81-1108.54 State building division; purpose.

The purpose of the state building division is to provide centralized procurement, operation, maintenance, and management of office space and independent review, analysis, and oversight of capital construction projects to insure that the most appropriate facilities are provided for the efficient functioning of state government. It is the intent of the Legislature that the responsibility for state facilities be centralized within the division except for buildings and grounds exempted under subsection (5) of section 81-1108.15.

Source: Laws 1981, LB 381, § 37; Laws 1995, LB 530, § 16.

81-1108.55 Competitive bids; award to lowest responsible bidder; elements considered; procurement reports.

All purchases, leases, or contracts which by law are required to be based on competitive bids pursuant to section 81-1108.16 shall be made to the lowest responsible bidder, taking into consideration the best interests of the state, the quality or performance of the property proposed to be supplied, its conformity with specifications, the purposes for which required, and the times of delivery. In determining the lowest responsible bidder, in addition to price, the following elements shall be given consideration:

- (1) The ability, capacity, and skill of the bidder to perform the contract required;
- (2) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
- (3) Whether the bidder can perform the contract within the time specified;
- (4) The quality of performance of previous contracts;
- (5) The previous and existing compliance by the bidder with laws relating to the contract;
- (6) The life-cost of the property in relation to the purchase price and specific use of the item;
- (7) The performance of the property, taking into consideration any commonly accepted tests and standards of product usability and user requirements;
- (8) Energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment;
- (9) The information furnished by each bidder, when deemed applicable by the State Building Administrator, concerning life-cycle costs between alternatives for all classes of equipment, evidence of expected life, repair and maintenance costs, and energy consumption on a per-year basis; and
- (10) Such other information as may be secured having a bearing on the decision to award the contract.

Reports regarding procurements made pursuant to this section shall be provided to the Department of Environment and Energy. Such reports shall be in the form and contain such information as the Department of Environment and Energy may require.

All political subdivisions may follow the procurement principles set forth in this section if they are deemed applicable by the official authorized to make purchases for such political subdivision.

Source: Laws 1992, LB 1241, § 25; Laws 2019, LB302, § 104.

81-1108.56 State building division or employee; financial or beneficial personal interest forbidden; gifts and rebates prohibited; violations; penalty.

Neither the state building division nor any employee under its direction shall be financially interested, or have any beneficial personal interest, directly or indirectly, in the purchase or leasing of any real property nor in any firm, partnership, limited liability company, corporation, or association furnishing real property. No such person shall receive or accept directly or indirectly from any person, firm, limited liability company, or corporation submitting any bid or to whom a contract may be awarded, by rebate, gift, or otherwise, any money or other thing of value whatsoever, or any promise, obligation, or contract for future reward, or compensation. Any person who violates the provisions of this section shall be guilty of a Class IV felony and shall be subject to forfeiture of his or her office or position.

Source: Laws 1992, LB 1241, § 26; Laws 1993, LB 121, § 537.

81-1108.57 Centralization and coordination of real property; legislative intent.

It is the intent of the Legislature to centralize and coordinate the real property resources owned and leased by the state. Currently many state buildings are left vacant by agencies as new leases are signed and agencies' missions change. Without centralized authority and expertise to allocate, maintain, and renovate current buildings, the state will continue to lease more space from outside sources, thus increasing state expenditures. To facilitate the goal of centralized authority, the changes proposed by Laws 1992, LB 1241, are required.

Source: Laws 1992, LB 1241, § 1.

81-1109 Director of Administrative Services; technical assistance to Governor; reports to Governor.

The Director of Administrative Services shall be responsible to the Governor for provision of technical assistance, advice, and information concerning the financial and administrative operations of all agencies of the state, for provision of technical assistance and advice on the preparation of the Governor's budget, otherwise referred to in sections 81-1101 to 81-1117.05 as the executive budget, and for administration of the approved budget within the limits of appropriations provided except as otherwise provided by law. He or she shall be responsible to the Governor for the provision of current reports of the financial condition of the state and each of its departments and agencies and for the provision of timely recommendations for dealing with financial, management,

and organizational problems affecting the administration of the business of the state and its departments and agencies.

Source: Laws 1965, c. 538, § 9, p. 1696; Laws 1995, LB 15, § 3; Laws 2024, LB461, § 45.

Effective date July 19, 2024.

81-1110 Department of Administrative Services; accounting division; Accounting Administrator; qualifications; compensation.

The Director of Administrative Services may appoint as accounting division head any person who shall have successfully completed a four-year course with a major field of concentration in accounting at an accredited college or university and who shall have had not less than three years responsible experience either as an auditor or in an executive capacity involving responsibility for directing the work of others engaged in governmental accounting or auditing or both, and in addition shall be a certified public accountant.

The compensation of the accounting division head, who shall be designated as the Accounting Administrator, shall be fixed by the Director of Administrative Services subject to availability of appropriations.

Source: Laws 1965, c. 538, § 10, p. 1696; Laws 1969, c. 804, § 4, p. 3033.

81-1110.01 Accounting division; purpose.

The purpose of the accounting division is to prescribe, coordinate, and administer a centralized, uniform state accounting and payroll system and personnel information system, to establish and enforce accounting policies and procedures for all state agencies, boards, and commissions, to monitor and enforce state expenditure limitations established by approved state appropriations and budget allotments, and to administer the federal Social Security Act for the state and the state's political subdivisions.

Source: Laws 1981, LB 381, § 36.

81-1110.02 Repealed. Laws 2003, LB 11, § 1.

81-1110.03 Accounting Administrator; prepare schedule of fees.

The Accounting Administrator at the direction of the Director of Administrative Services shall prepare a schedule of fees to assess agencies for accounting services performed by the accounting division of the Department of Administrative Services. The fees shall be adequate to cover actual and necessary expenses associated with providing the services.

Source: Laws 1995, LB 325, § 1.

81-1110.04 Accounting Division Revolving Fund; created; use; investment.

The Accounting Division Revolving Fund is created. The fund shall consist of (1) accounting assessments received from state agencies, boards, and commissions, (2) interest earnings credited and transferred to the fund, (3) payments received for services rendered by the accounting division, and (4) rebate revenue transferred to the fund from certain state purchasing card programs. The fund shall be used for payment of administrative expenses of the accounting division of the Department of Administrative Services. The fund shall be administered by the Accounting Administrator. Any money in the fund available

for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 1995, LB 325, § 2; Laws 2000, LB 1216, § 27; Laws 2024, First Spec. Sess., LB3, § 36.
Effective date August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1110.05 Accounting division assessment payments; procedure.

The state agencies, boards, and commissions shall make the accounting division assessment payments to the Accounting Division Revolving Fund pursuant to sections 81-1110.03 and 81-1110.04 to the Department of Administrative Services no later than August 1 of each year, or in four equal payments to be made no later than August 1, October 1, February 1, and April 1 of each year, at the discretion of the Accounting Administrator of the Department of Administrative Services.

Source: Laws 1995, LB 325, § 3.

81-1110.06 State Purchasing Card Distributive Fund; created; use; investment.

The State Purchasing Card Distributive Fund is created. All rebates received by the state from any purchasing card programs entered into by the State of Nebraska, except for rebates received from separate purchasing card programs entered into solely by the University of Nebraska, shall be credited to the fund. The fund may consist of purchasing card and travel card payments and deposits received from state agencies, boards, commissions, and political subdivisions, plus any rebate revenue received on behalf of the program by the accounting division of the Department of Administrative Services. The fund may be used for the purpose of coordinating and expediting payments to vendors related to any purchasing card programs administered by the accounting division and the required distribution of any rebate revenue, after covering expenses. The fund shall be administered by the Accounting Administrator. The accounting division shall deduct from the total program rebates of any state-sponsored purchasing card program an amount necessary to cover the full cost of operating the purchasing card program. After deducting the full cost of operating the purchasing card program from the total program rebates, with the exception of existing purchasing card programs, the remaining rebate funds shall be distributed on an annual basis by the Accounting Administrator based on a combination of volume performance and speed of pay performance among the following entities: (1) The University of Nebraska; (2) the accounting division, on behalf of the remainder of state government; and (3) any political subdivisions participating in any state-sponsored purchasing card program. The Accounting Administrator is authorized to distribute through the fund or through a vendor contractual agreement the remaining program rebates, after covering expenses. On a monthly basis the accounting division shall administratively transfer all interest earnings credited to the fund to the Accounting Division Revolving Fund within ten days after the end of each month. On an annual basis the accounting

division shall administratively transfer from the fund to the Accounting Division Revolving Fund all rebate revenue to which the accounting division is entitled plus an amount necessary to cover the full cost of operating the purchasing card program. All costs of operating the purchasing card program shall be paid through the Accounting Division Revolving Fund.

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

Source: Laws 2000, LB 1216, § 2.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1110.07 Accounting Division Cash Fund; created; use; investment.

There is hereby created the Accounting Division Cash Fund. The fund shall be administered by the Department of Administrative Services. The fund shall consist of funds transferred from the State Building Renewal Assessment Fund and the Building Renewal Allocation Fund. The Accounting Division Cash Fund shall be used to finance the consolidation, implementation, operation, and migration of the state's existing enterprise resourcing planning (ERP) platform, the human resource management platform, an eProcurement platform, and other financial record-keeping platforms to an off-premise software driven platform or platforms. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2017, LB331, § 15.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1111 Department of Administrative Services; Accounting Administrator; powers; duties; bureaus; created.

(1) Subject to the supervision of the Director of Administrative Services, the Accounting Administrator shall have the authority to prescribe the system of accounts and accounting to be maintained by the state and its departments and agencies, develop necessary accounting policies and procedures, coordinate and approve all proposed financial systems, and manage all accounting matters of the state's central system. There shall be created three separate bureaus to be supervised by the Accounting Administrator: The accounting bureau, the management systems and studies bureau, and the social security administration bureau.

(2) The accounting bureau shall monitor all departments and agencies authorized by the Director of Administrative Services to perform their own preaudits.

(3) For all departments and agencies not authorized by the director to perform their own preaudit, the accounting bureau:

(a) Shall be responsible for the preaudit and control of all vouchers and payrolls equal to or exceeding one thousand five hundred dollars in order to assure the legality of all transactions, to insure that all vouchers for payment

are within the approved budget, and to insure that adequate cash is available for payment;

(b) Shall preaudit all audit-sensitive areas, including, but not limited to:

(i) Employee-related expenses such as expense vouchers, direct-bill lodging and airfare, moving expenses, tuition assistance, and employee recognition programs;

(ii) Expenses pertaining to conferences, including items such as food, lodging, and honorariums; and

(iii) Encumbrance liquidations between bienniums;

(c) May, with the approval of the Accounting Administrator, preaudit and control vouchers and payrolls less than one thousand five hundred dollars and may require additional documentation as necessary in order to reasonably assure the legality of all such transactions, to insure that all such vouchers for payment are within the approved budget, and to insure that adequate cash is available for payment;

(d) Shall require supporting documentation of transactions that are preaudited to be provided with the voucher to the accounting bureau by the department, agency, division, or office whose transaction is being preaudited. Such supporting documentation shall include, but not be limited to, the original invoice, payment request, or other documentation as established by the Accounting Administrator;

(e) May, with the approval of the Accounting Administrator, provide for alternative preaudit and documentation requirements for refunds and state aid payments;

(f) Shall call to the attention of the director all vouchers or payments which seem to be in violation of the laws of the state and to the attention of the director and the budget administrator all vouchers for payments which are inconsistent with the approved budget; and

(g) Shall undertake the writing of all warrants for the department and shall implement in all departments and agencies of state government an effective double entry system of financial and budgetary control accounting for all revenue and expenditures of all departments and agencies of the state, which system shall develop costs by programs, subprograms, activities, or objects of expenditures and shall allow for comparison between budgeted and actual expenditure.

(4) The management systems and studies bureau shall be responsible for systematically reviewing on a regular basis activities of state agencies and departments to determine that adequate internal controls exist within all departments and agencies and to assure that proper accounting methods are employed. The bureau shall receive copies of all audits performed by or for the Auditor of Public Accounts of the financial status and conditions in all state departments and agencies. The bureau shall be available to consult with all governmental departments and agencies in training their staff and developing efficient work flow within such departments and agencies and shall provide such departments and agencies with appropriate accounting reports, summaries, and analyses prepared by the accounting division as are necessary to effectively administer these departments and agencies. The bureau shall establish a system for receiving and disbursing funds associated with any financing agreement.

(5) The social security administration bureau shall be responsible for the administration of social security responsibilities of the state. Its duties, powers, and responsibilities and its staff, equipment, and records shall be subject to the supervision of the Accounting Administrator. The Accounting Administrator shall also be the state social security administrator.

Source: Laws 1965, c. 538, § 11, p. 1697; Laws 1967, c. 593, § 3, p. 2017; Laws 1969, c. 804, § 5, p. 3033; Laws 1979, LB 576, § 6; Laws 1981, LB 381, § 23; Laws 1993, LB 544, § 3; Laws 1995, LB 199, § 1; Laws 1999, LB 432, § 2.

81-1111.01 Director of Administrative Services; preaudits authorized.

For agencies with fewer than seven full-time employees, preaudits shall be conducted by the accounting bureau or by a state agency authorized by the Director of Administrative Services to conduct its own preaudits. The Director of Administrative Services may authorize departments and agencies that have seven or more full-time employees to perform their own preaudits, subject to monitoring by the accounting bureau. The preaudits shall be performed in accordance with the provisions of subdivisions (3)(a) through (f) of section 81-1111.

Source: Laws 1999, LB 432, § 1; Laws 2014, LB974, § 8.

81-1111.02 Repealed. Laws 1988, LB 1079, § 9.

81-1111.03 Repealed. Laws 1988, LB 1079, § 9.

81-1111.04 Department of Administrative Services; Accounting Administrator; administratively establish funds.

(1) The Accounting Administrator may administratively establish cash and revolving funds to (a) account for gifts, bequests, or devises when no cash fund exists and (b) account for specific, one-time, nonfederal sources of revenue.

(2) All cash or revolving funds administratively created by the Accounting Administrator shall exist for a maximum of two fiscal years after the date of establishment. Prior to the end of two fiscal years, the expending agency shall notify the Accounting Administrator of its intentions to (a) lapse the balance of the administrative cash or revolving fund to the General Fund or (b) permanently establish the fund in statute.

(3) In addition, the Accounting Administrator may administratively establish federal funds, trust funds, and distributive funds as necessary.

Source: Laws 1994, LB 1194, § 7.

81-1112 Department of Administrative Services; budget administrator; qualifications; compensation.

The budget division shall be headed by an administrator subject to the supervision of the Director of Administrative Services. The director may appoint as budget administrator any person who has successfully completed a four-year program in an accredited college or university and who has not less than three years experience involving responsibility for the management or control or review of finances or of management, or both. Eight years of responsible experience in the management, review, or control of finances of governmental agencies or of private enterprises may be substituted for the

educational and experience requirements set forth in this section. The compensation of the budget administrator shall be fixed by the director subject to the availability of appropriations. The budget and planning administrator shall have the duties, powers and responsibility to staff and maintain and shall oversee such bureau.

Source: Laws 1965, c. 538, § 12, p. 1698; Laws 1967, c. 593, § 4, p. 2018; Laws 1969, c. 804, § 6, p. 3035.

81-1112.01 Budget division; purpose.

The purpose of the budget division is to assist the Governor in the preparation of the Governor's state budget recommendations and in the administration of the approved state budget.

Source: Laws 1981, LB 381, § 38.

81-1113 Budget division; powers; duties.

The budget division shall prepare the executive budget in accordance with the wishes and policies of the Governor. The budget division shall have the following duties, powers, and responsibilities:

(1) Shall prescribe the forms and procedures to be employed by all departments and agencies of the state in compiling and submitting their individual budget requests and shall set up a budget calendar which shall provide for (a) the date, not later than July 15 of each even-numbered year, for distribution of instructions, (b) the date by which time requests for appropriations by each agency shall be submitted, and (c) the period during which such public hearings as the Governor may elect shall be held for each department and agency. The budget request shall be submitted each even-numbered year no later than the date provided in subsection (1) of section 81-132, shall include the intended receipts and expenditures by programs, subprograms, and activities and such additional information as the administrator may deem appropriate for each fiscal year, including the certification described in subdivision (4) of this section, shall be made upon a biennial basis, and shall include actual receipts and actual expenditures for each fiscal year of the most recently completed biennium and the first year of the current biennium and estimates for the second year of the current biennium and each year of the next ensuing biennium;

(2) Shall prescribe the forms and procedures to be employed by all departments and agencies of the state in compiling and submitting their proposed changes to existing appropriations for the biennium in progress. The budget division shall distribute instructions and forms to all departments and agencies no later than September 15 of each odd-numbered year. Departments and agencies shall submit their proposed changes no later than the date provided in subsection (2) of section 81-132;

(3) Shall work with each governmental department and agency in developing performance standards for each program, subprogram, and activity to measure and evaluate present as well as projected levels of expenditures. The budget division shall also work with the Department of Health and Human Services to develop key goals, benchmarks, and methods of quantification of progress required pursuant to sections 81-3133 to 81-3133.03;

(4)(a) Shall develop a certification form and procedure to be included in each budget request under subdivision (1) of this section through which each department and agency shall certify, for each program or practice it administers, whether such program or practice is an evidence-based program or practice, or, if not, whether such program or practice is reasonably capable of becoming an evidence-based program or practice;

(b) For purposes of this subdivision (4):

(i) Evidence-based means that a program or practice (A) offers a high level of research on effectiveness, determined as a result of multiple rigorous evaluations, such as randomized controlled trials and evaluations that incorporate strong comparison group designs or a single large multisite randomized study and (B) to the extent practicable, has specified procedures that allow for successful replication;

(ii) Program or practice means a function or activity that is sufficiently identifiable as a discrete unit of service; and

(iii) Reasonably capable of becoming an evidence-based program or practice means the program or practice is susceptible to quantifiable benchmarks that measure service delivery, client or customer satisfaction, or efficiency;

(5) Shall, following passage of legislative appropriations, be responsible for the administration of the approved budget through budgetary allotments;

(6) Shall be responsible for a monthly budgetary report for each department and agency showing comparisons between actual expenditures and allotments, which report shall be subject to review by the director and budget administrator; and

(7) Shall be responsible for the authorization of employee positions. Such authorizations shall be based on the following:

(a) A requirement that a sufficient budget program appropriation and salary limitation exist to fully fund all authorized positions;

(b) A requirement that permanent full-time positions which have been vacant for ninety days or more be reviewed and reauthorized prior to being filled. If requested by the budget division, the personnel division of the Department of Administrative Services shall review such vacant position to determine the proper classification for the position;

(c) A requirement that authorized positions accurately reflect legislative intent contained in legislative appropriation and intent bills; and

(d) Other relevant criteria as determined by the budget administrator.

Source: Laws 1965, c. 538, § 13, p. 1698; Laws 1967, c. 594, § 1, p. 2023; Laws 1969, c. 804, § 7, p. 3035; Laws 1981, LB 381, § 24; Laws 1986, LB 258, § 37; Laws 1992, Third Spec. Sess., LB 14, § 9; Laws 1997, LB 269, § 65; Laws 2002, Second Spec. Sess., LB 12, § 3; Laws 2003, LB 8, § 2; Laws 2012, LB949, § 3; Laws 2014, LB974, § 9; Laws 2016, LB1092, § 4.

81-1113.01 State budgets; department and agency budget requests; budget forms and instructions; when distributed; additional forms.

The forms and procedures required pursuant to subdivisions (1) and (2) of section 81-1113 shall only be prepared and distributed after:

(1) The final draft of the proposed budget forms and budget instructions have been provided to the Legislative Fiscal Analyst and an opportunity provided for recommendations from that office;

(2) The budget administrator and Legislative Fiscal Analyst have met and discussed the recommended changes; and

(3) A revised final draft of all proposed forms and instructions has been provided to the Legislative Fiscal Analyst.

If the budget administrator is unable to accommodate any recommended changes, the Legislative Fiscal Analyst shall be allowed to submit additional forms for the collection of information. Such forms shall be included as an attachment to the forms required by the Department of Administrative Services. All such forms shall be completed and submitted as a part of the budget submission and amendment process described in subdivisions (1) and (2) of section 81-1113.

Source: Laws 1978, LB 526, § 4; Laws 2016, LB1092, § 5.

81-1113.02 Repealed. Laws 1996, LB 966, § 4.

81-1114 Department of Administrative Services; building division; powers, duties, and responsibilities.

The building division shall have the following powers, duties, and responsibilities:

(1) Shall prepare, for submittal to the Governor and to the office of the Legislative Fiscal Analyst, analyses of the cost of every desired land and building acquisition, new building construction, either underway or proposed, major repair or remodeling of new, newly acquired, or existing buildings, and each and every structural improvement to land, utilities, roads, walks, and parking lots, costing four hundred thousand dollars or more, but excluding right-of-way projects of the Department of Transportation. The analyses submitted to the Legislative Fiscal Analyst shall be submitted electronically. The Department of Administrative Services shall adjust the dollar amount in this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustment shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, as selected by the department;

(2) Shall record the relationship between the proposed capital facilities and the individual or departmental agencies' operating programs with particular attention to needs of immediate or future operations of the department or agency submitting such plan;

(3) Shall make recommendations to the Governor, the committee of the Legislature which shall from time to time have responsibility for preparing recommendations for appropriations, and the individual department or agency concerned, on the probable costs of such acquisition, construction, repair, or remodeling. The recommendations submitted to the committee shall be submitted electronically; and

(4) Shall require the submission by each department and agency of the state of copies of all written contracts for acquisition, construction, repair, or remodeling, including federal contracts, before such contracts are executed by the executive officer of the state authorized to execute such contracts, and shall

maintain copies of such contracts on file for inspection by the Legislative Fiscal Analyst.

Source: Laws 1965, c. 538, § 14, p. 1699; Laws 1967, c. 594, § 2, p. 2024; Laws 1969, c. 804, § 8, p. 3036; Laws 1981, LB 381, § 25; Laws 1998, LB 1129, § 22; Laws 2003, LB 410, § 10; Laws 2012, LB782, § 185; Laws 2017, LB339, § 288.

81-1114.01 Capital construction project; plan required; contents; revisions required; when; to whom submitted.

Each department and agency of the state prior to submitting a capital construction project request in excess of four hundred thousand dollars shall cause to be prepared a comprehensive capital facilities plan. Such plan shall include, but not be limited to, a projection of future programmatic needs, analysis of existing facilities and the utilization of such facilities, and identification of projects to meet those projected programmatic needs, including addition to, or renovation or replacement of, existing space, parking, streets, and utilities. The comprehensive capital facilities plan shall be updated or revised when a major capital construction project requested for funding is not in compliance with such plan or when revisions in projected programmatic needs would significantly affect the comprehensive capital facilities plan. Such plans and any updates or revisions shall be submitted to the state building division and the Legislative Fiscal Analyst. The plans and any updates or revisions submitted to the Legislative Fiscal Analyst shall be submitted electronically. Such plans and revisions or updates shall be prepared in accordance with rules and regulations adopted and promulgated by the state building division. The Department of Administrative Services shall adjust the dollar amount in this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustment shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, as selected by the department.

Source: Laws 1981, LB 381, § 26; Laws 1998, LB 1129, § 23; Laws 2012, LB782, § 186.

81-1114.02 Capital construction project; state building division; review and comment.

Any state agency, prior to bidding a capital construction project with a total project cost exceeding the limit established by the Department of Administrative Services in accordance with section 81-1114.01, shall submit proposed construction documents to the state building division for review. The state building division shall review the construction documents and submit comments to the budget division, the Legislative Fiscal Analyst, and the affected agencies. The comments submitted to the Legislative Fiscal Analyst shall be submitted electronically. Comments shall include identification of possible cost and design alternatives and a determination whether the construction documents are consistent with approved program statements. The state building division shall, by rules and regulations, establish the elements to be included in the construction documents. Comments and reviews of construction documents shall be completed within thirty days after such documents are submitted to the state building division. No funds shall be expended on actual construction until construction documents have been approved by the state building division. A

copy of the approval or disapproval shall be forwarded to the requesting agency, the budget division, and the Legislative Fiscal Analyst. The copy submitted to the Legislative Fiscal Analyst shall be submitted electronically.

Source: Laws 1981, LB 381, § 27; Laws 2000, LB 654, § 25; Laws 2004, LB 819, § 1; Laws 2012, LB782, § 187.

81-1115 Department of Administrative Services; budget division; budgetary planning; duties; responsibilities.

The budget division shall undertake such tasks of budgetary planning as are presently done by various departments and agencies of state government under the current biennial system of appropriations, and shall have the following duties and responsibilities:

- (1) Coordinate the fiscal plans of all state agencies;
- (2) Develop a long-range framework for program budgeting based on forecasts of revenue and expenditures and review all such forecasts of revenue and expenditures quarterly;
- (3) Compile and publish annually a summary of the operations and trends under all federal programs in which state agencies have participated or might participate and report on the size and desirability of federal grants and the effectiveness of changes and tax laws on the ability of the state to attract industry; and
- (4) Make periodic studies of the policies of other states regarding the levels of services being provided by state agencies in this state in comparison with that of other states.

Source: Laws 1965, c. 538, § 15, p. 1701; Laws 1969, c. 804, § 9, p. 3038.

81-1116 Information management services division; administrator; qualifications; pay.

The information management services division shall be headed by an administrator. Any person who has successfully completed a four-year program at an accredited four-year college or university and who has not less than four years total experience in information management services, of which not less than one year shall have been experience as the supervisor of an information management entity in government or private enterprise and not less than two years shall have been experience as a systems analyst or with principal responsibility for systems development or supervision, or both, may be appointed information management services administrator by the Chief Information Officer. Successful completion of training courses covering the functions, programming, operations, and systems development aspects of information management equipment may be accounted as experience in direct proportion to the number of weeks of course work completed. The rate of pay for the information management services administrator shall be fixed by the Chief Information Officer subject to availability of appropriations. The information management services administrator shall have the power to select and manage such staff and supervise the operation of such equipment as he or she may require.

Source: Laws 1965, c. 518, § 16, p. 1701; Laws 1967, c. 595, § 4, p. 2028; Laws 1967, c. 593, § 5, p. 2019; Laws 1969, c. 804, § 10, p. 3038; Laws 1998, LB 924, § 35; Laws 2006, LB 921, § 3.

81-1116.01 Budget allowance; expend; restriction.

No department, commission, board or agency of state government may spend any money beyond its budget allowance without specific authority from the Legislature.

Source: Laws 1967, c. 367, § 3, p. 959.

81-1116.02 Information management services division; purpose.

The purpose of the information management services division is to provide centralized, coordinated, and efficient information management services to all state agencies and to prevent unnecessary duplication of information management operations and applications in state government.

Source: Laws 1981, LB 381, § 35; Laws 1998, LB 924, § 36.

81-1117 Information management services administrator; powers, duties, and responsibilities; enumerated; restrictions on agency acquisitions; Information Management Revolving Fund; created; use; investment.

(1) As used in this section, unless the context otherwise requires, information management includes, but is not limited to:

(a) Mainframe computers, minicomputers, microprocessors, word processors, and desktop computers;

(b) Any peripheral device to be used with the equipment listed in subdivision (1)(a) of this section for such purposes as data input and output, data storage, or data communications;

(c) Any code or program to control the operation of the equipment or devices listed in subdivision (1)(a) or (1)(b) of this section; and

(d) Employment of professional expertise for computer system design, operations, or program development.

(2) Subject to review and approval by the Chief Information Officer, the information management services administrator shall have the following powers, duties, and responsibilities:

(a) He or she may review the accounting and other records and reporting systems of all divisions within the Department of Administrative Services and within every other department and agency of the state;

(b) He or she shall systematically review the potential application of information management to any work performed outside the information management services division or by any department or agency of the state or any subdivision of any department or agency of the state, and if the costs of mechanizing such work will not exceed present costs or if efficiencies may be achieved, he or she may accept responsibility for the performance of such work. He or she may also review computer applications being used to determine if revision or deletion of computer applications would be beneficial. The findings of reviews made pursuant to this subdivision shall be reported to the Governor and the Legislative Fiscal Analyst. The findings submitted to the Legislative Fiscal Analyst shall be submitted electronically;

(c) He or she may, with the approval of the Chief Information Officer, make such revisions to internal systems for production of accounting and other reports as may be necessary to permit economical undertaking of work to be

performed by the information management services division for any agency or department of the state;

(d) He or she shall organize the information management services division to provide system review, system design, feasibility studies, and machine reviews;

(e) He or she may review the operations of information management installations as may exist in any department or agency of the state and may cause such operations to be merged with those of the information management services division in the event that a cost analysis shows that economic advantage may be achieved. He or she may permit the establishment of departmental or agency information management operations in any department or agency of the state if his or her analysis of feasibility shows a potential economy or a substantial convenience for the state incident to such separate establishment. No state agency shall hire, purchase, lease, or rent any information management item listed in subsection (1) of this section without the written approval of the information management services administrator. All new computer programs developed or acquired for use with information management equipment of any state agency shall be documented according to standards developed or approved by the information management services administrator;

(f) He or she shall prepare a budget in sufficient time in advance of the statutory date for submittal of budget requests by departments and agencies of the state as to permit each department and agency for which services are performed, or are to be performed during the request budget period, to be informed of the cost of maintaining the current fiscal year's production work for inclusion within their respective budget requests;

(g) He or she shall provide for a system of charges for services rendered by the information management services division or the Nebraska Information Technology Commission to any other department or agency of the state when these charges are allocable to a particular project carried on by such department or division. Such standard rate charges shall, as nearly as may be practical, reflect the actual costs incurred in the performance of services for such department or agency. Such system of charges shall be annually reviewed by the Legislature's Committee on Appropriations. Rates planned for the coming fiscal year shall be included in the instructions for completion of budget request forms as annually prepared by the Department of Administrative Services budget division. If rate revisions are required during the fiscal year to reflect changes in the information management services division's operating costs, these revisions shall be announced to state agencies at least thirty days prior to their use in billing these agencies for service. Miscellaneous supplies shall be billed to using agencies at actual cost. Equipment used primarily by one agency for special applications shall be billed to that agency at actual cost. In the event of saturation of the information management services division with the resulting need for contractual support to be furnished by another information management installation, agencies shall be billed at actual cost. The charges received by the department for information management services shall be credited to a fund hereby created which shall be known as the Information Management Revolving Fund. Expenditures shall be made from such fund to finance the operations of the information management services division or the Nebraska Information Technology Commission in accordance with appropriations made by the Legislature. Any money in the Information Management Revolving Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska

State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund;

(h) He or she may provide information management services and technical assistance to any subdivision of government as provided for under the Interlocal Cooperation Act or the Joint Public Agency Act;

(i) He or she shall provide for the centralization of all administrative work, including that of educational institutions, into the information management services division;

(j) He or she shall provide definitions of standards and common data elements, coordinate the collection of data, consolidate data files or data banks, and review and approve or disapprove the establishment of separate data banks; and

(k) He or she shall provide assistance as requested by the Nebraska Information Technology Commission to support the technical panel created in section 86-521.

Each member of the Legislature shall receive an electronic copy of the report required by subdivision (2)(b) of this section by making a request for it to the administrator.

Source: Laws 1965, c. 538, § 17, p. 1703; Laws 1969, c. 804, § 11, p. 3039; Laws 1969, c. 584, § 108, p. 2413; Laws 1975, LB 472, § 1; Laws 1979, LB 560, § 1; Laws 1981, LB 381, § 28; Laws 1995, LB 7, § 118; Laws 1998, LB 924, § 37; Laws 1999, LB 87, § 95; Laws 2002, LB 1105, § 506; Laws 2006, LB 921, § 4; Laws 2012, LB782, § 188; Laws 2024, First Spec. Sess., LB3, § 37.
Effective date August 21, 2024.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Nebraska Capital Expansion Act, see section 72-1269.

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

This section held not applicable to the Board of Regents other officers or agencies. Board of Regents v. Exon, 199 Neb. 146, 256 N.W.2d 330 (1977).
which cannot delegate its constitutional powers and duties to

81-1117.01 Imprest Payroll Distributive Fund; created; use.

The Imprest Payroll Distributive Fund is created. The fund shall be used for the purpose of coordinating and expediting the payment of the salary and wages of the officers and employees of the various departments and agencies of the state. The fund shall be administered by the Accounting Administrator.

Each officer, agency, board, or commission of the state shall prepare its payroll in accordance with policies, procedures, and schedules established by the director.

The director may debit the appropriate programs and funds of each of the agencies, boards, and commissions of the state for the total amount of the payroll based upon the input provided by the agencies and credit the Imprest Payroll Distributive Fund with an identical amount. The director shall make payments from the Imprest Payroll Distributive Fund by warrant or by electronic funds transfer for the net amount of salaries or wages due each individual and to payroll-deduction vendors according to schedules established by the director. The director may make payments from the Imprest Payroll

Distributive Fund to the federal government if required by federal regulations for the federal share of retirement accounts for terminating employees pursuant to section 84-1321. Payroll records provided by the director shall disclose all expenditures and payroll deductions attributable to each payroll.

Source: Laws 1972, LB 1467, § 1; Laws 1984, LB 933, § 16; Laws 1986, LB 930, § 3; Laws 1989, LB 255, § 1; Laws 1995, LB 311, § 1; Laws 2000, LB 1216, § 28.

81-1117.02 Computer file data; release prohibited; written approval for release excepted; public records excepted.

(1) Neither the information management services administrator, the Chief Information Officer, nor any employee of such administrator or officer shall release or permit the release of any data maintained in computer files to any person or persons without the express written approval of both the agency primarily responsible for collection and maintenance of such data and the employee to whom such data pertains, except as provided in subsection (2) of this section.

(2) Any data which is a public record in its original form shall remain a public record when maintained in computer files and shall be provided to the Legislative Fiscal Analyst pursuant to section 50-420 and shall be made available to the Auditor of Public Accounts solely for use in the performance of audits prescribed by law.

Source: Laws 1975, LB 472, § 2; Laws 1979, LB 414, § 4; Laws 1979, LB 193, § 1; Laws 1998, LB 924, § 38; Laws 2006, LB 921, § 5.

81-1117.03 Computer file data; release; violations; penalties.

Any public official or employee who shall violate the provisions of section 81-1117.02 shall be guilty of a Class II misdemeanor and shall be subject to removal from office or discharge in the discretion of the Governor or agency head as appropriate.

Source: Laws 1975, LB 472, § 3; Laws 1977, LB 39, § 304.

81-1117.04 Computer file data; public records defined.

Except as otherwise provided by law, public records shall mean all papers, correspondence, memoranda, accounts, reports, maps, plans, photographs, sound recordings, or other documents, regardless of physical form, including records produced by or for use with electronic or mechanical data processing devices, and which have been or shall be created or received by any agency or its lawful successor or official thereof in the exercise of his office or in the conduct, transaction, or performance of any business, duty, or function pursued in accordance with law, but shall not include library or museum material made or acquired and preserved solely for reference purposes, extra copies of documents preserved only for convenience or reference, and stock of publications and reproduced documents.

Source: Laws 1975, LB 472, § 4.

81-1117.05 State employee; payment of wages; methods authorized.

The Department of Administrative Services may make payments that include, but are not limited to, wages and reimbursable expenses to state employees by

electronic funds transfer or a similar means of direct deposit. For purposes of this section, state employee means any person or officer employed by the state who works a full-time or part-time schedule on an ongoing basis.

Source: Laws 2001, LB 308, § 1; Laws 2009, LB167, § 2.

81-1118 Transferred to section 81-152.

81-1118.01 Transferred to section 81-155.

81-1118.02 Transferred to section 81-157.

81-1118.03 Repealed. Laws 2024, LB461, § 53.

81-1118.04 Repealed. Laws 2024, LB461, § 53.

81-1118.05 Transferred to section 73-804.

81-1118.06 Repealed. Laws 2024, LB461, § 53.

81-1118.07 Transferred to section 81-158.

81-1119 Transferred to section 81-160.

81-1120 Transferred to section 81-153.01.

81-1120.01 Communications system; declaration of legislative purpose.

The Legislature hereby declares that an efficient and reliable communications system is vital to the state during the conduct of regular business of the state and in times of emergency and that substantial economies can be effected by joint use of a consolidated communications system by departments, agencies, and subdivisions of state government. It is, therefore, declared to be the purpose of sections 23-1715, 81-1108.02, 81-1120.01 to 81-1120.03, 81-1120.15 to 81-1120.28, and 81-1423 and the policy of the state to provide for the continual development of an efficient and reliable communications system for joint use by departments, agencies, and subdivisions of state government, to effect maximum practical consolidation and joint use of existing communications facilities and services owned or used by the state, and generally to coordinate all communications functions and activities of state government.

Source: Laws 1967, c. 572, § 1, p. 1879; Laws 1975, LB 427, § 3; Laws 1984, LB 1125, § 4; Laws 1986, LB 965, § 21.

81-1120.02 Terms, defined.

As used in sections 81-1120.01 to 81-1120.29, unless the context otherwise requires:

- (1) Director means the Director of Communications;
- (2) Division means the division of communications of the office of Chief Information Officer;
- (3) Communications system means the total communications facilities and equipment owned, leased, or used by all departments, agencies, and subdivisions of state government; and

(4) Communications means any transmission, emission, or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, radio, optical, or other electromagnetic systems.

Source: Laws 1967, c. 572, § 2, p. 1880; Laws 1971, LB 675, § 3; Laws 1975, LB 427, § 4; Laws 1984, LB 1125, § 5; Laws 1986, LB 965, § 22; Laws 2000, LB 893, § 2; Laws 2006, LB 921, § 6; Laws 2011, LB378, § 26.

81-1120.03 Office of Chief Information Officer; division of communications; creation; Director of Communications; appointment; qualifications.

There is hereby created, within the office of Chief Information Officer, a division of communications to be headed by the Director of Communications. The Chief Information Officer shall appoint as Director of Communications any person who has not less than six years' experience in a position or positions which include responsibility for management, purchase, lease, or control of communications for a private or governmental enterprise. No person shall hold the position of director who is directly or indirectly interested in any communications common carrier or other company engaged in the furnishing of communications services or facilities, but investment in stock of a communications common carrier in an amount determined by the Chief Information Officer to be not significant shall not be considered disqualifying.

Source: Laws 1967, c. 572, § 3, p. 1880; Laws 1971, LB 675, § 4; Laws 1975, LB 427, § 5; Laws 2000, LB 893, § 3; Laws 2006, LB 921, § 7.

81-1120.04 Transferred to section 81-1120.17.

81-1120.05 Transferred to section 81-1120.18.

81-1120.06 Transferred to section 81-1120.19.

81-1120.07 Transferred to section 81-1120.20.

81-1120.08 Transferred to section 81-1120.22.

81-1120.09 Transferred to section 81-1120.23.

81-1120.10 Transferred to section 81-1120.24.

81-1120.11 Transferred to section 81-1120.25.

81-1120.12 Transferred to section 81-1120.26.

81-1120.13 Transferred to section 81-1120.27.

81-1120.14 Transferred to section 81-1120.28.

81-1120.15 Director of Communications; powers, duties, and responsibilities.

The Director of Communications shall have the following powers, duties, and responsibilities:

(1) To provide the Legislature and the Governor technical assistance, advice, and information concerning the financial and administrative operations of the communications systems of all agencies of the state;

(2) To provide the Legislature and the Governor recommendations for dealing with financial, management, and organizational problems affecting the communications systems and services of the state, its departments and agencies. The recommendations submitted to the Legislature shall be submitted electronically;

(3) To make inquiries of the agencies as to their communications charges and prepare cost comparisons to insure that uniformity, efficiency, and equality be achieved within the communications system;

(4) To make recommendations to the agencies pertaining to revisions to internal systems as may be necessary to promote frugality and economy in the communications system; and

(5) To provide services such as system review, system design, feasibility studies, equipment reviews, and for long-range planning and management service within the division of communications.

Source: Laws 1975, LB 427, § 6; Laws 1979, LB 322, § 50; Laws 1981, LB 545, § 33; Laws 2012, LB782, § 189.

81-1120.16 Director of Communications; powers and duties; investigation; report.

It shall be the duty of the director to consult each department, office, board, bureau, commission, or institution in the state for which money is to be appropriated and expended for communications services, equipment, or facilities, including the executive and judicial departments, state colleges, university, and state institutions. The director shall make or cause to be made under his or her supervision an investigation to determine whether the appropriations are being judiciously and economically expended for the purposes for which they were made and shall transmit to the Governor, the Legislative Fiscal Analyst, and the expending agency a complete report of each such investigation. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically. In making such investigations he or she shall, at all reasonable times, have access to the offices of all state departments, boards, bureaus, commissions, and institutions and may, for the purpose of obtaining information as to the operation and communications needs thereof, examine the books, papers, and public records therein, and the agencies shall, through their proper officers, furnish such data, information, or statements as may be requested of them.

Source: Laws 1975, LB 427, § 7; Laws 2006, LB 921, § 8; Laws 2012, LB782, § 190.

81-1120.17 Division of communications; powers and duties.

The division of communications shall have the following duties, powers, and responsibilities:

(1) To coordinate the purchase, lease, and use of communications services equipment and facilities for state government;

(2) To advise departments and agencies of the state and political subdivisions thereof as to systems or methods to be used to meet requirements efficiently and effectively;

(3) To provide assistance as requested by the Nebraska Information Technology Commission to support the technical panel created in section 86-521;

- (4) To consolidate and integrate radio communications systems and services of state agencies so far as practical and to provide for their joint use by the agencies;
- (5) To consolidate telephone and telephone-related activities, so far as practical, and to provide for their joint use by the agencies;
- (6) To assume management responsibility for any consolidated system or service and approve all purchases and contracts for such communications activities;
- (7) To enter into agreements for the mutual support and use of communications services of the agencies and departments of state government and its political subdivisions;
- (8) To provide for the rendering of mutual aid between state government and its political subdivisions and to cooperate with other states and the federal government with respect to the organizing of communications in expediting the carrying out of mutual aid in disasters, emergencies, and civil defense emergencies under the Emergency Management Act;
- (9) To use or acquire communications facilities now owned or operated by any state agency and to compensate such agency when appropriate;
- (10) To standardize policies and procedures for the use of such services in such a manner that communications systems in the domain of public safety or security not be compromised;
- (11) To assume responsibility for the maintenance and repair of state-owned communications facilities so far as practical;
- (12) To coordinate and consolidate maintenance and repair procedures and facilities so far as possible in the light of good business practice and the requirements of the agencies and departments concerned;
- (13) Subject to the conditions provided in section 81-1120.19, to contract with qualified suppliers and communications common carriers for communications facilities or services, including private-line services;
- (14) To apply for, receive, coordinate, and hold or, if appropriate, assist agencies in applying for, receiving, or holding such authorizations, licenses, and allocations of channels and frequencies as are necessary to carry out the purposes of sections 81-1120.01 to 81-1120.03 and 81-1120.15 to 81-1120.28;
- (15) To acquire real estate, equipment, and other property as an agency of the state, subject to the provisions of section 81-1120.19;
- (16) To cooperate with the Nebraska Emergency Management Agency as to its needs for emergency communications services; and
- (17) To insure that communications facilities are not used for any purpose which is contrary to the policy and intent of sections 81-1120.01 to 81-1120.03 and 81-1120.15 to 81-1120.28 or contrary to the laws and agreements under which the facilities are to be utilized.

Source: Laws 1967, c. 572, § 4, p. 1881; R.R.S.1943, § 81-1120.04; Laws 1975, LB 427, § 8; Laws 1996, LB 43, § 50; Laws 1998, LB 924, § 39; Laws 2002, LB 1105, § 507.

Cross References

Emergency Management Act, see section 81-829.36.

81-1120.18 Division of communications; form advisory boards; expenses.

The division of communications may form temporary advisory boards to provide advice in the development, management, administration, and operation of a consolidated communications system to meet the communications requirements of all departments and agencies of state government. Board members shall be selected by the division and shall receive no compensation for duties performed as members of a board, but shall be reimbursed for expenses incurred while engaged in the performance of their duties under the provisions of sections 81-1108.02, 81-1120.01 to 81-1120.03, 81-1120.15 to 81-1120.28, and 81-1423 as provided in sections 81-1174 to 81-1177.

Source: Laws 1967, c. 572, § 5, p. 1882; R.R.S.1943, § 81-1120.05; Laws 1975, LB 427, § 9; Laws 1981, LB 204, § 190; Laws 1981, LB 381, § 32; Laws 1984, LB 1125, § 6; Laws 1986, LB 965, § 23; Laws 2020, LB381, § 110.

81-1120.19 Division of communications; powers; limitation.

The division shall have authority to purchase or lease communications facilities, services, or channels on terms which are for the best interests of the State of Nebraska. In making the decision as to what proposal is for the best interests of the state, the decision of the division shall be based upon, but not necessarily limited to, (1) the total cost to the state, computed in accordance with accepted governmental cost-accounting procedures taking into account taxes to be paid or foregone, interest rates, and obsolescence; (2) the quality of the service offered; (3) the comprehensiveness of the proposed facilities or plan; (4) the financial responsibility of the supplier or carrier submitting the proposal; (5) the repair and maintenance capabilities of the supplier or carrier; (6) the experience as a communications carrier or supplier, as applicable; and (7) the alternate methods or facilities available. The powers conferred by this section shall be subject to the condition that, except for existing state-owned facilities, the division shall obtain all telecommunications service as defined in section 86-121 from telecommunications carriers that are certificated or permitted by, or registered with, the Public Service Commission for any area in which such services are rendered. Any purchase or lease, except from such telecommunications carriers, made by the division shall be made through the materiel division of the Department of Administrative Services pursuant to the functions, powers, and duties of such division.

Source: Laws 1967, c. 572, § 6, p. 1883; Laws 1971, LB 675, § 5; R.R.S.1943, § 81-1120.06; Laws 1975, LB 427, § 10; Laws 2002, LB 1105, § 508; Laws 2003, LB 112, § 1.

Cross References

Telecommunications carriers, certification and permit requirements, see sections 86-128 and 86-129.

81-1120.20 Joint use of communications; departments; agencies; cooperation.

Personnel of all departments, offices, and agencies of state government shall cooperate and assist to the maximum extent possible in the consolidation, redistribution, and joint use of communications systems and services used by and under the direction of such departments or agencies and shall coordinate

all communications services or facilities procurement through the Director of Communications.

Source: Laws 1967, c. 572, § 7, p. 1883; R.R.S.1943, § 81-1120.07; Laws 1975, LB 427, § 11.

81-1120.21 Repealed. Laws 1994, LB 948, § 1.

81-1120.22 Director of Communications; develop system of billings and charges; payment; deposit.

The Director of Communications shall develop a system of equitable billings and charges for communications services provided in any consolidated or joint-use system of communications. Such system of charges shall reflect, as nearly as may be practical, the actual share of costs incurred on behalf of or for services to each department, agency, or political subdivision provided communications services. Using agencies shall pay for such services out of appropriated or available funds. Beginning July 1, 2011, all payments shall be credited to the Communications Revolving Fund. Beginning July 1, 2011, all collections for payment of telephone expenses shall be credited to the Communications Revolving Fund.

Source: Laws 1967, c. 572, § 8, p. 1883; Laws 1969, c. 584, § 109, p. 2416; Laws 1973, LB 431, § 1; Laws 1974, LB 1048, § 42; R.R.S.1943, § 81-1120.08; Laws 1975, LB 427, § 13; Laws 1995, LB 7, § 120; Laws 2011, LB378, § 27; Laws 2017, LB3, § 1.

81-1120.23 Repealed. Laws 2017, LB3, § 3.

81-1120.24 Nebraska educational television network; exempt from sections; when.

Sections 23-1715, 81-1108.02, 81-1120.01 to 81-1120.03, 81-1120.15 to 81-1120.28, and 81-1423 shall not apply to the Nebraska educational television network except for such services or assistance as may be mutually beneficial and agreed upon by and between the division of communications and the Nebraska Educational Television Commission. Under conditions of emergency declared by the Governor, the communications resources of the Nebraska educational television network shall be coordinated with the communications system, as directed by the Governor, so as to provide full use of available services in the rendering of public assistance and providing aid and protection to life and property.

Source: Laws 1967, c. 572, § 10, p. 1884; Laws 1971, LB 675, § 7; R.R.S.1943, § 81-1120.10; Laws 1975, LB 427, § 15.

81-1120.25 Emergency; Governor; direct assumption of control.

In the event of an emergency, the Governor may direct the assumption of control over all or part of the communications system pursuant to the Emergency Management Act.

Source: Laws 1967, c. 572, § 11, p. 1884; R.R.S.1943, § 81-1120.11; Laws 1975, LB 427, § 16; Laws 1996, LB 43, § 51.

Cross References

Emergency Management Act, see section 81-829.36.

81-1120.26 Director of Communications; state or political subdivision; gifts, property; accept; purpose; procedure.

The Director of Communications is hereby authorized to receive gifts, contributions, property and equipment from public or private sources to be utilized in providing communications services, and to participate with the federal government in carrying out programs for communications services within the State of Nebraska. Whenever the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, communications services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of communications system objectives, the state, acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its executive officer or governing body, may accept such offer and upon such acceptance the Governor or executive officer or governing body of such political subdivision may authorize any officer of the state or such political subdivision to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer and rules and regulations, if any, of the agency making the offer.

Source: Laws 1967, c. 572, § 12, p. 1884; R.R.S.1943, § 81-1120.12; Laws 1975, LB 427, § 17.

81-1120.27 Telecommunications system; uses; member of Legislature; long-distance calls; designation as sensitive or confidential in nature; effect.

(1) The facilities of the state's telecommunications systems are provided for the conduct of state business. In addition, the state's telecommunications systems, cellular telephones, electronic handheld devices, or computers may be used by state employees and officials for emails, text messaging, local calls, and long-distance calls to children at home, teachers, doctors, day care centers, baby-sitters, family members, or others to inform them of unexpected schedule changes, and for other essential personal business. Any such use for essential personal business shall be kept to a minimum and shall not interfere with the conduct of state business.

(2) A member of the Legislature, at his or her own sole discretion, may designate any long-distance call as sensitive or confidential in nature. If a long-distance call is designated as sensitive or confidential in nature, any long-distance call record used in an audit shall contain only the date the long-distance call was made. In no case shall the person conducting the audit have access to a long-distance call number designated as sensitive or confidential in nature by the member without the written consent of the member. No calls made to or by a member of the Legislature which are sensitive or confidential in nature shall be required to be disclosed except that such calls shall be so designated by the member, and only such designation shall be made available to a person conducting an audit.

For purposes of this subsection, sensitive or confidential in nature shall mean that either the member of the Legislature or the caller would reasonably expect that the nature or the content of the call would not be disclosed to another person without the consent of the member and the caller.

Source: Laws 1967, c. 572, § 13, p. 1885; R.R.S.1943, § 81-1120.13; Laws 1975, LB 427, § 18; Laws 1992, LB 722, § 3; Laws 1993, LB 579, § 3; Laws 2009, LB626, § 6; Laws 2024, LB51, § 1.
Effective date July 19, 2024.

81-1120.28 Communications system; not to function as news agency; information; privileged; exceptions.

The communications system and the director shall not function as a public information or news agency. Communications transmitted on or through the communications system shall be the privileged information of the sender and receiver; *Provided*, that this shall not prohibit the sender or receiver from releasing to others or to the public such information; *and provided further*, that in the event of an emergency, the Governor shall have the power to direct release of such information as he deems in the best interests of the state.

Source: Laws 1967, c. 572, § 14, p. 1885; R.R.S.1943, § 81-1120.14; Laws 1975, LB 427, § 19.

81-1120.29 Communications Revolving Fund; established; use; investment.

There is hereby established a revolving fund to be known as the Communications Revolving Fund. Beginning July 1, 2011, appropriations made to the division of communications of the office of Chief Information Officer for the purposes of sections 81-1120.01 to 81-1120.28 shall be credited to the fund. Beginning July 1, 2011, all funds received under such sections and all funds received for communications services provided to any agency, department, political subdivision, or other user shall be credited to the fund. The division shall, under policies and procedures established by the director, expend funds from time to time credited to the fund for the communications purposes enumerated in such sections. Any money in the Communications Revolving Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 2011, LB378, § 29; Laws 2024, First Spec. Sess., LB3, § 38. Effective date August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1120.30 Repealed. Laws 1986, LB 965, § 26.

81-1120.31 Repealed. Laws 1986, LB 965, § 26.

81-1120.32 Repealed. Laws 2000, LB 654, § 57.

81-1120.33 Repealed. Laws 2000, LB 654, § 57.

81-1120.34 Repealed. Laws 2000, LB 654, § 57.

81-1120.35 Transferred to section 86-551.

81-1120.36 Transferred to section 86-552.

81-1120.37 Transferred to section 86-562.

81-1120.38 Transferred to section 86-563.

81-1120.39 Repealed. Laws 2000, LB 654, § 57.

81-1120.40 Transferred to section 86-567.

81-1121 Warrants; preparation and issuance; funds transfer systems; payment by mistake; adjustment.

(1)(a) The Director of Administrative Services shall have power to develop and implement a system of warrant preparation and issuance in accordance with acceptable accounting and internal control safeguards and by use of such mechanical means as may be most economical.

(b) Warrant or state warrant shall include an order drawn by the director upon the State Treasurer, directing the latter to pay a specified amount to a specified payee by the use of a dual signature negotiable instrument as provided for in subsections (2) and (3) of this section, electronic funds transfer system, telephonic funds transfer system, electric funds transfer system, funds transfers as provided for in article 4A, Uniform Commercial Code, mechanical funds transfer system, or other funds transfer system established by the director and the State Treasurer. The warrant, when it is an order drawn by the director upon the State Treasurer directing the latter to pay a specified amount to a specified payee by the use of a dual signature negotiable instrument as provided for in subsections (2) and (3) of this section, shall affect the state's cash balance in the bank when redeemed by the State Treasurer, not when cashed by a financial institution.

(2) The director shall sign each warrant or shall cause each warrant to be signed in his or her behalf either personally, by delegation of authority, or by facsimile signature as will assure the most economical, timely, and practical means for making payments from the state treasury and which means provides the most acceptable safeguarding of public funds. The signature of the director shall signify that the payment intended by a warrant bearing such signature is proper under the appropriate laws of the state.

(3) The State Treasurer shall countersign all warrants issued by the director.

(4) The State Treasurer shall make such arrangements for facsimile signature of warrants as will assure the most economical, timely, and practical means for making payments from the state treasury.

(5) The director and the State Treasurer may establish and operate an electronic funds transfer system, telephonic funds transfer system, electric funds transfer system, funds transfers as provided for in article 4A, Uniform Commercial Code, mechanical funds transfer system, or other funds transfer system established by the director and the State Treasurer for the payment of funds from and the deposit of receipts into the state treasury. Any state agency that wishes to establish and operate such a system shall jointly establish the procedures necessary to implement such a system with the cooperation of the director and the State Treasurer. The system shall be designed to be compatible with state accounting procedures. Such a system as established by the director shall employ internal control safeguards and after meeting such safeguards shall be deemed to satisfy any signature requirements. The use of an electronic funds transfer system, telephonic funds transfer system, electric funds transfer system, funds transfers as provided for in article 4A, Uniform Commercial Code, mechanical funds transfer system, or other funds transfer system established by the director and the State Treasurer or any state agency shall not create any rights that would not have been created had an order, drawn by the director upon the State Treasurer directing the latter to pay a specified amount to a specified payee by the use of a dual signature negotiable instrument as

provided for in subsections (2) and (3) of this section, been used as the payment medium.

(6) Whenever it is ascertained that by mistake or otherwise any county treasurer or other person has paid into the state treasury any sum not due the state, the director shall refund to such county treasurer or other person the amount so paid. Such refund shall be carried on the books of the state as an adjustment to income and not as an expenditure or disbursement.

(7) Whenever it is ascertained that by mistake or otherwise the State of Nebraska or any of its departments, agencies, or officers shall have caused to be made a disbursement which for any reason is refunded to the state, the amount so disbursed and refunded to the state shall be credited to the fund and account from which the disbursement was made as an adjustment of expenditures and disbursements and not as a receipt. Such credited refund shall be considered part of the original appropriation to the department or agency and to the appropriate program and may be expended therefrom without further or additional appropriation. When a refund to the state or any of its departments or agencies is related to a transaction which occurred during a prior fiscal period, the refund shall be credited to the unappropriated surplus account of the fund from which the disbursement was originally made, except that (a) medicaid refunds or rebates for (i) pharmaceuticals, (ii) third-party liability recoveries, and (iii) surveillance and utilization reviews which have occurred during a prior fiscal period shall be treated as an adjustment to expenditures in the year in which the refund or rebate is received and (b) reimbursement to the State of Nebraska from other member states operating in accordance with the Emergency Management Assistance Compact shall be credited as receipts to the Governor's Emergency Cash Fund.

Source: Laws 1965, c. 538, § 21, p. 1709; Laws 1989, LB 546, § 1; Laws 1993, LB 236, § 1; Laws 2001, LB 257, § 2; Laws 2018, LB945, § 19.

81-1122 Repealed. Laws 1995, LB 15, § 6.

81-1123 Repealed. Laws 1985, LB 12, § 1.

81-1124 Repealed. Laws 1985, LB 12, § 1.

81-1125 Repealed. Laws 1985, LB 12, § 1.

81-1125.01 Director of Administrative Services; reports and statements required; to whom made.

It shall be the duty of the Director of Administrative Services to digest, prepare, and report to the Governor, the Tax Commissioner, the Clerk of the Legislature, and the Legislative Fiscal Analyst, at least twenty days before the commencement of each regular session of the Legislature:

(1) The Annual Budgetary Report showing the condition of the treasury, and the amount of the expenditures for the last fiscal year;

(2) The Comprehensive Annual Financial Report showing fully all liabilities and resources of the state; and

(3) Such plans as he or she may deem expedient for (a) the support of public credit, (b) lessening the public expenses, (c) using the public money to the best advantage, (d) promoting frugality and economy in public offices, and generally

for the better management and more perfect understanding of the fiscal affairs of the state, and (e) securing uniformity and efficiency in the levying and collecting of taxes, systematizing the work to be done by officers having duties to perform under the revenue law.

The reports submitted to the Legislature shall be submitted electronically. Each member of the Legislature shall receive an electronic copy of the reports required by this section by making a request for it to the director.

Source: R.S.1866, c. 4, § 3, p. 19; R.S.1913, § 5545; C.S.1922, § 4847; C.S.1929, § 84-303; R.S.1943, § 84-303; Laws 1965, c. 459, § 24, p. 1464; Laws 1979, LB 322, § 51; Laws 2012, LB782, § 191; Laws 2014, LB974, § 10.

81-1126 Repealed. Laws 2016, LB978, § 5.

81-1127 Repealed. Laws 2016, LB978, § 5.

81-1128 Repealed. Laws 2016, LB978, § 5.

81-1129 Repealed. Laws 2016, LB978, § 5.

81-1130 Repealed. Laws 1976, LB 442, § 10.

81-1131 Repealed. Laws 1986, LB 1080, § 1.

81-1132 Repealed. Laws 1986, LB 1080, § 1.

81-1133 Repealed. Laws 1986, LB 1080, § 1.

81-1134 Repealed. Laws 1986, LB 1080, § 1.

81-1135 Repealed. Laws 1986, LB 1080, § 1.

81-1136 Repealed. Laws 1985, LB 421, § 6.

81-1137 Repealed. Laws 1986, LB 1080, § 1.

81-1138 Repealed. Laws 1986, LB 1080, § 1.

81-1139 Public Works and Economic Act; acceptance by State of Nebraska; state agencies, participate in excess property program.

(1) The State of Nebraska hereby assents to the provisions of section 514 of the Public Works and Economic Act of 1965, as amended, 42 U.S.C. 3193, and to 13 C.F.R. part 570, and authorizes the various state agencies of the State of Nebraska to participate in the excess property program administered pursuant to such act and regulations.

(2) In accordance with the authorization granted in subsection (1) of this section, each such state agency is authorized to procure and maintain, at its own cost, public bodily injury liability and public property damage liability insurance as required by such act and regulations and pursuant to the obligations and limits established in the administration of the excess property program. Such insurance shall be purchased from existing appropriations of the participating state agency.

Source: Laws 1976, LB 998, § 1.

81-1139.01 Stone Office Building; Department of Administrative Services; Department of Health and Human Services; limitations.

Until June 30, 1993, the Department of Administrative Services shall be limited to the same rental rate on the Stone Office Building at the Norfolk Regional Center as existed on January 1, 1992. The Department of Health and Human Services shall be limited to reimbursement from the counties maintaining office space in the Stone Office Building pursuant to section 68-130 in the same amount such counties paid for rental of such space on January 1, 1992.

Source: Laws 1992, LB 1241, § 2; Laws 1996, LB 1044, § 865; Laws 2007, LB296, § 754.

(b) STATE OFFICE WASTEPAPER RECYCLING

81-1140 Repealed. Laws 1986, LB 380, § 7.

81-1140.01 Transferred to section 81-1644.

81-1140.02 Transferred to section 81-1643.

81-1140.03 Transferred to section 81-1645.

81-1140.04 Transferred to section 81-1646.

81-1140.05 Transferred to section 81-1647.

81-1140.06 Transferred to section 81-1648.

81-1141 Repealed. Laws 1986, LB 380, § 7.

81-1142 Repealed. Laws 1986, LB 380, § 7.

81-1143 Repealed. Laws 1986, LB 380, § 7.

81-1144 Repealed. Laws 1986, LB 380, § 7.

81-1145 Repealed. Laws 1986, LB 380, § 7.

81-1146 Repealed. Laws 1986, LB 380, § 7.

81-1147 Repealed. Laws 1986, LB 380, § 7.

81-1148 Repealed. Laws 1986, LB 380, § 7.

81-1149 Repealed. Laws 1986, LB 380, § 7.

81-1150 Repealed. Laws 1986, LB 380, § 7.

81-1151 Repealed. Laws 1986, LB 380, § 7.

81-1152 Repealed. Laws 1986, LB 380, § 7.

81-1153 Repealed. Laws 1986, LB 380, § 7.

81-1154 Repealed. Laws 1986, LB 380, § 7.

81-1155 Repealed. Laws 1986, LB 380, § 7.

81-1156 Repealed. Laws 1986, LB 380, § 7.

81-1157 Repealed. Laws 1986, LB 380, § 7.

81-1158 Repealed. Laws 1986, LB 380, § 7.

81-1159 Repealed. Laws 1986, LB 380, § 7.

81-1160 Repealed. Laws 1986, LB 380, § 7.

81-1161 Repealed. Laws 1986, LB 380, § 7.

(c) FORMS MANAGEMENT PROGRAM

81-1162 Repealed. Laws 2007, LB 256, § 17.

81-1163 Repealed. Laws 2007, LB 256, § 17.

81-1164 Repealed. Laws 2007, LB 256, § 17.

81-1165 Repealed. Laws 2007, LB 256, § 17.

81-1166 Repealed. Laws 2007, LB 256, § 17.

81-1167 Repealed. Laws 2007, LB 256, § 17.

81-1168 Repealed. Laws 2007, LB 256, § 17.

81-1169 Repealed. Laws 2007, LB 256, § 17.

(d) REQUESTS FOR PAYMENTS FROM THE STATE

81-1170 Transferred to section 77-2106.03.

81-1170.01 Requests; examination and adjustment by department; warrants for mileage.

All requests of whatever nature upon the treasury of this state, before any warrant is drawn for the payment of the same, shall be examined, adjusted, and approved by the Department of Administrative Services. All such requests shall be presented to the Director of Administrative Services with such documentation as required in the Nebraska Accounting System Manual on file with the Clerk of the Legislature and shall be audited and settled within two years after the request accrues. No warrants shall be drawn for any request until an appropriation has been made therefor. No warrant for any request for payment or reimbursement of any mileage or other traveling expense shall be issued unless the same is computed strictly in accordance with sections 81-1174 to 81-1177 except as otherwise provided in section 55-157.

Source: Laws 1877, § 1, p. 202; R.S.1913, § 6680; C.S.1922, § 6217; C.S.1929, § 77-2606; Laws 1933, c. 96, § 14, p. 394; Laws 1941, c. 180, § 5, p. 703; C.S.Supp.,1941, § 77-2606; R.S.1943, § 77-2406; Laws 1965, c. 538, § 26, p. 1714; R.S.1943, (1986), § 77-2406; Laws 1988, LB 864, § 14; Laws 2012, LB1141, § 2.

Requests need not be made under this section before filing suit in retirement benefits controversies. *Livengood v. Nebraska State Patrol Ret. Sys.*, 273 Neb. 247, 729 N.W.2d 55 (2007).

A court may refuse to enter a declaratory judgment on the validity of an administrative rule when the petition essentially presents a claim against the state for money. *Millard School*

District v. State Department of Education, 202 Neb. 707, 277 N.W.2d 71 (1979).

Order disallowing claim can be reviewed only by appeal. *Pickus v. State*, 115 Neb. 869, 215 N.W. 129 (1927).

Under former law, auditor could be compelled by mandamus to pass on claim and record action. *State ex rel. Society of*

Home for Friendless v. Cornell, 56 Neb. 143, 76 N.W. 459 (1898).

Under former law, Auditor of Public Accounts acted in ministerial capacity in issuing warrants in satisfaction of claims. State ex rel. Ansley v. Weston, 5 Neb. Unof. 576, 99 N.W. 520 (1904).

81-1170.02 Requests; second presentation prohibited.

No request which has been once presented to the Department of Administrative Services and has been disallowed in whole or in part shall ever be again presented to such office or in any manner acted upon by it but shall be forever barred.

Source: Laws 1877, § 4, p. 203; R.S.1913, § 6683; C.S.1922, § 6220; C.S.1929, § 77-2609; R.S.1943, § 77-2409; Laws 1965, c. 538, § 27, p. 1714; R.S.1943, (1986), § 77-2409; Laws 1988, LB 864, § 15.

81-1170.03 Request; allowance in part; issuance of warrant.

When a request has been in part allowed by the Department of Administrative Services, a warrant shall be drawn as in other cases in which the whole request is allowed.

Source: Laws 1877, § 5, p. 203; R.S.1913, § 6684; C.S.1922, § 6221; C.S.1929, § 77-2610; R.S.1943, § 77-2410; R.S.1943, (1986), § 77-2410; Laws 1988, LB 864, § 16.

State warrant is not negotiable instrument. Bartley v. State, 53 Neb. 310, 73 N.W. 744 (1898).

81-1170.04 Request for payment; form of vouchers.

The Director of Administrative Services shall prepare blank forms of vouchers for use in all the state's departments and for the use of all manner of requesters to the state who receive their pay by warrants drawn by the director upon the State Treasurer, excepting requests examined, approved, and certified to the director by the Board of Regents of the University of Nebraska, as provided by law. The vouchers shall be issued in original, duplicate, or triplicate forms as the necessities of the special institution may require.

Source: Laws 1895, c. 65, § 1, p. 234; Laws 1897, c. 73, § 1, p. 332; R.S.1913, § 6686; C.S.1922, § 6223; C.S.1929, § 77-2612; R.S. 1943, § 77-2412; Laws 1984, LB 933, § 9; R.S.1943, (1986), § 77-2412; Laws 1988, LB 864, § 17.

Statute providing for refund of excessive grain inspection fees is valid where it requires statutory procedure for presentation, examination and payment of claims to be followed. Bollen v. Price, 129 Neb. 342, 261 N.W. 689 (1935).

Section applies to claim for fixed salary of clerk. State ex rel. Simons v. Cornell, 51 Neb. 553, 71 N.W. 300 (1897).

Section applies to claims against state university. State ex rel. Board of Regents v. Moore, 46 Neb. 373, 64 N.W. 975 (1895).

81-1170.05 False statement; penalty.

Any person making any false statement as to any material thing in a request for payment or reimbursement shall be deemed guilty of perjury and shall be punished accordingly.

Source: Laws 1895, c. 65, § 5, p. 236; R.S.1913, § 6690; C.S.1922, § 6227; C.S.1929, § 77-2616; R.S.1943, § 77-2416; Laws 1953, c. 285, § 2, p. 923; R.S.1943, (1986), § 77-2416; Laws 1988, LB 864, § 18.

81-1171 Debt or request; treatment as setoff; presentation to director; required.

In all suits brought in behalf of the state, no debt or request for payment or reimbursement shall be allowed against the state as a setoff unless it has been exhibited to the Director of Administrative Services and allowed or disallowed by him or her except only in cases when it is proved to the satisfaction of the court that the defendant at the time of the trial is in possession of vouchers which he or she could not produce to the director or that he or she was prevented from exhibiting the requests to the director by absence from the state, sickness, or unavoidable accident. The director shall in no case audit a request or setoff which is not provided by law.

Source: R.S.1866, c. 4, § 6, p. 22; R.S.1913, § 5548; C.S.1922, § 4850; C.S.1929, § 84-306; Laws 1933, c. 96, § 22, p. 399; Laws 1941, c. 180, § 10, p. 706; C.S.Supp.,1941, § 84-306; R.S.1943, § 84-306; Laws 1945, c. 253, § 1, p. 790; Laws 1949, c. 286, § 2, p. 985; Laws 1949, c. 243, § 4(5), p. 662; R.S.1943, (1981), § 84-306.04; Laws 1988, LB 864, § 59.

81-1172 Repealed. Laws 1988, LB 864, § 72.

81-1173 Repealed. Laws 1988, LB 864, § 72.

(e) PAYMENT OF EXPENSES

81-1174 Reimbursement for expenses; request; contents; automobile; airplane; statement required; receipts; limitation.

(1) Whenever any state officer, state employee, or member of any commission, council, committee, or board of the state is seeking reimbursement for expenses incurred by him or her in the line of duty, he or she shall be required to present a request for payment or reimbursement to the Director of Administrative Services not later than sixty days after the final day on which expenses were incurred for which reimbursement is sought.

(2)(a) Each request for reimbursement of travel and lodging expenses shall be fully itemized, including the amount, date, place, and essential character of the expense incurred.

(b) Except as otherwise provided by subdivision (c) of this subsection, section 50-415, or Supreme Court rule, each request for any meal expense incurred during travel status shall be paid or reimbursed pursuant to a percentage of the per diem rates of the federal General Services Administration for travel within the contiguous United States, the United States Department of Defense for travel within Alaska, Hawaii, or a United States territory or possession, and the United States Department of State for foreign travel, as determined by and in accordance with policies established by the Director of Administrative Services. Such percentage shall not exceed one hundred percent nor be less than sixty percent of the federal per diem rate. Any meal expense charged directly to and paid for by the state shall be identified on the request for reimbursement and deducted from the per diem based on the percentage established for the meal provided.

(c) A member of the Nebraska State Patrol shall be reimbursed one hundred percent of the per diem rate established in subdivision (b) of this subsection, except that a member serving on a detail in executive protection shall be reimbursed in full for actual meal expenses incurred by the member if the expenses exceed one hundred percent of the established per diem rate.

(3) When reimbursement is requested for mileage by automobile, air travel by commercial carrier, air travel in airplanes chartered by the department or agency, or air travel by personally rented airplane, the points between which such travel occurred, the times of arrival and departure, and the necessity and purpose of such travel shall be stated on such request. When reimbursement is requested for mileage by automobile, the motor vehicle license plate number, the total miles traveled, and the rate per mile being requested shall also be shown on each request.

(4) The Accounting Administrator may require less supporting detail for requests covered in this section but shall not impose reporting requirements which exceed those listed unless specifically authorized by other provisions of law. No request shall be submitted by an individual for an expense when such expense has been paid by the agency or department concerned.

(5) When reimbursement for expenses incurred in air travel by privately owned airplane is requested, the cost of operating the airplane at rates per mile as established by the Department of Administrative Services shall be shown on such request. Travel by privately owned airplane or personally rented airplane shall only be authorized when it is more economical than surface transportation or will result in a substantial savings of expense or productive time.

(6) The statement of expenses shall be duly verified and supported by receipts for all of such expenditures for which reimbursement is requested except for (a) items reimbursed through a per diem payment and (b) immaterial items identified by the director.

(7) No charge for mileage shall be allowed when such mileage accrues while using an automobile owned by the State of Nebraska.

(8) No personal maintenance expenses shall be allowed to any state officer, state employee, or member of any commission, council, committee, or board of the state when such expenses are incurred in the city or village in which the residence or primary work location of such individual is located, except that individuals required to attend official functions, conferences, or hearings within such location, not to include normal day-to-day operations of the department, agency, commission, council, committee, or board, may be paid or reimbursed in accordance with policies established by the Director of Administrative Services. The approval to attend a function, conference, or hearing shall be obtained from the director of the department, agency, commission, council, committee, or board prior to an individual's attendance at such function, conference, or hearing.

(9) Nothing in this section shall be construed to prohibit the furnishing of coffee, tea, and any similar beverage by the Legislature or the Legislative Council to its employees or guests.

Source: Laws 1941, c. 180, § 10, p. 706; C.S.Supp.,1941, § 84-306; R.S.1943, § 84-306; Laws 1945, c. 253, § 1, p. 790; Laws 1949, c. 286, § 2, p. 985; Laws 1949, c. 243, § 4(2), p. 660; Laws 1965, c. 568, § 1, p. 1854; Laws 1977, LB 365, § 1; Laws 1978, LB 869, § 1; Laws 1979, LB 576, § 7; Laws 1979, LB 578, § 1; Laws 1984, LB 663, § 1; Laws 1985, LB 413, § 1; R.S.Supp.,1986, § 84-306.01; Laws 1988, LB 864, § 60; Laws 1999, LB 32, § 2; Laws 2003, LB 292, § 17; Laws 2009, LB533, § 1; Laws 2020, LB381, § 111; Laws 2022, LB964, § 1.

81-1175 Reimbursement for expenses; vouchers; written authorization; exceptions.

In examining the vouchers, bills, and requests for payment or reimbursement as provided for in section 81-1174, no such voucher, bill, or request for travel expenses shall be approved unless written authorization for the same has been given by the (1) director, deputy director, or other titular head of the several state administrative departments, (2) elective or appointive state officer, (3) chairperson of a state commission, council, committee, or board, or (4) titular head or proper disbursing officer of any other state expending agency, including the University of Nebraska, state colleges, and state institutions, before such traveling expenses are incurred, except that such prior authority need not be obtained by peace officers of the State of Nebraska.

Source: Laws 1933, c. 96, § 22, p. 399; Laws 1941, c. 180, § 10, p. 706; C.S.Supp.,1941, § 84-306; R.S.1943, § 84-306; Laws 1945, c. 253, § 1, p. 790; Laws 1949, c. 286, § 2, p. 985; Laws 1949, c. 243, § 4(3), p. 661; Laws 1965, c. 568, § 2, p. 1856; Laws 1979, LB 576, § 8; R.S.1943, (1981), § 84-306.02; Laws 1988, LB 864, § 61.

81-1176 Mileage; rates; how computed; adjustments; application.

(1) If a trip or trips included in a request for payment or reimbursement filed under sections 81-1174 and 81-1175 are made by personal automobile or otherwise, only one mileage request shall be allowed for each mile actually and necessarily traveled in each calendar month by the most direct route regardless of the fact that one or more persons are transported in the same motor vehicle. Reimbursement on such requests shall be computed based on the rate established by the Department of Administrative Services. The department may establish different rates based on whether the personal automobile usage is at the convenience of the agency involved or at the convenience of the state officer or employee, as previously agreed upon by the officer or employee and the agency involved. Funds expended for parking may be requested in addition to mileage.

(2) The payment of mileage shall be limited to the actual cost of travel at the rates established in subsection (1) of this section or the cost of commercial transportation, whichever is less. Savings of productive time shall be taken into consideration when making the comparison. No additional rate of mileage shall be allowed to state inspectors or others who carry state equipment by motor vehicle regardless of the weight thereof.

(3) Any future adjustments made to the reimbursement rate provided in subsection (1) of this section shall be deemed to apply to all provisions of law which refer to this section for the computation of mileage.

Source: Laws 1933, c. 96, § 22, p. 399; Laws 1941, c. 180, § 10, p. 706; C.S.Supp.,1941, § 84-306; R.S.1943, § 84-306; Laws 1945, c. 253, § 1, p. 790; Laws 1949, c. 286, § 2, p. 985; Laws 1949, c. 243, § 4(4), p. 661; Laws 1959, c. 440, § 2, p. 1481; Laws 1965, c. 568, § 3, p. 1856; Laws 1967, c. 592, § 2, p. 2012; Laws 1972, LB 859, § 1; Laws 1972, LB 1318, § 1; Laws 1973, LB 338, § 3; Laws 1974, LB 895, § 1; Laws 1975, LB 27, § 1; Laws 1978, LB 869,

§ 2; Laws 1979, LB 576, § 9; Laws 1980, LB 615, § 6; Laws 1981, LB 204, § 212; R.S.1943, (1981), § 84-306.03; Laws 1988, LB 864, § 62; Laws 1991, LB 653, § 1; Laws 1993, LB 697, § 2.

81-1177 Uniform traveling expense account form; prescribed.

The Director of Administrative Services is required to have prepared a uniform traveling expense account form to be used by all state officers and employees when making a request for payment or reimbursement for traveling expenses. No traveling expense request shall be approved for payment unless it is made on the form prescribed and furnished by the director.

Source: Laws 1941, c. 180, § 10, p. 706; C.S.Supp.,1941, § 84-306; R.S.1943, § 84-306; Laws 1945, c. 253, § 1, p. 790; Laws 1949, c. 286, § 2, p. 985; Laws 1949, c. 243, § 4(6), p. 662; Laws 1972, LB 1440, § 2; R.S.1943, (1981), § 84-306.05; Laws 1988, LB 864, § 63.

81-1178 Member of any commission, committee, or board created by statute; expenses; reimbursement; manner.

Any member of any state commission, council, committee, or board which has been created by statute shall be entitled to be reimbursed for expenses in the same manner as provided in sections 81-1174 to 81-1177 for state employees whether or not specific reference is made to such sections.

Source: Laws 1977, LB 365, § 2; Laws 1981, LB 204, § 213; R.S.1943, (1981), § 84-306.06.

81-1179 Member of any commission, committee, or board created in compliance with federal action; expenses; reimbursement from federal funds.

If the creation of any state commission, council, committee, or board is necessary for the purpose of compliance with acts of Congress, or federal rules and regulations resulting from such acts, the members thereof shall be entitled to be reimbursed for expenses incurred from federal funds available to pay such expenses.

Source: Laws 1977, LB 365, § 3; R.S.1943, (1981), § 84-306.07.

81-1180 Member of any state commission, council, committee, or board; reimbursement for expenses; when.

Any member of any state commission, council, committee, or board who is not entitled to reimbursement under section 81-1178 or 81-1179 shall be entitled to be reimbursed for expenses as provided in sections 81-1174 to 81-1177 if an appropriation is made for such purpose and if the reimbursement is approved by the Governor or, in cases in which the commission, council, committee, or board has been created to assist the Legislature in the performance of its duties, by the Executive Board of the Legislative Council.

Source: Laws 1977, LB 365, § 4; Laws 1981, LB 204, § 214; R.S.1943, (1981), § 84-306.08; Laws 1990, LB 1032, § 1; Laws 2020, LB381, § 112.

81-1181 Repealed. Laws 2020, LB381, § 149.

81-1182 Conference expenses; payment; when.

Any department, agency, commission, council, committee, or board of the state may pay conference expenses of persons who are not state employees if sufficient money is collected from such persons to cover the total expense incurred. No payment shall be made unless it is in accordance with the policies and procedures established by the Director of Administrative Services.

Source: Laws 1987, LB 539, § 1.

81-1182.01 Volunteers and certain service providers; expenses; payment; when.

Any department, agency, commission, council, committee, or board of the state may pay for the reasonable and necessary expenses for the recruitment, training, utilization, and recognition of volunteers providing services to the state and certain providers of services as established by the Director of Administrative Services. No payment shall be made unless it is in accordance with policies and procedures established by the Director of Administrative Services. For purposes of this section, volunteers and providers shall mean those persons performing services for the state under a state-recognized program as established by the Director of Administrative Services.

Source: Laws 1993, LB 448, § 1.

(f) STATE GOVERNMENT RECYCLING MANAGEMENT ACT

81-1183 Act, how cited.

Sections 81-1183 to 81-1189 shall be known and may be cited as the State Government Recycling Management Act.

Source: Laws 1990, LB 987, § 1; R.S.Supp.,1990, § 81-1642.

81-1184 Legislative intent.

It is the intent of the State Government Recycling Management Act and the public policy of this state to recognize the importance of limited natural resources, to prevent waste, and to promote the most energy-saving and resource-saving use of state government recyclable material and the most efficient and economical method of recycling and disposing of such recyclable material.

Source: Laws 1986, LB 380, § 2; R.S.1943, (1987), § 81-1140.02; Laws 1990, LB 987, § 3; R.S.Supp.,1990, § 81-1643; Laws 2000, LB 654, § 37.

81-1185 State government recyclable material, defined.

For purposes of the State Government Recycling Management Act, state government recyclable material means any product or material that has reached the end of its useful life, is obsolete, or is no longer needed by state government and for which there are readily available markets to take the material. State government recyclable material includes paper, paperboard, aluminum and other metals, yard waste, glass, tires, oil, and plastics. State government recyclable material does not include cans or other containers recycled under section 83-915.01 or material used in the production of goods or

the provision of services by the correctional industries program of the Department of Correctional Services.

Source: Laws 1986, LB 380, § 1; R.S.1943, (1987), § 81-1140.01; Laws 1990, LB 987, § 2; R.S.Supp.,1990, § 81-1644; Laws 2000, LB 654, § 38; Laws 2015, LB605, § 83; Laws 2016, LB1080, § 2.

81-1186 Department; duties.

A program for the collection for recycling and sale of state government recyclable material shall be designed and implemented by the Department of Administrative Services in all state-operated buildings.

Source: Laws 1986, LB 380, § 3; R.S.1943, (1987), § 81-1140.03; Laws 1990, LB 987, § 4; R.S.Supp.,1990, § 81-1645; Laws 1992, LB 1257, § 97; Laws 2000, LB 654, § 39.

81-1187 Disposition of state government recyclable material.

The Department of Administrative Services shall obtain pricing information and shall contract to sell state government recyclable material for the best terms available in the marketplace. If the department is unable to locate a purchaser for such recyclable material or such sale would not be in the best economic interests of the state and the department is unable to locate a nonpaying contractee to recycle such recyclable material, the department shall make such other disposition of such recyclable material as is most practical and in the best interests of the state.

Source: Laws 1986, LB 380, § 4; R.S.1943, (1987), § 81-1140.04; Laws 1990, LB 987, § 5; R.S.Supp.,1990, § 81-1646; Laws 1992, LB 1257, § 98; Laws 2000, LB 654, § 40.

81-1188 Resource Recovery Fund; created; use; investment.

The Resource Recovery Fund is created. The fund shall be administered by the Department of Administrative Services. All proceeds from the program required by section 81-1186 and fifteen percent of all proceeds from the sale of surplus property sold to be remanufactured or reprocessed shall be deposited in the fund. The fund shall be used for the administration and implementation of the program, except that transfers from the fund to the General Fund may be made at the direction of the Legislature.

Any money in the Resource Recovery Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The State Treasurer shall transfer two hundred fifty thousand dollars from the Resource Recovery Fund to the General Fund within fifteen days after July 1, 2002.

Source: Laws 1986, LB 380, § 5; R.S.1943, (1987), § 81-1140.05; Laws 1990, LB 987, § 6; Laws 1991, LB 429, § 1; R.S.Supp.,1991, § 81-1647; Laws 1992, LB 1257, § 99; Laws 1994, LB 1066, § 105; Laws 2002, LB 1310, § 19.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1189 Rules and regulations.

The Department of Administrative Services may adopt and promulgate all rules and regulations necessary to carry out the State Government Recycling Management Act.

Source: Laws 1986, LB 380, § 6; R.S.1943, (1987), § 81-1140.06; Laws 1990, LB 987, § 7; R.S.Supp.,1990, § 81-1648; Laws 1992, LB 1257, § 100.

(g) INFORMATION TECHNOLOGY INFRASTRUCTURE ACT

81-1190 Transferred to section 86-501.

81-1191 Transferred to section 86-502.

81-1192 Transferred to section 86-525.

81-1193 Repealed. Laws 2000, LB 1349, § 14.

81-1194 Transferred to section 86-526.

81-1195 Transferred to section 86-527.

81-1196 Repealed. Laws 2000, LB 1349, § 14.

81-1196.01 Transferred to section 86-528.

81-1197 Repealed. Laws 2000, LB 1349, § 14.

81-1198 Repealed. Laws 2000, LB 1349, § 14.

81-1199 Transferred to section 86-529.

81-11,100 Repealed. Laws 2000, LB 1349, § 14.

81-11,101 Repealed. Laws 2000, LB 1349, § 14.

81-11,102 Transferred to section 86-530.

81-11,103 Repealed. Laws 2000, LB 1349, § 14.

(h) PERFORMANCE EVALUATION FOR CERTAIN ADMINISTRATIVE HEADS

81-11,104 Performance evaluation process; department; duties; recommendations; cost.

(1) The Department of Administrative Services shall establish an annual performance evaluation process for the administrative head of each state agency that is not created by the Constitution of Nebraska and that has an administrative head who is not appointed by the Governor and who has an annual base salary in excess of thirty thousand dollars. The first evaluation of an administrative head pursuant to this section shall not occur prior to the completion of one year of service by the administrative head. The results of the evaluation shall be provided to the governing body which appoints the administrative head unless the evaluation is waived under subsection (3) of this section.

(2) The department shall establish and maintain a pool of individuals who are qualified to conduct performance evaluations of administrative heads and shall

schedule annual performance evaluations for each administrative head who is subject to evaluation. The pool shall consist of not less than twenty qualified individuals. Each evaluation shall be conducted by a panel of not less than three and not more than five individuals as determined by the Director of Administrative Services and selected at random from the pool by the director or his or her designee. Each member of the panel shall be paid a daily or hourly fee set by the department at a level necessary to keep qualified individuals in the pool. The panel shall also be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(3) The department shall provide staff support and model procedures and processes for the evaluations. After conducting an evaluation, the panel shall recommend one of the following to the governing body: (a) Retain; (b) no comments; (c) retain with qualifications; or (d) discharge. The rest of the evaluation shall be kept confidential, except that the governing body may discuss the evaluation with the panel in executive session and the administrative head may make any part of the evaluation results public. Evaluation work product and results shall not be deemed public records and may be withheld from the public pursuant to section 84-712.05. Each agency shall pay for the cost of the annual performance evaluation of its administrative head. If a governing body conducts an annual performance evaluation of the administrative head using procedures which meet the approval of the department, the annual performance evaluation under this section may be waived by the director.

Source: Laws 1997, LB 314, § 1; Laws 2020, LB381, § 113.

(i) NEBRASKA PUBLIC SAFETY COMMUNICATION
SYSTEM REVOLVING FUND

81-11,105 Nebraska Public Safety Communication System Revolving Fund; created; use; investment.

The Nebraska Public Safety Communication System Revolving Fund is created. The fund shall be established within the Department of Administrative Services and administered by the Chief Information Officer. The fund shall consist of retainer-fee revenue received from state agencies accessing the Nebraska Public Safety Communication System, as authorized by the Legislature through the budget process. The fund shall only be used to pay for centralized direct costs of administering, operating, and maintaining the Nebraska Public Safety Communication System, including state-owned towers and network equipment. 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 2007, LB322, § 5.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(j) PUBLIC FUNDS

81-11,106 Public funds; record in state accounting system; investment; accounting division of Department of Administrative Services; duties.

(1) For purposes of this section:

(a) Public funds means money belonging to the state by operation of general state law and collected by virtue of state-imposed taxes, fees, and similar charges;

(b) Special purpose funds means money in the state treasury which is received from an outside source, which is held in trust or escrow or segregated for a particular purpose, and which must be used for purposes defined by the source of the funds; and

(c) Trust funds means all trust funds identified by Nebraska statutes, all funds pledged for the payment of bonds, all accounts held by a trustee related to a bond issue, and all funds held related to a lease financing or other similar financing.

(2) The State Treasurer shall have custody in the state treasury of all public funds and all special purpose funds, other than pension and trust funds, of all state officials, state agencies, state boards, state commissions, and other state entities. Each state official, agency, board, commission, or other entity shall remit all public funds and all special purpose funds, other than pension and trust funds, to the State Treasurer for credit to the appropriate fund as provided in section 84-602.

(3) Each state official, agency, board, commission, or other entity shall record all revenue, fund balances, and expenditures from all public funds and all special purpose funds, other than pension and trust funds, in the state accounting system administered by the accounting division of the Department of Administrative Services pursuant to section 81-1110.01.

(4) As provided in section 72-1243, the state investment officer shall invest all funds available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The accounting division shall notify the budget division of the Department of Administrative Services if any state official, agency, board, commission, or other entity has failed to comply with this section. The budget division shall withhold up to ten percent of any appropriation to such state official, agency, board, commission, or other entity until it complies with this section.

Source: Laws 2019, LB52, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 12

DEPARTMENT OF ECONOMIC DEVELOPMENT

(a) GENERAL PROVISIONS

Section	
81-1201.	Repealed. Laws 1978, LB 568, § 23.
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.
81-1201.07.	Department; divisions and program; advisory committees and programs; authorized.

DEPARTMENT OF ECONOMIC DEVELOPMENT

- Section
- 81-1201.08. Repealed. Laws 2010, LB 947, § 4.
- 81-1201.09. Department; develop and implement economic development strategies; considerations.
- 81-1201.10. Department; long-term strategy; performance review; duties; Performance Review Revolving Fund; created; use; investment.
- 81-1201.11. Department; lead agency; clearinghouse; staff services; coordination; status report; duties.
- 81-1201.12. Department; plans, contracts, funds; tax credit program; duties.
- 81-1201.13. Transferred to section 81-3713.
- 81-1201.14. Existing Business Assistance Division; duties.
- 81-1201.15. Business Recruitment Division; duties; information withheld from public.
- 81-1201.16. Community and Rural Development Division; duties.
- 81-1201.17. Repealed. Laws 1989, LB 639, § 13.
- 81-1201.18. Department; administer Community Development Block Grant Program.
- 81-1201.19. Divisions; avoid duplication.
- 81-1201.20. Department; adopt rules and regulations.
- 81-1201.21. Job Training Cash Fund; created; use; investment.
- 81-1201.22. Administrative Cash Fund; created; use; investment.
- 81-1202. Job training grant, defined.
- 81-1203. Job training grant; business plan; project criteria; training grant; partners; training grants for rural areas or high-poverty areas; audit; report.
- 81-1204. Job training grant; approval; limitations.
- 81-1204.01. Training services; priority to community college areas.
- 81-1204.02. Repealed. Laws 1982, LB 592, § 2.
- 81-1205. Job training grant or training grant; reports required; department; duties.
- 81-1206. Job training grants; monitor and audit project.
- 81-1207. Job training grant; repayment required; when; training grant; repayment required; when.
- 81-1208. Job training grant; relocation, abandonment, or sale; effect.
- 81-1209. Job training grant; repayments; credit to fund.
- 81-1210. Job training grant; rules and regulations.
- 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.
- 81-1210.04. Intern Nebraska Cash Fund; created; use; investment; limit on expenditures for administrative services.
- 81-1211. Lead-Based Paint Hazard Control Cash Fund; created; use; investment.
- 81-1212. Building housing for individuals with disabilities; department; duties; collaboration and coordination required.
- 81-1213. Industrial Recovery Fund; created; administration; investment; use; termination.
- 81-1213.01. High Growth Business Development Cash Fund; created; use; investment.
- 81-1213.02. Economic Development Cash Fund; created; use; investment.
- 81-1213.03. Panhandle Improvement Project Cash Fund; created; use; investment; criteria for grant applications.
- 81-1213.04. Youth outdoor education camp; grant; eligible grantee; matching funds; grant period; return grant funds; conditions; uses for grant funds.
- 81-1213.05. Youth Outdoor Education Innovation Fund; created; use; investment.
- (b) CUSTOMIZED JOB TRAINING ACT
- 81-1214. Act, how cited.
- 81-1215. Job training reimbursement grants; administration.
- 81-1216. Customized Job Training Cash Fund; created; use; investment.
- 81-1217. Job training reimbursement grants; application; amount; report.
- 81-1218. Job training reimbursement grants; employer; requirements; provision of training.
- 81-1219. Job training reimbursement grants; recipient; documentation.

STATE ADMINISTRATIVE DEPARTMENTS

Section

(c) NEBRASKA FILM OFFICE FUND

- 81-1220. Nebraska Film Office Fund; created; use; investment; grant programs authorized; application; requirements.
81-1221. Repealed. Laws 1978, LB 568, § 23.

(d) PROPERTY CONTROLLED BY DEPARTMENT

- 81-1222. Repealed. Laws 1978, LB 568, § 23.
81-1222.01. Repealed. Laws 2011, LB 454, § 1.
81-1222.02. Director of Economic Development; fees; leases; collection; disposition.
81-1222.03. Repealed. Laws 2011, LB 454, § 1.
81-1223. Repealed. Laws 1978, LB 568, § 23.
81-1224. Repealed. Laws 1978, LB 568, § 23.
81-1225. Repealed. Laws 1978, LB 568, § 23.

(e) WORKFORCE HOUSING INVESTMENT

- 81-1226. Act, how cited.
81-1227. Legislative findings.
81-1228. Terms, defined.
81-1229. Workforce housing grant program; established; workforce housing grant; application; form; award; considerations; nonprofit development organization; duties.
81-1230. Rural Workforce Housing Investment Fund; created; use; investment; return of grant funds; when required.
81-1231. Nonprofit development organization; annual report; contents; final report; failure to file; civil penalty.
81-1232. Department; duties; powers.
81-1233. Report to Legislature and Governor; contents; confidential.
81-1234. Rules and regulations.
81-1235. Act, how cited.
81-1236. Urban workforce housing; shortage; effect; development; impediments; legislative intent.
81-1237. Terms, defined.
81-1238. Workforce housing investment grant program; established; workforce housing grant; application; form; award; considerations; workforce housing investment fund; requirements.
81-1239. Middle Income Workforce Housing Investment Fund; created; use; investment; subaccount; purpose; return of grant funds; when required.
81-1240. Nonprofit development organization; annual report; contents; final report; failure to file; civil penalty; applicability of section.
81-1241. Department; duties; powers.
81-1242. Report to Legislature and Governor; contents; confidential.
81-1243. Rules and regulations.
81-1244. Repealed. Laws 1981, LB 545, § 52.

(f) NEBRASKA VISITORS DEVELOPMENT ACT

- 81-1245. Transferred to section 81-3702.
81-1246. Transferred to section 81-3703.
81-1247. Transferred to section 81-3707.
81-1248. Transferred to section 81-3706.
81-1249. Transferred to section 81-3708.
81-1250. Transferred to section 81-3709.
81-1251. Transferred to section 81-3705.
81-1252. Transferred to section 81-3714.
81-1253. Transferred to section 81-3715.
81-1254. Transferred to section 81-3716.
81-1255. Transferred to section 81-3717.
81-1256. Transferred to section 81-3718.
81-1257. Transferred to section 81-3719.
81-1258. Transferred to section 81-3720.
81-1259. Transferred to section 81-3721.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Section

- 81-1260. Transferred to section 81-3722.
- 81-1261. Transferred to section 81-3723.
- 81-1262. Transferred to section 81-3724.
- 81-1263. Transferred to section 81-3701.
- 81-1264. Repealed. Laws 1983, LB 114, § 1.

(g) VENTURE CAPITAL NETWORK ACT

- 81-1265. Repealed. Laws 2011, LB 455, § 1.
- 81-1266. Repealed. Laws 2011, LB 455, § 1.
- 81-1267. Repealed. Laws 2011, LB 455, § 1.
- 81-1268. Repealed. Laws 2011, LB 455, § 1.
- 81-1269. Repealed. Laws 2011, LB 455, § 1.
- 81-1270. Repealed. Laws 2011, LB 455, § 1.
- 81-1271. Repealed. Laws 2011, LB 455, § 1.

(h) BUSINESS DEVELOPMENT PARTNERSHIP ACT

- 81-1272. Act, how cited.
- 81-1273. Legislative findings.
- 81-1274. Business Development Services Program; created; administration.
- 81-1275. Nebraska Business Development Center; duties.
- 81-1276. Existing Business Assistance Division; contracts; authorized.
- 81-1277. Existing Business Assistance Division; contracts; reports.

(i) AGRICULTURAL PRODUCTS RESEARCH

- 81-1278. Repealed. Laws 2023, LB818, § 45.
- 81-1279. Repealed. Laws 2023, LB818, § 45.
- 81-1280. Repealed. Laws 2023, LB818, § 45.

(j) HOUSING AFFORDABILITY STRATEGY

- 81-1281. Comprehensive housing affordability strategy; established; contents; advisory committee; powers and duties.

(k) RURAL DEVELOPMENT

- 81-1282. Transferred to section 81-3601.
- 81-1283. Transferred to section 81-3602.
- 81-1284. Transferred to section 81-3603.
- 81-1285. Transferred to section 81-3604.
- 81-1286. Transferred to section 81-3605.
- 81-1287. Transferred to section 81-3606.

(l) PARTNERSHIPS FOR ECONOMIC DEVELOPMENT ACT

- 81-1288. Repealed. Laws 2002, LB 859, § 1.
- 81-1289. Repealed. Laws 2002, LB 859, § 1.
- 81-1290. Repealed. Laws 2002, LB 859, § 1.
- 81-1291. Repealed. Laws 2002, LB 859, § 1.
- 81-1292. Repealed. Laws 2002, LB 859, § 1.
- 81-1293. Repealed. Laws 2002, LB 859, § 1.
- 81-1294. Repealed. Laws 2002, LB 859, § 1.

(m) MICROENTERPRISE DEVELOPMENT ACT

- 81-1295. Repealed. Laws 2011, LB 387, § 18.
- 81-1296. Repealed. Laws 2011, LB 387, § 18.
- 81-1297. Repealed. Laws 2011, LB 387, § 18.
- 81-1298. Repealed. Laws 2011, LB 387, § 18.
- 81-1299. Repealed. Laws 2011, LB 387, § 18.
- 81-12,100. Repealed. Laws 2011, LB 387, § 18.
- 81-12,101. Repealed. Laws 2011, LB 387, § 18.
- 81-12,102. Repealed. Laws 2011, LB 387, § 18.
- 81-12,103. Repealed. Laws 2011, LB 387, § 18.
- 81-12,104. Repealed. Laws 2011, LB 387, § 18.
- 81-12,105. Repealed. Laws 2011, LB 387, § 18.
- 81-12,105.01. Repealed. Laws 2011, LB 387, § 18.

STATE ADMINISTRATIVE DEPARTMENTS

Section

(n) NEBRASKA INNOVATION HUB ACT

- 81-12,106. Act, how cited.
- 81-12,107. Legislative findings and declarations.
- 81-12,108. Terms, defined.
- 81-12,109. Innovation hub areas; department designate innovation hubs; limit on number; termination.
- 81-12,110. Innovation hub; application; contents; fee; approval procedure; department; duties; memorandum of understanding; report.
- 81-12,111. Innovation hub partners.
- 81-12,112. State and local taxes; current payment; certification; exception.
- 81-12,113. Innovation hub; permitted activities; collaboration and coordination; required.
- 81-12,114. Innovation Hub Cash Fund; created; use; investment.
- 81-12,115. Rules and regulations.
- 81-12,116. Repealed. Laws 2009, LB 3, § 1.

(o) NEBRASKA OPPORTUNITY ZONE ACT

- 81-12,117. Repealed. Laws 2015, LB 4, § 1.
- 81-12,118. Repealed. Laws 2015, LB 4, § 1.
- 81-12,119. Repealed. Laws 2015, LB 4, § 1.
- 81-12,120. Repealed. Laws 2015, LB 4, § 1.
- 81-12,121. Repealed. Laws 2015, LB 4, § 1.
- 81-12,122. Repealed. Laws 2012, LB 782, § 253.
- 81-12,123. Repealed. Laws 2015, LB 4, § 1.
- 81-12,124. Repealed. Laws 2015, LB 4, § 1.

(p) BUILDING ENTREPRENEURIAL COMMUNITIES ACT

- 81-12,125. Repealed. Laws 2011, LB 387, § 18.
- 81-12,126. Repealed. Laws 2011, LB 387, § 18.
- 81-12,127. Repealed. Laws 2011, LB 387, § 18.
- 81-12,128. Repealed. Laws 2011, LB 387, § 18.

(q) NEBRASKA OPERATIONAL ASSISTANCE ACT

- 81-12,129. Act, how cited.
- 81-12,130. Legislative findings.
- 81-12,131. Terms, defined.
- 81-12,132. Purpose of act.
- 81-12,133. Nebraska Operational Assistance Program; established; department select organization to carry out act; considerations.
- 81-12,134. Appropriation of funds; grant; funding; matching funds.
- 81-12,135. Information regarding activities; department; report.

(r) SMALL BUSINESS INNOVATION ACT

- 81-12,136. Repealed. Laws 2017, LB5, § 1.
- 81-12,137. Repealed. Laws 2017, LB5, § 1.
- 81-12,138. Repealed. Laws 2017, LB5, § 1.
- 81-12,139. Repealed. Laws 2017, LB5, § 1.
- 81-12,140. Repealed. Laws 2017, LB5, § 1.
- 81-12,141. Repealed. Laws 2017, LB5, § 1.
- 81-12,142. Repealed. Laws 2017, LB5, § 1.
- 81-12,143. Repealed. Laws 2017, LB5, § 1.

(s) SITE AND BUILDING DEVELOPMENT ACT

- 81-12,144. Act, how cited.
- 81-12,145. Legislative findings.
- 81-12,146. Site and Building Development Fund; created; funding; use; investment.
- 81-12,147. Site and Building Development Fund; use; eligible activities.
- 81-12,148. Entities eligible to receive assistance; matching funds; requirements; exception; applicability of section.
- 81-12,149. Department; allocate funds; qualified action plan; contents; powers of department; applicability of section.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Section	
81-12,150.	Rules and regulations.
81-12,151.	Annual report.
	(t) BUSINESS INNOVATION ACT
81-12,152.	Act, how cited.
81-12,153.	Terms, defined.
81-12,154.	Purpose of act.
81-12,155.	Qualified action plan; department; duties; contents.
81-12,155.01.	Bioscience Innovation Program; provide financial assistance.
81-12,156.	Funding; preference.
81-12,157.	Planning grants; phase one application program; limitations.
81-12,158.	Financial assistance program to create prototype of certain products; established; funds; match required; limitation.
81-12,159.	Innovation in value-added agriculture program; established; purpose; eligibility; match required; limitation.
81-12,160.	Financial assistance program to commercialize product or process; established; purpose; funds; match required; limitation; contract with venture development organization.
81-12,161.	Financial assistance program relating to college or university research and development; established; funds; match required; limitation.
81-12,162.	Small business investment program; established; award; criteria; considerations; funds; match required; department; contracts authorized; limitation.
81-12,163.	Appropriations; legislative intent.
81-12,163.01.	Bioscience Innovation Cash Fund; created; use; investment.
81-12,164.	Rules and regulations.
81-12,165.	Department; contract authorized.
81-12,166.	Report; contents; department; duties; analysis of programs; certain records confidential.
81-12,167.	Repealed. Laws 2019, LB334, § 12.
	(u) NEBRASKA TRANSFORMATIONAL PROJECTS ACT
81-12,168.	Act, how cited.
81-12,169.	Definitions, where found.
81-12,170.	Applicant, defined.
81-12,171.	Continuation period, defined.
81-12,172.	Date of application, defined.
81-12,173.	Director, defined.
81-12,174.	Investment, defined.
81-12,175.	Matching funds, defined.
81-12,176.	Private dollars, defined.
81-12,177.	Project, defined.
81-12,178.	Qualified location, defined.
81-12,179.	Related entity, defined.
81-12,180.	Transformational period, defined.
81-12,181.	Year, defined.
81-12,182.	Matching funds; eligibility; application; requirements; approval; deadlines.
81-12,183.	Agreement; requirements; documentation of private funds.
81-12,184.	Transactions or activities excluded.
81-12,185.	Matching funds; receipt; conditions; payment.
81-12,186.	Matching funds; filing required; use; repayment; interest; director; powers and duties.
81-12,187.	Matching funds; repayment; required; when.
81-12,188.	Matching funds; receipt; conditions.
81-12,189.	Matching funds; payment.
81-12,190.	Application; valid; when.
81-12,191.	Report; joint hearing.
81-12,192.	Rules and regulations.
81-12,193.	Nebraska Transformational Project Fund; created; use; investment.
81-12,194.	Applicant; contracts authorized; powers.

STATE ADMINISTRATIVE DEPARTMENTS

Section

(v) NEBRASKA RURAL PROJECTS ACT

- 81-12,195. Act, how cited.
- 81-12,196. Definitions, where found.
- 81-12,197. Applicant, defined.
- 81-12,198. Applicant resources, defined.
- 81-12,199. Date of application, defined.
- 81-12,200. Director, defined.
- 81-12,200.01. Inland port authority, defined.
- 81-12,201. Investment, defined.
- 81-12,202. Matching funds, defined.
- 81-12,203. Project, defined.
- 81-12,204. Qualified location, defined.
- 81-12,205. Related entity, defined.
- 81-12,206. Transformational period, defined.
- 81-12,207. Year, defined.
- 81-12,208. Matching funds; eligibility; application; requirements; approval; deadlines.
- 81-12,209. Agreement; requirements; documentation of applicant resources.
- 81-12,210. Transactions or activities excluded.
- 81-12,211. Matching funds; receipt; conditions; exception; payment.
- 81-12,212. Matching funds; filing required; use; repayment; interest; director; powers and duties.
- 81-12,213. Matching funds; receipt; conditions; limitations; legislative intent regarding appropriations.
- 81-12,214. Application; valid; when.
- 81-12,215. Project; land on which project is situated; sale; approval required; conditions.
- 81-12,216. Report; joint hearing.
- 81-12,217. Rules and regulations.
- 81-12,218. Nebraska Rural Projects Fund; created; use; investment.

(w) SHOVEL-READY CAPITAL RECOVERY AND INVESTMENT ACT

- 81-12,219. Act, how cited.
- 81-12,220. Act; purpose.
- 81-12,221. Terms, defined.
- 81-12,222. Grant; application; approval; amount.
- 81-12,223. Qualified nonprofit organization; grant; requirements; repayment, when.
- 81-12,224. Shovel-Ready Capital Recovery and Investment Fund; created; use; investment.
- 81-12,225. Federal funds and cash funds; use; legislative intent; changes to sections; applicability.
- 81-12,226. Rules and regulations.

(x) SMALL BUSINESS STABILIZATION GRANT PROGRAM ACT

- 81-12,227. Act, how cited.
- 81-12,228. Purpose of act.
- 81-12,229. Terms, defined.
- 81-12,230. Grant program; when established; eligibility; application; approval; amount.
- 81-12,231. Rules and regulations.

(y) SMALL BUSINESS ASSISTANCE ACT

- 81-12,232. Act, how cited.
- 81-12,233. Terms, defined.
- 81-12,234. Small business grant program; grant; eligibility; amount; professional counseling services; department; contract with private entity.
- 81-12,235. Reports.
- 81-12,236. Rules and regulations.
- 81-12,237. Legislative intent to appropriate.

Section

(z) ECONOMIC RECOVERY ACT

- 81-12,238. Act, how cited.
- 81-12,239. Legislative findings.
- 81-12,240. Terms, defined.
- 81-12,241. Economic Recovery and Incentives Division; grants; payment; use; prioritize; Qualified Census Tract Recovery Grant Program; other grant funding; purposes; preparing land parcels; permitted activities; compliance with federal law; applicability to state-funded grants.
- 81-12,241.01. Economic Recovery and Incentives Division; North and South Omaha Recovery Grant Program; other grant funding; purposes; project; eligibility for grant; requirements; grants; payment; grant or contract, assignment.
- 81-12,242. Economic Recovery Special Committee of the Legislature; members; powers and duties.
- 81-12,243. Economic Recovery Contingency Fund; created; use; prioritize; investment.
- 81-12,244. Appropriations and transfers of funds; legislative intent; use; restrictions.
- (aa) FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND
- 81-12,245. Department of Economic Development; use of funds; restrictions; grant applications; priorities.
- 81-12,246. Department of Economic Development; Legislative intent to appropriate.
- (bb) AMERICAN RESCUE PLAN TRAVEL, TOURISM AND OUTDOOR RECREATION PROGRAM
- 81-12,247. Legislative intent to appropriate; grants; restrictions.
- (cc) DEVELOPMENT OF UNDERUTILIZED TAX-EXEMPT PROPERTY
- 81-12,248. Development of underutilized tax-exempt property; covered nonprofit organization; requirements; sale restrictions; violations; penalty.

(a) GENERAL PROVISIONS

81-1201 Repealed. Laws 1978, LB 568, § 23.**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.

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.

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.

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.

81-1201.07 Department; divisions and program; advisory committees and programs; authorized.

The department may have the divisions and program listed in this section to aid in the discharge of its duties but shall not be limited to such divisions and program: (1) An Existing Business Assistance Division; (2) a Business Recruitment Division; (3) a Community and Rural Development Division; (4) an Economic Recovery and Incentives Division; (5) a Housing Division; and (6) a Community Development Block Grant Program. Each division and program,

when deemed appropriate by the director, is encouraged to establish advisory committees and programs to insure public participation and input.

Source: Laws 1986, LB 965, § 7; Laws 1989, LB 639, § 1; Laws 1993, LB 190, § 7; Laws 1998, LB 1053, § 10; Laws 2012, LB1053, § 27; Laws 2022, LB1024, § 8.

81-1201.08 Repealed. Laws 2010, LB 947, § 4.

81-1201.09 Department; develop and implement economic development strategies; considerations.

The department shall develop and implement economic development strategies to:

- (1) Facilitate the maintenance and expansion of existing enterprises and the creation of new value-adding industries, including those involved in selling to non-Nebraska markets;
- (2) Promote economic articulation within the economy of the state;
- (3) Promote productivity among value-adding industries;
- (4) Promote economic diversification within the economy of the state; and
- (5) Maintain and revitalize economically distressed areas.

In developing these strategies the department shall consider the special economic needs of women and minorities and pursue policies which are consistent with Nebraska policies to protect and enhance the environmental quality of the state.

Source: Laws 1986, LB 965, § 9.

81-1201.10 Department; long-term strategy; performance review; duties; Performance Review Revolving Fund; created; use; investment.

The department shall:

- (1) Create and keep current a comprehensive and long-term strategy for economic development. The strategy shall address and be consistent with the general purposes and duties of the department. The strategy shall consider: (a) The entire state; (b) economic regions within the state; and (c) the operating divisions and program listed in section 81-1201.07; and
- (2) Develop an independent program of performance review of the activities of the department, departmental divisions, and the Community Development Block Grant Program. The review shall include, but not be limited to: (a) An assessment of the impact of the department's programs corresponding to the strategic plans of the department, departmental divisions, and the Community Development Block Grant Program; (b) a comparative assessment of the relative impact of the department's programs with similar programs in other states; and (c) a comparative assessment of the department's programs' impact on different parts of the state. The review shall be completed or updated at least once every three years.

The Performance Review Revolving Fund is created. The money in the fund shall be used to employ an independent firm experienced in doing performance reviews as prescribed in this section to do performance reviews. 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 1986, LB 965, § 10; Laws 1989, LB 639, § 3; Laws 1993, LB 190, § 8; Laws 1994, LB 1066, § 106; Laws 1998, LB 1053, § 11.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1201.11 Department; lead agency; clearinghouse; staff services; coordination; status report; duties.

The department shall:

(1) Serve as the lead state agency in the area of economic development. The department shall develop a program to promote coordination and cooperation within state government and with institutions of higher education, local governments, other political subdivisions of the state, and the private sector;

(2) Serve as a clearinghouse for information, data, and other materials which may be helpful or necessary to the full development of the state's economy, which may be relevant with regard to the possibilities of future development in Nebraska, and which will be of use to local governments, the Governor, other state agencies, and the Legislature in discharging their responsibilities. The department shall develop a program to ensure cooperation between state agencies, the University of Nebraska, and other entities with related economic information;

(3) Provide staff services when, in the opinion of the director, such services are necessary and appropriate in the areas of economic development to cities of the first class, cities of the second class, and villages on a contractual basis when the terms of such contracts can be mutually accepted;

(4) Assist the Governor in coordinating the efforts of local governments to develop mutual and cooperative solutions to their common problems; and

(5) Prepare annually a status report on the activities and impacts of the department and its programs. The status report shall include information detailing the status of all programs administered by the department for which the Legislature requires reporting. The status report shall be submitted to the Governor and the Legislature on the first working day of July of each year. The report submitted to the Legislature shall be submitted electronically.

Source: Laws 1986, LB 965, § 11; Laws 2011, LB404, § 4; Laws 2012, LB782, § 192.

81-1201.12 Department; plans, contracts, funds; tax credit program; duties.

The department shall:

(1) Submit and adopt all necessary plans, enter into contracts, and accept gifts, grants, and federal funds; and

(2) Administer the tax credit program established by the Creating High Impact Economic Futures Act and adopt and promulgate rules and regulations pursuant to such act.

Source: Laws 1986, LB 965, § 12; Laws 2024, LB1344, § 15.
Operative date January 1, 2025.

Cross References

Creating High Impact Economic Futures Act, see section 77-3113.

81-1201.13 Transferred to section 81-3713.**81-1201.14 Existing Business Assistance Division; duties.**

The primary responsibility of the Existing Business Assistance Division shall be to provide assistance to instate businesses. Such assistance shall encourage the startup of new businesses and the retention and expansion of existing businesses. Emphasis shall be placed upon meeting the unique needs of small businesses in the state. Activities of the division shall include, but not be limited to, financial packaging, technical assistance, contacts with existing businesses regarding needs, work force development, job training assistance, export technical assistance, and assistance to businesses in accessing new markets and new technologies.

The division shall avoid duplication with existing programs already in place which assist small businesses and entrepreneurs, and the department and the division shall deliver their programs through, to the extent possible, the Nebraska Business Development Center, the University of Nebraska-Lincoln Food Processing Center, the Nebraska Investment Finance Authority, the Small Business Administration of the federal government, and other related organizations.

Source: Laws 1986, LB 965, § 14; Laws 1987, LB 736, § 7; Laws 1989, LB 639, § 4; Laws 1997, LB 659, § 1; Laws 2007, LB388, § 3.

Cross References

Business Development Partnership Act, see section 81-1272.

Nebraska Investment Finance Authority Act, see section 58-201.

81-1201.15 Business Recruitment Division; duties; information withheld from public.

(1) The primary responsibility of the Business Recruitment Division shall be the creation of jobs through the attraction of business to the state. The division shall develop a program of assistance to local governments, chambers of commerce, development organizations, and other entities involved in attracting new value-adding industries. Activities shall include, but not be limited to, industrial recruitment, marketing, international investment attraction, and technical assistance to community organizations in their recruitment efforts.

(2) Information regarding business recruitment, location, relocation, and expansion projects conducted by or with the assistance of the Business Recruitment Division may be withheld from the public until a public announcement by an authorized representative of the business or the Department of Economic Development is made about the project or until negotiations between the business and the division or other governmental entity regarding the project have been completed, whichever is earlier.

Source: Laws 1986, LB 965, § 15; Laws 1989, LB 639, § 5; Laws 2017, LB217, § 32.

81-1201.16 Community and Rural Development Division; duties.

The Community and Rural Development Division shall provide technical and financial assistance to communities for the preparation of community-based

community needs assessment and development strategies. The division shall develop a program to assist communities in finding solutions to the problems identified within the community needs assessment.

Source: Laws 1986, LB 965, § 16; Laws 1989, LB 639, § 6.

81-1201.17 Repealed. Laws 1989, LB 639, § 13.

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.

81-1201.19 Divisions; avoid duplication.

The divisions shall avoid the duplication of existing programs or services and, to the extent possible, shall use existing programs and organizations to implement the program and objectives of the division.

Source: Laws 1986, LB 965, § 19.

81-1201.20 Department; adopt rules and regulations.

The department may adopt and promulgate rules and regulations to carry out sections 81-1201.01 to 81-1201.20.

Source: Laws 1986, LB 965, § 20; Laws 2017, LB217, § 33.

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 money in the Job Training Cash Fund or the subaccount established in subsection (1) of this section shall be used (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, (c) as provided in section 79-2308, or (d) as provided in section 48-3405. The department shall give a preference to job training activities carried out in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97.

(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. The department shall give a preference to training grants for businesses located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act.

(4) On April 5, 2018, any funds that were dedicated to carrying out sections 81-1210.01 to 81-1210.03 but were not yet expended shall be transferred to the Intern Nebraska Cash Fund.

(5) Transfers may be made from the Job Training Cash Fund to the General Fund at the direction of the Legislature. Any money in the Job Training Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1989, LB 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; Laws 2014, LB800, § 6; Laws 2015, LB382, § 3; Laws 2015, LB661, § 34; Laws 2016, LB1110, § 14; Laws 2018, LB945, § 20; Laws 2019, LB87, § 2; Laws 2024, LB1413, § 50.
Effective date April 2, 2024.

Cross References

Enterprise Zone Act, see section 13-2101.01.

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.

81-1201.22 Administrative Cash Fund; created; use; investment.

(1) There is hereby created the Administrative Cash Fund to be administered by the department. Revenue from the following sources shall be remitted to the State Treasurer for credit to the fund:

(a) Fees charged for the sale of department publications or subscription to publications;

(b) Fees charged for the sale of Nebraska items promoting economic development of the state;

(c) Deposits charged for the temporary use of Nebraska items promoting economic development of the state;

(d) Fees charged for attendance and participation in department-sponsored conferences, training sessions, and other special events;

(e) Money collected from nondepartment sources in connection with cooperative funding of advertising, marketing, promotional, or consulting activities; and

(f) Money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used by the department for carrying out the provisions of Chapter 81, article 12.

(2) Revenue from the fund may be expended for the following purposes:

(a) Production and distribution costs of department publications;

(b) Purchase of items promoting economic development of the state intended for sale;

(c) Reimbursement of deposits collected for the temporary use of promotional items;

(d) Payment of costs in connection with department-sponsored conferences, training sessions, and other special events;

(e) Payment of costs of advertising, marketing, promotional, or consulting activities in cooperative funding partnerships with nondepartment organizations; and

(f) Payment of costs for which fund revenue has been received and which are related to department activities in Chapter 81, article 12.

(3) Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Administrative 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 1994, LB 1194, § 19; Laws 1995, LB 7, § 122; Laws 2009, First Spec. Sess., LB3, § 73; Laws 2012, LB1053, § 28.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1202 Job training grant, defined.

For purposes of sections 81-1202 to 81-1210, job training grant means a grant from the Job Training Cash Fund or any nonfederal funding source within the Department of Economic Development awarded by the department.

Source: Laws 1995, LB 326, § 1; Laws 2008, LB956, § 2.

81-1203 Job training grant; business plan; project criteria; training grant; partners; training grants for rural areas or high-poverty areas; audit; report.

(1) A business applying for a job training grant, other than a grant provided under subsection (3) of section 81-1201.21, shall submit a business plan to the Department of Economic Development which includes, but is not limited to:

(a) The number of jobs to be created or the number of existing positions that will be retrained;

(b) The nature of the business and the type of jobs to be created or positions to be retrained;

(c) The estimated wage levels of the jobs to be created or positions to be retrained; and

(d) A program schedule for the job training project.

(2) A business applying for a job training grant, other than a grant provided under subsection (3) of section 81-1201.21, must demonstrate that the job training project to be conducted pursuant to the grant meets the following criteria:

(a) The wage level of the jobs created will meet the local prevailing average;

(b) The jobs created will diversify the local economy;

(c) The goods or services produced by the company will be export-oriented;

(d) Seventy-five percent of the jobs created will be full-time jobs; and

(e) The new jobs will be created within three calendar years.

(3) A business applying for a training grant under subsection (3) of section 81-1201.21 may partner with a postsecondary educational institution; a private, nonprofit organization holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code; or a learning community coordinating council or school district that has partnered with a private, nonprofit organization. The application shall specify the role of the partnering entity in identifying and training potential job applicants for the applicant business.

(4) A business applying for a training grant under subsection (3) of section 81-1201.21 may apply as a business that has established a program under which residents of rural areas or high-poverty areas are trained for employment or potential employment by documenting:

(a) That the business has established a program designed to fill a minimum of four positions in rural areas and a minimum of eight positions in high-poverty areas for such business;

(b) A program schedule for the training project;

(c) The nature of the business and the number of positions available or to be created;

(d) That the wage level of the positions available or to be created will meet the local prevailing average;

(e) The value of the positions available or to be created in diversifying the local economy;

(f) That a minimum of seventy-five percent of the positions available or to be created will be full-time jobs;

(g) That the business will accept funding on behalf of trainees and will provide a match of a minimum of twenty-five percent of the value of the grant,

either monetarily or through in-kind services, as part of the training for each trainee;

(h) That any new position created will be done within three calendar years;

(i) That the number of trainees will not exceed one hundred twenty-five percent of the number of positions that will be available at the time of application; and

(j) That the goods or services produced by the business are generally exportable in nature resulting in additional money to the community or the state and the positions available or to be created are not local retail positions.

(5) Each business participating in a training grant under subsection (3) of section 81-1201.21 shall be subject to an audit by the Department of Economic Development and shall annually report or provide to the department the following information:

(a) The percentage of trainees who have successfully completed the training;

(b) The percentage of trainees that such business hired;

(c) An itemized description of such business's match including expenditures per trainee; and

(d) A copy of the training curriculum.

(6) For purposes of subsections (3) through (5) of this section:

(a) High-poverty area means an area consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons with incomes below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts, as determined by the most recent federal decennial census; and

(b) Private, nonprofit organization means an organization whose purpose is providing basic job and life skills training to individuals in need of such training in rural or high-poverty areas.

Source: Laws 1995, LB 326, § 2; Laws 2008, LB1154, § 27; Laws 2010, LB961, § 2.

81-1204 Job training grant; approval; limitations.

(1) Except as otherwise provided in subsection (2) of this section, the Department of Economic Development shall not approve a job training grant (a) which exceeds an average expenditure of five thousand dollars per job created if the proposed wage levels do not exceed thirty thousand dollars per year, (b) which exceeds an average expenditure of ten thousand dollars per job if the proposed wage levels exceed thirty thousand dollars per year but do not exceed fifty thousand dollars per year, or (c) which exceeds an average expenditure of twenty thousand dollars per job if the proposed wage levels exceed fifty thousand dollars per year or if the jobs created are located in a high-poverty area as defined in section 81-1203.

(2) If the application is approved with provisions described in subsection (3) of section 81-1203, the Department of Economic Development may approve a job training grant (a) up to ten thousand dollars per job created if the proposed wage levels do not exceed thirty thousand dollars per year, (b) up to fifteen thousand dollars per job if the proposed wage levels exceed thirty thousand dollars per year but do not exceed fifty thousand dollars per year, or (c) up to twenty-five thousand dollars per job if the proposed wage levels exceed fifty

thousand dollars per year or if the jobs created are located in a high-poverty area as defined in section 81-1203.

Source: Laws 1995, LB 326, § 3; Laws 2008, LB1154, § 28; Laws 2014, LB906, § 19.

81-1204.01 Training services; priority to community college areas.

Whenever practicable, the Department of Economic Development shall give priority consideration to training services offered by community college areas.

Source: Laws 2008, LB956, § 3.

81-1204.02 Repealed. Laws 1982, LB 592, § 2.

81-1205 Job training grant or training grant; reports required; department; duties.

A business which is awarded a job training grant or a training grant shall provide annual performance reports to the Department of Economic Development and a final performance report upon the completion of the project. The department shall provide a status report to the Appropriations Committee of the Legislature on July 1 of each year. The status report shall include information on each active grant, including specific information regarding the number of positions to be trained, whether new or existing employees are to be trained, the length of time that the project has been active, the amount of funding committed to the project, the amount of funding paid out to date, and the projected completion date. The status report shall also provide information on grants closed during the reporting year, including the total number of employees trained, whether new or existing employees were trained, total project expenditures, and the duration time of the project. The status report shall also provide information summarizing the use of community college areas to provide training services and list specific projects where a community college area is providing all or a component of the training services. If private or inhouse training services are used, the status report shall provide information regarding the name of the private or inhouse training service and the qualifications of the training service. The report submitted to the Appropriations Committee shall be submitted electronically.

Source: Laws 1995, LB 326, § 4; Laws 2008, LB956, § 4; Laws 2010, LB961, § 3; Laws 2011, LB404, § 5; Laws 2014, LB906, § 20.

81-1206 Job training grants; monitor and audit project.

The Department of Economic Development shall monitor the progress of job training projects conducted pursuant to job training grants. As deemed necessary, the department may conduct a site audit of job training projects and review business records pertaining to the job training project.

Source: Laws 1995, LB 326, § 5.

81-1207 Job training grant; repayment required; when; training grant; repayment required; when.

(1) If a business which receives a job training grant creates fewer jobs than stated in the business plan, the business shall repay the job training grant as provided in this subsection. If less than fifty percent of the proposed jobs are created, one hundred percent of the grant shall be repaid. If fifty percent or

more but less than seventy percent of the proposed jobs are created, fifty percent of the grant shall be repaid. If seventy percent or more but less than ninety percent of the proposed jobs are created, twenty-five percent of the grant shall be repaid. If ninety percent or more of the proposed jobs are created, no repayment is required.

(2) If a business receives a training grant and fewer trainees than stated in the business plan complete the training, the business shall repay the grant as provided in this subsection. For every trainee who does not complete the training, the business shall repay fifty percent of the prorated share of such trainee's uncompleted training costs.

Source: Laws 1995, LB 326, § 6; Laws 2010, LB961, § 4.

81-1208 Job training grant; relocation, abandonment, or sale; effect.

If a business relocates or abandons its site during the grant disbursement period, the disbursements made to the business shall be immediately due and payable to the Department of Economic Development. If a business is sold during the grant disbursement period, the disbursements made to the business shall be immediately due and payable to the department unless the purchaser agrees to carry out the terms and conditions of the business plan.

Source: Laws 1995, LB 326, § 7.

81-1209 Job training grant; repayments; credit to fund.

The Department of Economic Development shall remit repayments of job training grants due to noncompliance to the State Treasurer for credit to the Job Training Cash Fund.

Source: Laws 1995, LB 326, § 8.

81-1210 Job training grant; rules and regulations.

The Department of Economic Development shall adopt and promulgate rules and regulations to govern the award and disbursement of job training grants.

Source: Laws 1995, LB 326, § 9.

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 applied work experiences;
 - (b) Increases knowledge and develops connections that assist with career decisionmaking;
 - (c) Has the opportunity to match with an employer seeking talent to evaluate, develop, and retain; or
 - (d) Receives credited or certified training for skilled positions that will help resolve skilled workforce shortages and create talent pipelines for Nebraska industries; and
- (3) Student means any person who:

(a) Is in eleventh or twelfth grade in a public or private high school or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements in Nebraska;

(b) Is enrolled in a college, a university, a certified training institution, or some other institution of higher education; or

(c) Applies for an internship within twelve months following graduation from a public or private secondary school, a school that elects pursuant to section 79-1601 not to meet accreditation or approval requirements in Nebraska, or a college, a university, a certified training institution, or some other institution of higher education.

Source: Laws 2011, LB386, § 1; Laws 2013, LB476, § 2; Laws 2016, LB1093, § 2; Laws 2022, LB1012, § 14.

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 in the State of Nebraska at institutions of higher education, convert students to full-time employment in Nebraska, 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 state 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 twenty-four months; and

(e) The internship will be for a duration sufficient to allow the student to gain significant valuable work experience and knowledge.

(3)(a) The department may provide grants for internships to reimburse the cost of wages paid to businesses with less than one hundred fifty full-time-equivalent employees.

(b) The department may also provide grants for internships to any business to reimburse the costs for any of the following:

(i) Tuition reimbursement for courses at institutions of higher education;

(ii) Internship housing;

(iii) Transportation expenses relating to internships; and

(iv) Internship administrative or recruitment costs.

(c) The maximum grant award per internship is seven thousand five hundred dollars.

(4) A business may apply for no more than two grants for the same student and shall not be awarded more than one hundred grants total in any twelve-month period.

(5) A business may allow a student to telecommute if the business is located in Nebraska and the college, university, or other institution of higher education in which the student is enrolled 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.

(10) The department shall execute a memorandum of understanding with the Department of Labor before December 31, 2022, to ensure the exchange of available Department of Labor data throughout the continuum from prekindergarten to postsecondary education to the workforce. The department may utilize data and agreements under sections 79-776, 85-110, 85-309, and 85-1511.

(11) The department shall submit an annual report to the Governor and the Legislature on or before July 1 of each year which includes, but is not limited to, a description of the demand for internship grants and programs under sections 81-1210.01 to 81-1210.03 from all geographic regions in Nebraska, a listing of the recipients and amounts of internship grants awarded in the previous fiscal year, the impact of the internship grants, and an evaluation of the internship grants and programs under sections 81-1210.01 to 81-1210.03 based on the documented goals of the recipients. The report submitted to the Legislature shall be submitted electronically. The department may require recipients to provide periodic performance reports to enable the department to fulfill the requirements of this subsection. The report shall contain no information that is protected by state or federal confidentiality laws.

(12) The department may enter into a contract with a Nebraska-based nonprofit entity for the purposes of carrying out any or all of the provisions of sections 81-1210.01 to 81-1210.03.

Source: Laws 2011, LB386, § 2; Laws 2013, LB476, § 3; Laws 2022, LB1012, § 15; Laws 2024, LB851, § 1.
Operative date July 1, 2024.

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.

81-1210.04 Intern Nebraska Cash Fund; created; use; investment; limit on expenditures for administrative services.

(1) The Intern Nebraska Cash Fund is created. The fund shall be used to carry out sections 81-1210.01 to 81-1210.03. The fund shall consist of money transferred to the fund by the Legislature and money donated as gifts, bequests, or other contributions from public or private entities. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The Department of Economic Development, or any entity with which the department contracts for such purpose, may use up to five percent of any appropriation to carry out sections 81-1210.01 to 81-1210.03 for administrative services.

Source: Laws 2018, LB945, § 21; Laws 2022, LB1012, § 16.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1211 Lead-Based Paint Hazard Control Cash Fund; created; use; investment.

The Lead-Based Paint Hazard Control Cash Fund is created in the Department of Economic Development. The fund shall receive transfers from the Affordable Housing Trust Fund as authorized by the Legislature. The department shall use the entirety of the fund to award a grant to a city of the metropolitan class to carry out lead-based paint hazard control on owner-occupied properties, contingent upon formal notification by the United States Department of Housing and Urban Development that it intends to award a grant to a city of the metropolitan class to carry out the federal Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852, as such section existed on January 1, 2015. No more than fifteen percent of the grant proceeds may be used for administrative expenses. It is the intent of the Legislature that any grant awarded from the Lead-Based Paint Hazard Control Cash Fund shall be applied to the congressional district grant allocations as established under section 58-708. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2015, LB661, § 37; Laws 2018, LB945, § 22.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1212 Building housing for individuals with disabilities; department; duties; collaboration and coordination required.

(1) For purposes of this section, Olmstead Plan means the comprehensive strategic plan for providing services to individuals with disabilities that was developed in accordance with section 81-6,122.

(2) In order to help fulfill one of the goals of the Olmstead Plan, the Department of Economic Development shall use its best efforts to obtain state and federal grants for the purpose of building safe, affordable, and accessible housing for individuals with disabilities.

(3) The Department of Economic Development shall collaborate with the Nebraska Investment Finance Authority and the Department of Health and Human Services in obtaining such grants. The Department of Economic Development shall use its best efforts to coordinate and contract with the Nebraska Investment Finance Authority to develop and administer grant programs under this section.

Source: Laws 2023, LB92, § 75.

81-1213 Industrial Recovery Fund; created; administration; investment; use; termination.

(1) The Industrial Recovery Fund is created. The fund shall be administered by the Department of Economic Development. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department may provide assistance from the fund to a political subdivision impacted by a sudden and significant private-sector entity closure or downsizing that will have a significant impact on the community. The assistance shall be used to mitigate the economic impact of the closure or downsizing by making necessary improvements to the buildings and infrastructure, or both, related to the assets of the private-sector entity.

(3) The Industrial Recovery Fund terminates on May 30, 2015. Upon such date, the State Treasurer shall transfer fifty percent of the money in the fund to the Site and Building Development Fund and fifty percent of the money in the fund to the Affordable Housing Trust Fund.

Source: Laws 2011, LB388, § 9; Laws 2015, LB457, § 2.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1213.01 High Growth Business Development Cash Fund; created; use; investment.

(1) The High Growth Business Development Cash Fund is created. The fund shall be administered by the Department of Economic Development to fund a study related to high growth business development. The fund shall consist of money appropriated or transferred by the Legislature and gifts, grants, or bequests from any source, including money remitted to the fund from any other federal, state, public, and private sources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) It is the intent of the Legislature that fifty thousand dollars of General Funds be appropriated to the High Growth Business Development Cash Fund for the department to contract with the private, nonprofit organization selected

pursuant to subsection (3) of section 81-12,133 to provide research, analysis of best practices in other states, and make recommendations on ways to support and increase venture capital in Nebraska. A report of the findings of the research and analysis and recommendations shall be presented to the Clerk of the Legislature no later than December 1, 2014. The report shall be submitted electronically.

(3) On August 1, 2014, the State Treasurer shall transfer fifty thousand dollars from the General Fund to the High Growth Business Development Cash Fund.

Source: Laws 2014, LB1114, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1213.02 Economic Development Cash Fund; created; use; investment.

The Economic Development Cash Fund is created. The Department of Economic Development shall administer the fund to provide a grant to a community college serving a city of the metropolitan class to partner with a four-year public university serving a city of the metropolitan class to offer microcredentials to support education expansion, curricula development, and staff hires to meet demand for microchip fabrication and microelectronics manufacturing in the state in conjunction with the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283. The fund shall consist of money transferred by the Legislature and gifts, grants, or bequests from any source, including money remitted to the fund from any other federal, state, public, and private sources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2023, LB818, § 39.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1213.03 Panhandle Improvement Project Cash Fund; created; use; investment; criteria for grant applications.

(1) The Panhandle Improvement Project Cash Fund is created. The fund shall be administered by the Department of Economic Development. The fund shall consist of funds transferred by the Legislature. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The fund shall be used for grants for the following purposes:

(a) A grant to a county in the third congressional district that owns and operates the county fairgrounds for renovation to the fairgrounds. A grant under this subdivision shall be limited to nine hundred ninety-five thousand dollars; and

(b) A grant to a village with a population of less than ten persons for renovation to a community facility that serves the surrounding rural area. A grant under this subdivision shall be limited to five thousand dollars.

(3) The Department of Economic Development shall develop criteria for grant applications pursuant to this section.

Source: Laws 2023, LB818, § 41.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1213.04 Youth outdoor education camp; grant; eligible grantee; matching funds; grant period; return grant funds; conditions; uses for grant funds.

(1) For purposes of this section:

(a) Department means the Department of Economic Development;

(b) Director means the Director of Economic Development;

(c) Eligible grantee means a nonprofit organization holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code of 1986; and

(d) Eligible location means a location on or contiguous to the location of a youth outdoor education camp that is located west of the one hundredth meridian where youth outdoor education camp facilities were destroyed by a natural or manmade disaster that occurred after January 1, 2022.

(2)(a) An eligible grantee may apply to the department for a grant for ten million dollars for the uses described in subsection (4) of this section at an eligible location.

(b) The department shall award one grant for ten million dollars to an eligible grantee if:

(i) The eligible grantee completes a feasibility study for the intended use of the grant and presents such completed feasibility study to the director on or before June 30, 2024; and

(ii) The director finds that the results of the completed feasibility study demonstrate the viability of the project and approves such completed feasibility study.

(3) The grantee shall receive grant money on a dollar-for-dollar matching basis from the department, which may be released in multiple stages, at any time within ten years after being awarded the grant, if the applicant provides documentation to the department that matching funds have been received in the amount requested for release and that the grant money is being used to complete the project in conformity with the approved feasibility study. At the end of the ten-year allowable grant period, if any grant money was not spent in conformity with the approved feasibility study or if any unmatched grant money was erroneously awarded to the grantee, the grantee shall remit such grant money to the State Treasurer for credit to the Youth Outdoor Education Innovation Fund. The matching funds may include any money, real estate subject to section 81-1,113, in-kind donation, private or public grant, gift, endowment raised to sustain the uses described in subsection (4) of this section, expense for a feasibility study, or planning cost.

(4) The grant may be used to pay for:

(a) Construction of physical structures;

(b) Construction of year-round facilities, including lodging, conference, and meeting facilities, and related infrastructure, to generate local and regional economic development;

(c) Equipment that will be used for construction and maintenance of physical structures, facilities, and infrastructure described in this subsection; and

(d) Infrastructure necessary to ensure accessibility to the physical structures and facilities by the public.

(5) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB818, § 42; Laws 2024, LB998, § 10.
Operative date July 1, 2025.

Cross References

Youth Outdoor Education Innovation Fund, see section 81-1213.05.

81-1213.05 Youth Outdoor Education Innovation Fund; created; use; investment.

The Youth Outdoor Education Innovation Fund is created. The fund shall consist of transfers made by the Legislature and any gifts, grants, bequests, donations, or money remitted pursuant to section 81-1213.04 for credit to the fund. The Department of Economic Development shall administer the fund for the purposes described in section 81-1213.04. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings from investment of money in the fund shall be credited to the fund.

Source: Laws 2023, LB818, § 43.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(b) CUSTOMIZED JOB TRAINING ACT

81-1214 Act, how cited.

Sections 81-1214 to 81-1219 shall be known and may be cited as the Customized Job Training Act.

Source: Laws 2020, LB1107, § 78.

81-1215 Job training reimbursement grants; administration.

The Customized Job Training Act shall be administered by the Department of Economic Development to provide funds in the form of grants to employers for reimbursement of job training expenses as set forth in the act.

Source: Laws 2020, LB1107, § 79.

81-1216 Customized Job Training Cash Fund; created; use; investment.

The Customized Job Training Cash Fund is created. Funds in the Customized Job Training Cash Fund shall be used for (1) general administrative costs of awarding job training reimbursement grants under the Customized Job Training Act and (2) job training reimbursement grants. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2020, LB1107, § 80.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1217 Job training reimbursement grants; application; amount; report.

(1) Employers applying for job training reimbursement grants under the Customized Job Training Act shall apply to the Department of Economic Development. The department shall provide job training reimbursement grants for job training programs for jobs that are net new jobs or that result in a net increase in wages per employee. The job training reimbursement grants shall be in proportion to the committed number of net new jobs created or committed net increase in wages per employee. The amount of each grant and number of grants awarded shall be determined by the department based upon available funding.

(2) The department shall create a job training reimbursement grant application, have authority to approve applications, and authorize the total amount of job training reimbursement grants expected to be awarded as a result of the training if the Director of Economic Development is satisfied that the plan in the application defines training that meets the eligibility requirements.

(3) The department shall submit an annual report electronically to the Appropriations Committee of the Legislature that includes the total number of job training reimbursement grants awarded, the total dollar amount of job training reimbursement grants awarded and to whom, the total expenditures made in administering the Customized Job Training Act, the number of individuals trained, the average wage of net new jobs, and a summary of the training provided.

Source: Laws 2020, LB1107, § 81.

81-1218 Job training reimbursement grants; employer; requirements; provision of training.

(1) In order for an employer to apply for a job training reimbursement grant under the Customized Job Training Act:

(a) The jobs being trained for must be net new jobs or result in a net increase in wages per employee; and

(b) The jobs being trained for must meet or exceed the Nebraska average annual wage.

(2) Training may be provided by:

(a) The community college system or any accredited postsecondary educational institution;

(b) A Nebraska secondary school, public or private;

(c) A Nebraska educational service unit; or

(d) Any qualified training provider if the training results in:

(i) A national, state, or locally recognized certificate;

(ii) Preparation for a professional examination or licensure;

(iii) Endorsement for an existing credential or license; or

(iv) Development of recognized skill standards as defined by an industrial sector.

Source: Laws 2020, LB1107, § 82.

81-1219 Job training reimbursement grants; recipient; documentation.

An employer receiving a grant shall provide to the Department of Economic Development documentation:

- (1) Showing the completion of the eligible job training. The department may require reimbursement of any funds for training not meeting eligibility requirements; and
- (2) Showing that the employer has maintained or exceeded its current level of training expenditures in the fiscal year in which the grant was awarded.

Source: Laws 2020, LB1107, § 83.

(c) NEBRASKA FILM OFFICE FUND**81-1220 Nebraska Film Office Fund; created; use; investment; grant programs authorized; application; requirements.**

(1)(a) The Nebraska Film Office Fund is created. The fund shall be administered by the Department of Economic Development and used for grants for Nebraska-based films, Nebraska filmmakers, and tribal communities in Nebraska as provided in this section.

(b) The fund shall consist of funds transferred by the Legislature, gifts, grants, and bequests.

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

(2)(a) The department shall administer a grant program for Nebraska-based films and shall require applications to be submitted to the department prior to beginning production.

(b) To be eligible for a grant under the program, the applicant shall verify that:

- (i) The film is to be produced in Nebraska;
- (ii) The film tells a Nebraska story; and
- (iii) At least fifty percent of the workforce for film production will be composed of Nebraska residents for the duration of the production except as otherwise provided in subdivision (c) of this subsection.

(c) The department may lower the fifty-percent requirement in subdivision (b)(iii) of this subsection but shall not waive the requirement. The applicant shall apply to the department to lower the requirement and provide a certification that the requirement is an unreasonable impediment to production of the film. The department shall notify the applicant of the decision under this subdivision.

(d) The department shall review each application to determine whether the film qualifies for a grant under this subsection and shall not award a grant that exceeds twenty-five percent of the projected production cost of the film.

(3)(a) The department shall administer a grant program for Nebraska filmmakers with the intention to create Nebraska film industry jobs and shall require applications to be submitted to the department prior to beginning production.

(b) To be eligible for a grant under the program, the applicant shall verify that:

(i) One hundred percent of the principal photography of the film will be in Nebraska;

(ii) The applicant is a resident that has a validated credit as a producer, director, director of photography, or screenwriter for the film;

(iii) The film will be a full-length film or documentary or a short-length film or documentary;

(iv) The film will not contain any obscene or sexually explicit material;

(v) All employees who will work on the film are residents; and

(vi) The total budget of the film is at least:

(A) For full-length films or documentaries, fifty thousand dollars; or

(B) For short-length films or documentaries, five thousand dollars;

(c) The department shall review each application to determine whether the film qualifies for a grant under this subsection.

(d) The department shall review applications for grants under this subsection in the order in which the applications are received.

(e) The department shall award grants under this subsection for a total of four full-length films or documentaries and ten short-length films or documentaries each calendar year.

(f) The department shall not award a grant that exceeds two hundred fifty thousand dollars for a full-length film or documentary or twenty-five thousand dollars for a short-length film or documentary.

(g) The department shall not award total grants exceeding one million three hundred twenty-five thousand dollars in any calendar year.

(h) The first grant awarded for each individual film shall not exceed:

(i) For full-length films or documentaries, fifty thousand dollars; or

(ii) For short-length films or documentaries, ten thousand dollars.

(i) If an applicant who receives a grant under this subsection does not meet the requirements for eligibility under subdivision (b) of this subsection during the entirety of the production of the film, the applicant shall repay the entirety of the grant.

(j) For purposes of this subsection:

(i) Full-length means a production at least sixty minutes in length;

(ii) Short-length means a production at least thirty minutes and less than sixty minutes in length; and

(iii) Resident means any individual domiciled in the State of Nebraska and any other individual who maintains a permanent place of residence within the state even though temporarily absent from the state and who has not established a residence elsewhere.

(4)(a) The department shall administer a grant program for film and entertainment education programs in tribal communities in Nebraska.

(b) The department shall award total grants of at least seventy-five thousand dollars each calendar year.

Source: Laws 2018, LB945, § 8; Laws 2021, LB384, § 14; Laws 2024, LB937, § 83.

Operative date July 19, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1221 Repealed. Laws 1978, LB 568, § 23.

(d) PROPERTY CONTROLLED BY DEPARTMENT

81-1222 Repealed. Laws 1978, LB 568, § 23.

81-1222.01 Repealed. Laws 2011, LB 454, § 1.

81-1222.02 Director of Economic Development; fees; leases; collection; disposition.

(1) The Director of Economic Development is hereby authorized to set and collect a fee from persons who attend any attraction under the control or supervision of the Department of Economic Development. All such funds shall be deposited in the appropriate department fund and used for the purposes set forth for that fund.

(2) The Director of Economic Development may contract for and lease any property under the control and supervision of the Department of Economic Development to any person or organization if such lease is in the best interest of the state. All funds collected from such leases shall be deposited in the appropriate department fund and used for the purposes set forth for that fund.

Source: Laws 1978, LB 568, § 22.

81-1222.03 Repealed. Laws 2011, LB 454, § 1.

81-1223 Repealed. Laws 1978, LB 568, § 23.

81-1224 Repealed. Laws 1978, LB 568, § 23.

81-1225 Repealed. Laws 1978, LB 568, § 23.

(e) WORKFORCE HOUSING INVESTMENT

81-1226 Act, how cited.

Sections 81-1226 to 81-1234 shall be known and may be cited as the Rural Workforce Housing Investment Act.

Source: Laws 2017, LB518, § 1.

81-1227 Legislative findings.

The Legislature finds that:

(1) Current economic conditions and limited availability of modern housing units impact the ability of Nebraska's rural communities to recruit and retain a world-class workforce. A lack of workforce housing affects the ability of communities to maintain and develop viable, stable, and thriving economies. A

housing shortage in rural areas also impacts the ability of local private, nonprofit, and public employers to grow and prosper;

(2) Impediments exist to the construction, rehabilitation, and financing of rural workforce housing. There is a shortage of contractors willing to develop new housing units in rural communities. Developers and contractors perceive increased risk associated with housing development in rural areas. Today's worker who is considering a job in a rural area has different expectations about the type and style of housing he or she desires. Costs for new housing in rural areas generally continue to grow faster than Nebraska incomes and the cost of living; and

(3) In order to develop attractive housing options that lead to the recruitment and retention of a world-class workforce in Nebraska's rural communities, it is the intent of the Legislature to use new and existing resources to support creation of workforce housing investment funds. Such funds will be used to encourage development of workforce housing in Nebraska's rural and under-served regions.

Source: Laws 2017, LB518, § 2.

81-1228 Terms, defined.

For purposes of the Rural Workforce Housing Investment Act:

- (1) Department means the Department of Economic Development;
- (2) Director means the Director of Economic Development;
- (3) Eligible activities of a nonprofit development organization means:
 - (a) New construction of owner-occupied or rental housing in a community with demonstrated workforce housing needs;
 - (b) Substantial repair or rehabilitation of dilapidated housing stock;
 - (c) Upper-story housing development; or
 - (d) Extension of sewer or water service in support of workforce housing;
- (4) HOME funds means funds awarded as formula grants under the HOME Investment Partnerships Program administered by the United States Department of Housing and Urban Development;
- (5) Matching funds means dollars contributed by individuals, businesses, foundations, local, regional, and statewide political subdivisions, or other nonprofit organizations to a workforce housing investment fund administered by a nonprofit development organization;
- (6) Nonprofit development organization means a local, regional, or statewide nonprofit development organization approved by the director;
- (7) Qualified activities include, but are not limited to, purchase and rental guarantees, loan guarantees, loan participations, and other credit enhancements or any other form of assistance designed to reduce the cost of workforce housing related to eligible activities of the nonprofit development organization;
- (8) Qualified investment means a cash investment in a workforce housing investment fund administered by a nonprofit development organization;
- (9) Rural community means any municipality in a county with a population of fewer than one hundred thousand inhabitants as determined by the most recent federal decennial census;
- (10) Workforce housing means:

- (a) Housing that meets the needs of today's working families;
- (b) Housing that is attractive to new residents considering relocation to a rural community;
- (c) Owner-occupied housing units that cost not more than three hundred twenty-five thousand dollars to construct or rental housing units that cost not more than two hundred fifty thousand dollars per unit to construct. For purposes of this subdivision (c), housing unit costs shall be updated annually by the department based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;
- (d) Owner-occupied and rental housing units for which the cost to substantially rehabilitate exceeds fifty percent of a unit's assessed value;
- (e) Upper-story housing; and
- (f) Housing units that do not receive federal or state low-income housing tax credits, community development block grants, HOME funds, or funds from the National Housing Trust Fund, which would impose individual or household income limitations or restrictions on such housing units, or funding from the Affordable Housing Trust Fund restricting the level of individual or household income to anything less than one hundred percent of area median income as calculated by the United States Department of Housing and Urban Development; and

(11) Workforce housing investment fund means a fund that has been created by a nonprofit development organization and certified by the director to encourage development of workforce housing in rural communities.

Source: Laws 2017, LB518, § 3; Laws 2022, LB1069, § 1; Laws 2023, LB191, § 19.

81-1229 Workforce housing grant program; established; workforce housing grant; application; form; award; considerations; nonprofit development organization; duties.

(1) The director shall establish a workforce housing grant program to foster and support the development of workforce housing in rural communities.

(2) A nonprofit development organization may apply to the director for approval of a workforce housing grant for a workforce housing investment fund. The application shall be in a form and manner prescribed by the director. Through fiscal year 2026-27, grants shall be awarded by the director on a competitive basis until grant funds are no longer available. A nonprofit development organization may apply for more than one grant, subject to the following limits:

(a) The maximum amount of grant funds awarded to any one nonprofit development organization over a two-year period shall not exceed five million dollars; and

(b) The maximum amount of grant funds awarded to any one nonprofit development organization for all program years shall not exceed an aggregate limit determined by the department at the discretion of the director.

(3) An applicant shall provide matching funds of at least one-quarter of the amount of workforce housing grant funds awarded. Unallocated workforce

housing grant funds held by the department shall be rolled to the next program year.

(4) Grants shall be awarded based upon:

(a) A demonstrated and ongoing housing need as identified by a recent housing study;

(b) A community or region that has a low unemployment rate and is having difficulty attracting workers and filling employment positions;

(c) A community or region that exhibits a demonstrated commitment to growing its housing stock;

(d) Projects that can reasonably be ready for occupancy in a period of twenty-four months; and

(e) A demonstrated ability to grow and manage a workforce housing investment fund.

(5) A nonprofit development organization shall:

(a) Invest or intend to invest in workforce housing eligible activities;

(b) Use any fees, interest, loan repayments, or other funds it received as a result of the administration of the grant to support qualified activities; and

(c) Have an active board of directors with expertise in development, construction, and finance that meets at least quarterly to approve all qualified investments made by the nonprofit development organization. A nonprofit development organization shall have a formal plan and proven expertise to invest unused workforce housing investment fund balances and shall have an annual review of all financial records conducted by an independent certified public accountant.

Source: Laws 2017, LB518, § 4; Laws 2022, LB1069, § 2; Laws 2023, LB191, § 20; Laws 2023, LB727, § 101.

81-1230 Rural Workforce Housing Investment Fund; created; use; investment; return of grant funds; when required.

(1) The Rural Workforce Housing Investment Fund is created. Funding for the grant program described in section 81-1229 shall come from the Rural Workforce Housing Investment Fund. The Rural Workforce Housing Investment Fund may include revenue from appropriations from the Legislature, grants, private contributions, and other sources. In addition, the State Treasurer shall make a one-time transfer of seven million three hundred thousand dollars on or before October 1, 2017, from the Affordable Housing Trust Fund to the Rural Workforce Housing Investment Fund. Any money in the Rural Workforce Housing Investment Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall administer the Rural Workforce Housing Investment Fund and may seek additional private or nonstate funds to use in the grant program, including, but not limited to, contributions from the Nebraska Investment Finance Authority and other interested parties.

(3) Interest earned by the department on grant funds shall be applied to the grant program.

(4) If a nonprofit development organization fails to engage in the initial qualified activity within twenty-four months after receiving initial grant fund-

ing, the nonprofit development organization shall return the grant funds to the department for credit to the General Fund.

(5) If a nonprofit development organization fails to allocate any remaining initial grant funding on a qualified activity within twenty-four months after engaging in the initial qualified activity, the nonprofit development organization shall return such unallocated grant funds to the department for credit to the Rural Workforce Housing Investment Fund.

(6) Beginning July 1, 2027, any funds held by the department in the Rural Workforce Housing Investment Fund shall be transferred to the General Fund.

Source: Laws 2017, LB518, § 5; Laws 2022, LB1069, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1231 Nonprofit development organization; annual report; contents; final report; failure to file; civil penalty.

(1) Each nonprofit development organization shall submit an annual report to the director to be included as a part of the department's annual status report required under section 81-1201.11. The report shall certify that the nonprofit development organization meets the requirements of the Rural Workforce Housing Investment Act and shall include a breakdown of program activities.

(2) The annual report shall include, but not necessarily be limited to:

(a) The name and geographical location of the reporting nonprofit development organization;

(b) The number, amount, and type of workforce housing investment funds invested in qualified activities;

(c) The number, geographical location, type, and amount of investments made;

(d) A summary of matching funds and where such matching funds were generated; and

(e) The results of the annual review of all financial records required under subsection (5) of section 81-1229.

(3) If a nonprofit development organization ceases administration of a workforce housing investment fund, it shall file a final report with the director in a form and manner required by the director. Before July 1, 2027, any unallocated grant funds shall be returned to the department for credit to the Rural Workforce Housing Investment Fund. On and after July 1, 2027, any unallocated grant funds shall be returned to the department for transfer to the General Fund.

(4) If a nonprofit development organization fails to file a complete annual report by February 15, the director may, in his or her discretion, impose a civil penalty of not more than five thousand dollars for such violation. All money collected by the department pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 2017, LB518, § 6; Laws 2022, LB1069, § 4; Laws 2023, LB191, § 21.

81-1232 Department; duties; powers.

(1) The department shall use its best efforts to assure that grant funds awarded to nonprofit development organizations are targeted to the geographic communities or regions with the most pressing economic and employment needs.

(2) The department shall use its best efforts to assure that the allocation of grant funds provides equitable access to the benefits provided by the Rural Workforce Housing Investment Act to all eligible geographical areas.

(3) The department may contract with a statewide public or private nonprofit organization which shall serve as agent for the department to help carry out the purposes and requirements of the Rural Workforce Housing Investment Act. The department or its agent may only use for expenses that portion of the funds available for the workforce housing grant program through the Rural Workforce Housing Investment Fund necessary to cover the actual costs of administering the program, including, but not limited to, the hiring of staff.

Source: Laws 2017, LB518, § 7.

81-1233 Report to Legislature and Governor; contents; confidential.

(1) As part of the department's annual status report required under section 81-1201.11, the department shall submit a report to the Legislature and the Governor that includes, but is not necessarily limited to:

(a) The number and geographical location of nonprofit development organizations establishing workforce housing investment funds;

(b) The number, amount, and type of workforce housing investment funds invested in qualified activities; and

(c) The number, geographical location, type, and amount of investments made by each nonprofit development organization.

(2) The report to the Legislature shall be submitted electronically.

(3) Information received, developed, created, or otherwise maintained by the department in administering and enforcing the Rural Workforce Housing Investment Act, other than information required to be included in the report to be submitted by the department to the Governor and Legislature pursuant to this section, may be deemed confidential by the department and not considered public records subject to disclosure pursuant to sections 84-712 to 84-712.09.

Source: Laws 2017, LB518, § 8.

81-1234 Rules and regulations.

The department may adopt and promulgate rules and regulations to administer and enforce the Rural Workforce Housing Investment Act.

Source: Laws 2017, LB518, § 9.

81-1235 Act, how cited.

Sections 81-1235 to 81-1243 shall be known and may be cited as the Middle Income Workforce Housing Investment Act.

Source: Laws 2020, LB866, § 11.

81-1236 Urban workforce housing; shortage; effect; development; impediments; legislative intent.

(1) Current economic conditions and limited availability of modern housing units impact the ability of Nebraska's older urban neighborhoods and majority-minority communities to maintain residential stability. Low rates of home-ownership and a lack of high-quality, non-income-restricted rental housing negatively affects the ability of residents of such neighborhoods and communities to achieve housing stability and invest in their neighborhoods and communities. A lack of workforce housing affects the ability of neighborhoods and communities to maintain and develop viable, stable, and thriving economies. A shortage of quality housing in such areas also impacts the ability of local private, nonprofit, and public employers to grow and prosper.

(2) Impediments exist to the construction, rehabilitation, and financing of urban workforce housing. Comparable home sale and appraisal prices do not justify the cost of new construction homes. There is a lack of space that would be large enough for development to achieve cost efficiencies. Due to generations of disinvestment, these neighborhoods and communities frequently receive a stigma that negatively impacts the residential real estate market.

(3) In order to develop attractive housing options that lead to the recruitment and retention of a world-class workforce in Nebraska's older urban communities, it is the intent of the Legislature to use new and existing resources to support creation of workforce housing investment funds. Such funds will be used to encourage development of workforce housing in Nebraska's urban and underserved neighborhoods and communities.

Source: Laws 2020, LB866, § 12.

81-1237 Terms, defined.

For purposes of the Middle Income Workforce Housing Investment Act:

- (1) Department means the Department of Economic Development;
- (2) Director means the Director of Economic Development;
- (3) Eligible activities of a workforce housing investment fund means:
 - (a) New construction of owner-occupied housing in a neighborhood and community with a demonstrated need for housing that is affordable and attractive to first-time homebuyers, middle-income families, and the emerging workforce;
 - (b) Substantial repair or rehabilitation of dilapidated housing stock; or
 - (c) Upper-story housing development for occupation by a homeowner;
- (4) HOME funds means funds awarded as formula grants under the HOME Investment Partnerships Program administered by the United States Department of Housing and Urban Development;
- (5) Matching funds means dollars contributed by individuals, businesses, foundations, local and regional political subdivisions, or other nonprofit organizations to a workforce housing investment fund administered by a nonprofit development organization;
- (6) Nonprofit development organization means a regional or statewide nonprofit development organization approved by the director;

(7) Qualified activities include purchase guarantees, loan guarantees, loan participations, and other credit enhancements related to eligible activities of the workforce housing investment fund;

(8) Qualified investment means a cash investment in a workforce housing investment fund administered by a nonprofit development organization;

(9) Urban community means any area that is:

(a)(i) In a county with a population greater than one hundred thousand inhabitants as determined by the most recent federal decennial census; and

(ii) Within or adjacent to a qualified census tract as described in 26 U.S.C. 42(d)(5)(B), as such section existed on January 1, 2022;

(b) Within a city of the primary class or within a county in which a city of the primary class is located; or

(c) In a county with a population greater than one hundred thousand inhabitants, as determined by the most recent federal decennial census, that does not contain a city of the metropolitan class or a city of the primary class;

(10) Workforce housing means:

(a) Owner-occupied housing units that cost not more than three hundred thirty thousand dollars to construct. For purposes of this subdivision, housing unit costs shall be updated annually by the department based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;

(b) Owner-occupied housing units for which the cost to substantially rehabilitate such units exceeds fifty percent of a unit's before-construction assessed value, and the after-construction appraised value of the building alone is at least one hundred twenty-five thousand dollars but not more than two hundred seventy-five thousand dollars. For purposes of this subdivision, housing unit after-construction appraised value shall be updated annually by the department based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;

(c) Upper-story housing for occupation by a homeowner; and

(d) Housing that does not receive federal or state low-income housing tax credits, community development block grants, HOME funds, or funds from the Affordable Housing Trust Fund; and

(11) Workforce housing investment fund means a fund that has been created by a nonprofit development organization and certified by the director to encourage development of workforce housing in urban communities.

Source: Laws 2020, LB866, § 13; Laws 2022, LB1024, § 9; Laws 2023, LB531, § 32; Laws 2024, LB840, § 15.

Operative date July 19, 2024.

81-1238 Workforce housing investment grant program; established; workforce housing grant; application; form; award; considerations; workforce housing investment fund; requirements.

(1) The director shall establish a workforce housing investment grant program to foster and support the development of workforce housing in urban communities.

(2) A nonprofit development organization may apply to the director for approval of a workforce housing grant for a workforce housing investment fund. The application shall be in a form and manner prescribed by the director. Through fiscal year 2026-27, grants shall be awarded by the director on a competitive basis until grant funds are no longer available. Grant maximums shall not exceed ten million dollars to any one nonprofit development organization over a two-year period, with the cumulative amount for any single grantee to be determined by the department at the discretion of the director. An applicant shall provide matching funds for workforce housing grant funds awarded. For grant funds awarded prior to July 19, 2024, an applicant shall provide matching funds of at least fifty percent of the amount of such grant funds awarded. For grant funds awarded on or after July 19, 2024, an applicant shall provide matching funds of at least twenty-five percent of the amount of such grant funds awarded. Unallocated funds held by the department shall be rolled to the next program year.

(3) Grants shall be awarded based upon:

(a) A demonstrated need for additional owner-occupied housing. Need can be demonstrated with a recent housing study or a letter from the planning department of the city in which the fund is intending to operate stating that the proposal is in line with the city's most recent consolidated plan submitted under 24 C.F.R. part 91, subpart D, as such subpart existed on January 1, 2020;

(b) A neighborhood or community that has a higher-than-state-average unemployment rate;

(c) A neighborhood or community that exhibits a demonstrated commitment to growing its housing stock;

(d) Reducing barriers to the development and purchase of owner-occupied housing with flexible forms of assistance, including grants, forgivable loans, and other forms of long-term, patient financing;

(e) Projects that can reasonably be ready for occupancy in a period of twenty-four months; and

(f) A demonstrated ability to grow and manage a workforce housing investment fund.

(4) A workforce housing investment fund shall:

(a) Be required to receive annual certification from the department;

(b) Invest or intend to invest in eligible activities for a workforce housing investment fund;

(c) Use any fees, interest, loan repayments, or other funds received by the nonprofit development organization as a result of the administration of the grant to support qualified activities; and

(d) Have an active board of directors with expertise in development, construction, and finance that meets at least quarterly to approve all qualified investments made by the nonprofit development organization. A nonprofit development organization shall have a formal plan and proven expertise to invest unused workforce housing investment fund balances and shall conduct an annual audit of all financial records by an independent certified public accountant.

(5) A nonprofit development organization that has previously received a grant or grants under the Middle Income Workforce Housing Investment Act shall

not be eligible for an additional grant under this section unless the organization has expended at least fifty percent of the funds from such previous grant or grants.

Source: Laws 2020, LB866, § 14; Laws 2022, LB1024, § 10; Laws 2022, LB1069, § 5; Laws 2023, LB531, § 33; Laws 2024, LB840, § 16.
Operative date July 19, 2024.

81-1239 Middle Income Workforce Housing Investment Fund; created; use; investment; subaccount; purpose; return of grant funds; when required.

(1) The Middle Income Workforce Housing Investment Fund is created. Funding for the grant program described in section 81-1238 shall come from the Middle Income Workforce Housing Investment Fund. The Middle Income Workforce Housing Investment Fund may include revenue from appropriations from the Legislature, grants, private contributions, and other sources. Any money in the Middle Income Workforce Housing Investment Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall establish a subaccount within the Middle Income Workforce Housing Investment Fund that shall be used to fund affordable housing and related land parcel preparation activities under the Economic Recovery Act as described in subdivisions (4)(d) and (e) of section 81-12,241.

(3) The department shall administer the Middle Income Workforce Housing Investment Fund and may seek additional private or nonstate funds to use in the grant program, including, but not limited to, contributions from the Nebraska Investment Finance Authority and other interested parties.

(4) Interest earned by the department on grant funds shall be applied to the grant program.

(5) If a nonprofit development organization, or a recipient of subaccount funds described in subsection (2) of this section, fails to engage in a qualified activity within twenty-four months after receiving initial grant funding, the nonprofit development organization or recipient of subaccount funds shall return the grant proceeds to the department for credit to the General Fund.

(6) Beginning July 1, 2029, any funds held by the department in the Middle Income Workforce Housing Investment Fund shall be transferred to the General Fund.

Source: Laws 2020, LB866, § 15; Laws 2022, LB1024, § 11; Laws 2022, LB1069, § 6; Laws 2023, LB531, § 34; Laws 2024, LB164, § 17.
Operative date April 17, 2024.

Cross References

Economic Recovery Act, see section 81-12,238.

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1240 Nonprofit development organization; annual report; contents; final report; failure to file; civil penalty; applicability of section.

(1) Each nonprofit development organization shall submit an annual report to the director to be included as a part of the department's annual status report required under section 81-1201.11. The report shall certify that the workforce housing investment fund meets the requirements of the Middle Income Work-

force Housing Investment Act and shall include a breakdown of program activities.

(2) The annual report shall include, but not be limited to:

(a) The name and geographical location of the nonprofit development organization;

(b) The number, amount, and type of workforce housing investment funds invested in qualified activities;

(c) The number, geographical location, type, and amount of investments made;

(d) A summary of matching funds and where such matching funds were generated; and

(e) The results of the annual audit required under subdivision (4)(d) of section 81-1238.

(3) If a nonprofit development organization ceases administration of a workforce housing investment fund, it shall file a final report with the director in a form and manner required by the director. Before July 1, 2029, any unallocated workforce housing investment fund grant funds shall be returned for credit to the Middle Income Workforce Housing Investment Fund. On and after July 1, 2029, any unallocated workforce housing investment fund grant funds shall be returned to the department for transfer to the General Fund.

(4) If a workforce housing investment fund fails to file a complete annual report by February 15, the director may, in his or her discretion, impose a civil penalty of not more than five thousand dollars for such violation. All money collected by the department pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(5) This section does not apply to the subaccount of the Middle Income Workforce Housing Investment Fund described in subsection (2) of section 81-1239.

Source: Laws 2020, LB866, § 16; Laws 2022, LB1024, § 12; Laws 2022, LB1069, § 7; Laws 2023, LB531, § 35.

81-1241 Department; duties; powers.

(1) The department shall use its best efforts to assure that any grant funds awarded to a nonprofit development organization are targeted to the geographic communities or regions with the most pressing housing, economic, and employment needs.

(2) The department shall use its best efforts to assure that the allocation of grant funds provides equitable access to the benefits provided by the Middle Income Workforce Housing Investment Act to all eligible neighborhoods and communities.

(3) The director may contract with a statewide public or private nonprofit organization which shall serve as agent for the department to help carry out the purposes and requirements of the Middle Income Workforce Housing Investment Act. The department or its agent may only use for expenses that portion of the funds available for the workforce housing investment grant program

through the Middle Income Workforce Housing Investment Fund necessary to cover the actual costs of administering the program.

Source: Laws 2020, LB866, § 17.

81-1242 Report to Legislature and Governor; contents; confidential.

(1) As part of the department's annual status report required under section 81-1201.11, the department shall submit a report to the Legislature and the Governor that includes, but is not necessarily limited to:

(a) The number and geographical location of workforce housing investment funds;

(b) The number, amount, and type of workforce housing investment funds invested in qualified activities; and

(c) The number, geographical location, type, and amount of investments made by each nonprofit development organization.

(2) The report to the Legislature shall be submitted electronically.

(3) Information received, developed, created, or otherwise maintained by the department in administering and enforcing the Middle Income Workforce Housing Investment Act, other than information required to be included in the report to be submitted by the department to the Governor and Legislature pursuant to this section, may be deemed confidential by the department and not considered a public record subject to disclosure pursuant to sections 84-712 to 84-712.09.

Source: Laws 2020, LB866, § 18.

81-1243 Rules and regulations.

The department may adopt and promulgate rules and regulations to administer and enforce the Middle Income Workforce Housing Investment Act, including rules, regulations, and reporting requirements relating to proposals pursuant to subdivisions (4)(d) and (e) of section 81-12,241.

Source: Laws 2020, LB866, § 19; Laws 2023, LB531, § 36; Laws 2024, LB164, § 18.

Operative date April 17, 2024.

81-1244 Repealed. Laws 1981, LB 545, § 52.

(f) NEBRASKA VISITORS DEVELOPMENT ACT

81-1245 Transferred to section 81-3702.

81-1246 Transferred to section 81-3703.

81-1247 Transferred to section 81-3707.

81-1248 Transferred to section 81-3706.

81-1249 Transferred to section 81-3708.

81-1250 Transferred to section 81-3709.

81-1251 Transferred to section 81-3705.

- 81-1252 Transferred to section 81-3714.
- 81-1253 Transferred to section 81-3715.
- 81-1254 Transferred to section 81-3716.
- 81-1255 Transferred to section 81-3717.
- 81-1256 Transferred to section 81-3718.
- 81-1257 Transferred to section 81-3719.
- 81-1258 Transferred to section 81-3720.
- 81-1259 Transferred to section 81-3721.
- 81-1260 Transferred to section 81-3722.
- 81-1261 Transferred to section 81-3723.
- 81-1262 Transferred to section 81-3724.
- 81-1263 Transferred to section 81-3701.
- 81-1264 Repealed. Laws 1983, LB 114, § 1.

(g) VENTURE CAPITAL NETWORK ACT

- 81-1265 Repealed. Laws 2011, LB 455, § 1.
- 81-1266 Repealed. Laws 2011, LB 455, § 1.
- 81-1267 Repealed. Laws 2011, LB 455, § 1.
- 81-1268 Repealed. Laws 2011, LB 455, § 1.
- 81-1269 Repealed. Laws 2011, LB 455, § 1.
- 81-1270 Repealed. Laws 2011, LB 455, § 1.
- 81-1271 Repealed. Laws 2011, LB 455, § 1.

(h) BUSINESS DEVELOPMENT PARTNERSHIP ACT

81-1272 Act, how cited.

Sections 81-1272 to 81-1277 shall be known and may be cited as the Business Development Partnership Act.

Source: Laws 1987, LB 736, § 1.

81-1273 Legislative findings.

The Legislature finds and declares:

- (1) That the availability of business development services at various geographic locations throughout the state would result in the retention, expansion, and diversification of existing businesses and the creation of new businesses;
- (2) That the Board of Regents of the University of Nebraska may authorize the Nebraska Business Development Center as a department of the University

of Nebraska at Omaha. The Nebraska Business Development Center, if authorized under this section, may provide business development services through a network of small business development centers at: (a) Chadron State College, Peru State College, and Wayne State College, if authorized by the Board of Trustees of the Nebraska State Colleges; and (b) the University of Nebraska at Kearney, the University of Nebraska-Lincoln, and the University of Nebraska at Omaha, if authorized by the Board of Regents of the University of Nebraska;

(3) That business development services may be augmented through specialized research and technical assistance services; and

(4) That the Existing Business Assistance Division of the Department of Economic Development shall coordinate, administer, and support the delivery of such services.

Source: Laws 1987, LB 736, § 2; Laws 1989, LB 639, § 8; Laws 1989, LB 247, § 12; Laws 2011, LB334, § 5.

81-1274 Business Development Services Program; created; administration.

There is hereby created the Business Development Services Program in the Existing Business Assistance Division of the Department of Economic Development. The division shall be responsible for the administration of the program and shall have the power and authority to contract for services as provided in sections 81-1275 and 81-1276.

Source: Laws 1987, LB 736, § 3; Laws 1989, LB 639, § 9.

81-1275 Nebraska Business Development Center; duties.

If the Nebraska Business Development Center is authorized by the Board of Regents of the University of Nebraska pursuant to section 81-1273, the Existing Business Assistance Division shall contract with the Nebraska Business Development Center to administer, manage, and deliver regional small business services, and the Nebraska Business Development Center shall:

(1) Provide such services as close as possible to small businesses through a network of small business development centers located in Omaha, Lincoln, Kearney, Wayne, North Platte, Scottsbluff or Gering, Chadron, Peru, and such other communities as the Existing Business Assistance Division shall determine based on the applications of communities desiring to be the location of a small business development center. Small business development centers in such communities shall not be required if the location within a community is on property under the control of the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges and the governing body with control of such property has not authorized such small business development center pursuant to section 81-1273. In determining the location of small business development centers, the division shall consider several factors, including, but not limited to: (a) Preexisting small business development centers; (b) geographic accessibility; and (c) existing resources such as building space and office equipment or the willingness of a community to provide some or all of those resources. The division shall prescribe the form of the application for location of a small business development center and take all actions necessary in the processing of such applications;

(2) Integrate activities funded through the Business Development Partnership Act with those funded by the United States Small Business Administration or

any other program supporting the Nebraska small business development centers;

- (3) Furnish one-to-one individual counseling to small businesses;
- (4) Assist in technology transfer, research, and coupling from existing sources to small businesses;
- (5) Maintain current information concerning federal, state, and local regulations that affect small businesses and counsel small business on methods of compliance;
- (6) Coordinate and conduct research into technical and general small business problems for which there are no ready solutions;
- (7) Provide and maintain a comprehensive library that contains current information and statistical data needed by small businesses;
- (8) Maintain a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community;
- (9) Conduct indepth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality; and
- (10) Provide other services as determined in consultation with the Existing Business Assistance Division.

Source: Laws 1987, LB 736, § 4; Laws 1989, LB 639, § 10; Laws 2011, LB334, § 6.

81-1276 Existing Business Assistance Division; contracts; authorized.

The Existing Business Assistance Division may contract with any postsecondary institution of higher education, community organization, governmental agency or entity, or any other profit or nonprofit entity to provide specialized research, technology development assistance, technology transfer services, financial packaging or leveraging services, human resources development services, surety bond support, or such other specialized services as the division deems necessary if preference is given to entities based in or operating in Nebraska.

Source: Laws 1987, LB 736, § 5; Laws 1989, LB 639, § 11; Laws 1997, LB 861, § 1.

81-1277 Existing Business Assistance Division; contracts; reports.

The Existing Business Assistance Division shall require, as a condition of contracts awarded under the Business Development Services Program, satisfactory quarterly reports from recipients describing services provided, clients served, and expenditures. The division shall include, as part of the Department of Economic Development's annual status report under section 81-1201.11, a description of the services provided under the Business Development Partnership Act, an analysis of the impact of the services, recommendations regarding the services, and an evaluation of the performance of service deliverers.

Source: Laws 1987, LB 736, § 6; Laws 1989, LB 639, § 12; Laws 2011, LB404, § 6.

(i) AGRICULTURAL PRODUCTS RESEARCH

81-1278 Repealed. Laws 2023, LB818, § 45.

81-1279 Repealed. Laws 2023, LB818, § 45.

81-1280 Repealed. Laws 2023, LB818, § 45.

(j) HOUSING AFFORDABILITY STRATEGY

81-1281 Comprehensive housing affordability strategy; established; contents; advisory committee; powers and duties.

(1) The Department of Economic Development shall establish a comprehensive housing affordability strategy. The strategy shall identify needs, consider issues, and make recommendations regarding housing affordability, housing availability, housing accessibility, and housing quality in Nebraska. The department shall submit the strategy to the Governor and the Clerk of the Legislature by October 1, 1991.

(2) The department shall establish a housing advisory committee consisting of individuals and representatives of groups involved with housing issues in Nebraska to assist with the establishment of the strategy. The department shall work with the Governor's Policy Research Office, the Department of Health and Human Services, the Department of Banking and Finance, the Nebraska Investment Finance Authority, and any other public or private agency involved in addressing housing needs in Nebraska.

(3) The strategy shall:

(a) Describe the state's estimated housing needs for the ensuing five-year period and the need for assistance for different types of tenure and for different categories of residents such as very-low-income, low-income, and moderate-income persons, the elderly, single persons, large families, residents of nonmetropolitan areas, and other categories determined to be appropriate by the committee;

(b) Describe the nature and extent of homelessness in the state, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness and a description of the strategy for (i) helping low-income families avoid homelessness, (ii) addressing the emergency shelter and transitional housing needs of the homeless, including an inventory of facilities and services that meet such needs in Nebraska, and (iii) helping homeless persons make the transition to permanent housing;

(c) Describe significant characteristics of the housing market;

(d) Explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in Nebraska are affected by public policies, including tax policies affecting land and other property, land-use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment;

(e) Explain the institutional structure, including private industry, nonprofit organizations, and public institutions through which the state will carry out the strategy, assessing the strengths and gaps and describing what will be done to overcome any gaps;

(f) Describe the means of coordination and cooperation among the units of state and local government in the development and implementation of the strategy;

(g) Establish standards and procedures for monitoring housing activities undertaken because of the strategy; and

(h) Include any other information on housing in Nebraska deemed relevant by the Department of Economic Development or the committee.

Source: Laws 1991, LB 825, § 51; Laws 1996, LB 1044, § 866; Laws 2007, LB296, § 755.

(k) RURAL DEVELOPMENT

81-1282 Transferred to section 81-3601.

81-1283 Transferred to section 81-3602.

81-1284 Transferred to section 81-3603.

81-1285 Transferred to section 81-3604.

81-1286 Transferred to section 81-3605.

81-1287 Transferred to section 81-3606.

(l) PARTNERSHIPS FOR ECONOMIC DEVELOPMENT ACT

81-1288 Repealed. Laws 2002, LB 859, § 1.

81-1289 Repealed. Laws 2002, LB 859, § 1.

81-1290 Repealed. Laws 2002, LB 859, § 1.

81-1291 Repealed. Laws 2002, LB 859, § 1.

81-1292 Repealed. Laws 2002, LB 859, § 1.

81-1293 Repealed. Laws 2002, LB 859, § 1.

81-1294 Repealed. Laws 2002, LB 859, § 1.

(m) MICROENTERPRISE DEVELOPMENT ACT

81-1295 Repealed. Laws 2011, LB 387, § 18.

81-1296 Repealed. Laws 2011, LB 387, § 18.

81-1297 Repealed. Laws 2011, LB 387, § 18.

81-1298 Repealed. Laws 2011, LB 387, § 18.

81-1299 Repealed. Laws 2011, LB 387, § 18.

81-12,100 Repealed. Laws 2011, LB 387, § 18.

81-12,101 Repealed. Laws 2011, LB 387, § 18.

81-12,102 Repealed. Laws 2011, LB 387, § 18.

81-12,103 Repealed. Laws 2011, LB 387, § 18.

81-12,104 Repealed. Laws 2011, LB 387, § 18.

81-12,105 Repealed. Laws 2011, LB 387, § 18.

81-12,105.01 Repealed. Laws 2011, LB 387, § 18.

(n) NEBRASKA INNOVATION HUB ACT

81-12,106 Act, how cited.

Sections 81-12,106 to 81-12,115 shall be known and may be cited as the Nebraska Innovation Hub Act.

Source: Laws 2022, LB450, § 1.

81-12,107 Legislative findings and declarations.

The Legislature finds and declares that:

(1) Job creation through rapid technology commercialization is a vital part of the state's economic well-being;

(2) Innovation and technology-driven entrepreneurial activity coupled with venture investment creates small business startups and expansions at an accelerated rate, which leads to significant employment opportunities that contribute to the state's financial health and economic competitiveness;

(3) In order to maintain a healthy state economy and to aid communities, entrepreneurship and technology-based small businesses must be stimulated and supported; and

(4) Innovation hubs could serve as a vital resource for stimulating and supporting entrepreneurship and technology-based small businesses in this state.

Source: Laws 2022, LB450, § 2.

81-12,108 Terms, defined.

For purposes of the Nebraska Innovation Hub Act:

(1) Department means the Department of Economic Development;

(2) Director means the Director of Economic Development;

(3) Economic redevelopment area means an area in the State of Nebraska in which:

(a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate by the United States Bureau of the Census is at least one hundred fifty percent of the average rate of unemployment in the state during the same period; and

(b) The average poverty rate in the area is twenty percent or more for the federal census tract in the area;

(4) iHub area means the geographical area in this state in which an iHub will operate. An iHub area shall be located within:

(a) An economic redevelopment area;

(b) An enterprise zone designated pursuant to the Enterprise Zone Act;

- (c) An inland port district as defined in section 13-3303;
- (d) Thirty miles of the largest artificial reservoir constructed in this state for the storage of water; or
- (e) Any county having a population of less than one hundred thousand inhabitants;
- (5) iHub partner means an entity described in section 81-12,111 that collaborates with an iHub for purposes of driving economic growth within an iHub area;
- (6) Innovation hub or iHub means a private nonprofit corporation that is designated by the director as an iHub or an inland port authority created under the Municipal Inland Port Authority Act; and
- (7) Postsecondary educational institution means a two-year or four-year college or university which is a member institution of an accrediting body recognized by the United States Department of Education.

Source: Laws 2022, LB450, § 3; Laws 2024, LB1344, § 16.
Operative date July 19, 2024.

Cross References

Enterprise Zone Act, see section 13-2101.01.
Municipal Inland Port Authority Act, see section 13-3301.

81-12,109 Innovation hub areas; department designate innovation hubs; limit on number; termination.

- (1) The department shall designate innovation hubs within iHub areas to stimulate partnerships, economic development, and job creation by leveraging iHub partner assets to provide an innovation platform for startup businesses, economic development organizations, business groups, and venture capitalists. The iHub partner assets may include, but are not limited to, research parks, technology incubators, universities, and federal laboratories.
- (2) The department shall designate no more than six iHubs in the first congressional district, no more than four iHubs in the second congressional district, and no more than six iHubs in the third congressional district.
- (3) The department shall terminate any iHub designation for any iHub that has not fully implemented the memorandum of understanding entered into pursuant to section 81-12,110 within three years after such designation.

Source: Laws 2022, LB450, § 4; Laws 2023, LB531, § 37; Laws 2024, LB1344, § 17.
Operative date July 19, 2024.

81-12,110 Innovation hub; application; contents; fee; approval procedure; department; duties; memorandum of understanding; report.

- (1) Except as provided in subsection (3) of this section, a private nonprofit corporation or an inland port authority created under the Municipal Inland Port Authority Act may apply to the director to become designated as an iHub. The application shall include, but not be limited to, the following:
 - (a) A statement of purpose;
 - (b) A signed statement of cooperation and a description of the roles and relationships of each iHub partner;
 - (c) A clear explanation and map conveying the iHub area;

(d) A clearly identified central location for the iHub, which shall be a physical location;

(e) A complete budget, including a description of secured funds, pending funds, and potential future funding sources;

(f) A clearly articulated iHub management structure and plan, which may include a description of the capabilities, qualifications, and experience of the proposed management team, team leaders, or key personnel who are critical to achieving the proposed objectives;

(g) A list of iHub assets and resources;

(h) A clearly articulated industry focus area of the iHub, including industry sectors or other targeted areas for development and growth;

(i) A list of specific resources available to support and guide startup companies;

(j) A five-year plan, which shall include a clearly articulated list of goals to be achieved with the designation of the iHub;

(k) Defined performance standards agreed upon by the applicant and the proposed iHub partners, which may include expectations for job development and business creation;

(l) Evaluation procedures that will be used to measure the level of achievement for each stated goal;

(m) A plan for sustainability;

(n) Demonstrated experience with innovation programs, such as involvement with technology commercialization;

(o) Evidence of community engagement and support; and

(p) An application fee of one thousand dollars. The director shall remit all application fees received under this section to the State Treasurer for credit to the Innovation Hub Cash Fund.

(2) The department shall establish a weighted scoring system to evaluate applications for iHub designations with priority given to start-up nonprofits and inland port authorities expressing new and innovative ideas. Such weighted scoring system shall consider, at a minimum:

(a) Whether the iHub is committed to serving underrepresented communities in the proposed iHub area;

(b) Whether the iHub has a plan for marketing and outreach to underrepresented communities in the proposed iHub area;

(c) Whether the iHub has signed statements of cooperation with at least three proposed iHub partners; and

(d) The quality of the iHub's five-year plan.

(3) The director shall determine whether or not to approve the requested iHub designation within forty-five days after receiving the application. Each iHub designation shall be for a term of five years. An applicant that has received a grant under subdivision (4)(a) of section 81-12,241 shall not qualify for designation as an iHub.

(4) The iHub designation shall not be official until a memorandum of understanding is entered into by the applicant and the director. The memorandum of understanding shall include the goals and performance standards

identified in the application and other related requirements as determined by the director.

(5) An iHub area may overlap with another iHub area if there is a clear distinction between the industry focus areas of the iHubs involved, except that no iHub located within a city of the metropolitan class shall be located within three miles of another iHub. This subsection does not apply to any inland port authority designated as an iHub.

(6) The department shall set guidelines for approval, designation, operation, and reporting of iHubs.

(7) An iHub shall annually report to the director on its progress in meeting the goals and performance standards as described in the iHub application and the implementing memorandum of understanding with the director. A copy of the report shall also be submitted electronically to the chairperson of the Urban Affairs Committee of the Legislature. The report shall also include information regarding the number of businesses served, the number of jobs created, and the amount of funds raised by the iHub. The director shall annually post the information from these reports on the department's website and provide notice to the Governor and the Legislature that the information is available on the website.

Source: Laws 2022, LB450, § 5; Laws 2023, LB531, § 38; Laws 2024, LB1344, § 18.

Operative date July 19, 2024.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

81-12,111 Innovation hub partners.

(1) An iHub shall form a collaborative relationship, through a signed statement of cooperation, with at least three iHub partners. An iHub partner may be any of the following:

- (a) A postsecondary educational institution;
- (b) A bank or other financial institution;
- (c) A municipal economic development division or department;
- (d) A nonprofit economic development corporation;
- (e) A federal government entity or agency focused on economic development;
- (f) An inland port authority created pursuant to the Municipal Inland Port Authority Act;
- (g) A business support organization, including a workforce development or training organization, an incubator or a business accelerator, a business technical assistance provider, a chamber of commerce, or a networking organization that supports innovation;
- (h) An educational consortium, including technology transfer representatives;
- (i) A venture capital network, including angel investors; or
- (j) A business foundation, innovation foundation, science foundation, laboratory research institution, federal laboratory, or research and development facility.

(2) The department may allow an entity not listed in subsection (1) of this section to serve as an iHub partner if the department finds that such entity is related to the goals of the iHub.

(3) An iHub's board of directors shall include a representative of each iHub partner that has signed a statement of cooperation with the iHub.

Source: Laws 2022, LB450, § 6.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

81-12,112 State and local taxes; current payment; certification; exception.

Before an official designation as an iHub, the applicant shall self-certify that the iHub and its iHub partners are current in the payment of all state and local taxes owed, except that this section does not apply as to the payment of state and local taxes by an applicant that is exempt from such payment pursuant to section 13-3309.

Source: Laws 2022, LB450, § 7; Laws 2024, LB1344, § 19.

Operative date July 19, 2024.

81-12,113 Innovation hub; permitted activities; collaboration and coordination; required.

(1) An iHub may do all of, but shall not be limited to, the following:

(a) Provide counseling and technical assistance to entrepreneurs, either by direct or indirect services, in the following areas:

- (i) The legal requirements for starting a business;
- (ii) Entrepreneurial business planning and management;
- (iii) Financing and the use of credit;
- (iv) Marketing for small businesses;
- (v) Tax education;
- (vi) Financial account management, bookkeeping, and budgeting;
- (vii) Leadership development;
- (viii) Insurance needs and requirements;
- (ix) Sources for grant funding and how to apply for such grants;
- (x) Financial literacy education;
- (xi) Permit and licensing requirements; and
- (xii) Government procurement processes;

(b) Conduct business workshops, seminars, and conferences with local partners including, but not limited to, universities, community colleges, local governments, state and federal service providers, private industry, workforce investment boards and agencies, small business development centers, microenterprise development organizations, small business service agencies, economic development organizations, and chambers of commerce;

(c) Facilitate partnerships between innovative startup businesses, research institutions, and venture capitalists or financial institutions;

(d) Provide the following for entrepreneurs:

- (i) Housing;

- (ii) Retail space;
- (iii) Commercial kitchens;
- (iv) Community spaces;
- (v) Coworking spaces; and
- (e) Make loans and award grants to entrepreneurs.
- (2) An iHub shall, to the extent feasible, do all of the following:
 - (a) Work in close collaboration with the activities of the department as its primary statewide partner; and
 - (b) Coordinate activities with community colleges, universities, and other state economic and workforce development programs.

Source: Laws 2022, LB450, § 8.

81-12,114 Innovation Hub Cash Fund; created; use; investment.

(1) The Innovation Hub Cash Fund is created. The fund shall be administered by the department and shall consist of application fees received under section 81-12,110, funds transferred by the Legislature, and any other money as determined by the Legislature.

(2) The fund shall be used by the department for purposes of carrying out the Nebraska Innovation Hub Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2022, LB450, § 9.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-12,115 Rules and regulations.

The director may adopt and promulgate rules and regulations to carry out the Nebraska Innovation Hub Act.

Source: Laws 2022, LB450, § 10.

81-12,116 Repealed. Laws 2009, LB 3, § 1.

(o) NEBRASKA OPPORTUNITY ZONE ACT

81-12,117 Repealed. Laws 2015, LB 4, § 1.

81-12,118 Repealed. Laws 2015, LB 4, § 1.

81-12,119 Repealed. Laws 2015, LB 4, § 1.

81-12,120 Repealed. Laws 2015, LB 4, § 1.

81-12,121 Repealed. Laws 2015, LB 4, § 1.

81-12,122 Repealed. Laws 2012, LB 782, § 253.

81-12,123 Repealed. Laws 2015, LB 4, § 1.

81-12,124 Repealed. Laws 2015, LB 4, § 1.

(p) BUILDING ENTREPRENEURIAL COMMUNITIES ACT

81-12,125 Repealed. Laws 2011, LB 387, § 18.

81-12,126 Repealed. Laws 2011, LB 387, § 18.

81-12,127 Repealed. Laws 2011, LB 387, § 18.

81-12,128 Repealed. Laws 2011, LB 387, § 18.

(q) NEBRASKA OPERATIONAL ASSISTANCE ACT

81-12,129 Act, how cited.

Sections 81-12,129 to 81-12,135 shall be known and may be cited as the Nebraska Operational Assistance Act.

Source: Laws 2007, LB425, § 1.

81-12,130 Legislative findings.

The Legislature finds and declares that:

(1) Insufficient venture capital resources exist within the State of Nebraska to meet substantial portions of the equity needs of new and high-growth business enterprises;

(2) Nebraska is a net exporter of venture capital;

(3) The venture capital needs of Nebraska business enterprises are not currently being met due to the lack of operational readiness and expertise among new and high-growth business enterprises;

(4) The best and primary role the State of Nebraska can play is creating an effective operational assistance program to assist Nebraska businesses in becoming venture-ready to effectively attract and retain capital in this state in partnership with the private sector;

(5) Entrepreneurs and high-growth business enterprises need technical assistance in understanding equity markets and how to position themselves to receive equity funding; and

(6) Creation of an operational assistance program must be flexible and market driven.

Source: Laws 2007, LB425, § 2.

81-12,131 Terms, defined.

For purposes of the Nebraska Operational Assistance Act, unless the context otherwise requires:

(1) Business enterprise means an individual, corporation, partnership, limited liability company, or joint-stock company with its principal place of business in Nebraska or potentially in Nebraska;

(2) Program means the Nebraska Operational Assistance Program; and

(3) Venture capital means equity financing provided by investors to business enterprises that have the potential for high growth and in which the risk for loss and the potential for profit may be considerable.

Source: Laws 2007, LB425, § 3.

81-12,132 Purpose of act.

The purpose of the Nebraska Operational Assistance Act is to create a program to assist business enterprises in Nebraska in achieving the thresholds necessary for private equity investments.

Source: Laws 2007, LB425, § 4.

81-12,133 Nebraska Operational Assistance Program; established; department select organization to carry out act; considerations.

(1) The Department of Economic Development shall establish the Nebraska Operational Assistance Program.

(2) The program shall assist potential high-growth businesses in establishing a foundation sufficient for the attraction of private equity including, but not limited to, market analysis, executive recruitment, sales and marketing, financial planning, business structure, and intellectual property development. The program may also include, but need not be limited to:

(a) Cooperation with other service entities in facilitating effectiveness of the program including, but not limited to, financial institutions, attorneys, accountants, investment banking firms, established venture capital funds, institutions of higher education, local and regional development organizations, business development centers, business incubators, and utilities;

(b) A statewide system for facilitating venture capital investing with its primary emphasis upon assisting those business enterprises generally seeking up to one million dollars in new equity financing;

(c) Identification and provision of information to investors about investment opportunities in Nebraska business enterprises;

(d) Identification and provision of information to entrepreneurs and high-growth business enterprises about investors seeking investment opportunities;

(e) Service as a clearinghouse and access point for information about venture capital investment opportunities in Nebraska;

(f) Service as the central organization and means of delivering appropriate education and training programs for potential investors in business enterprises;

(g) Facilitation of the formation of private venture capital funds; and

(h) Assistance in the formation of intrastate or industry-specific venture capital networks.

(3)(a) The department shall select a single private, nonprofit organization for the purpose of carrying out the functions of the Nebraska Operational Assistance Act which is either:

(i) Incorporated in the State of Nebraska and exempt for federal tax purposes under section 501(c)(3) of the Internal Revenue Code, as such section existed on January 1, 2007; or

(ii) A Nebraska corporation or Nebraska organization that is exempt from federal taxation under section 501(c)(6) of the Internal Revenue Code, as such section existed on January 1, 2007.

(b) The department, in selecting an organization pursuant to subdivision (a) of this subsection, shall consider, among other factors, the organization's ability

to deliver a statewide program and the organization's ability to provide the matching funds described in section 81-12,134.

Source: Laws 2007, LB425, § 5.

81-12,134 Appropriation of funds; grant; funding; matching funds.

The Legislature shall appropriate funds to the Department of Economic Development which shall be awarded as a grant to the private, nonprofit organization selected pursuant to subsection (3) of section 81-12,133 to carry out the purposes of the Nebraska Operational Assistance Act. The department may receive funds from local or federal government, private foundations, or other sources. The private, nonprofit organization shall provide matching funds of at least one-third of all funds appropriated for the Nebraska Operational Assistance Program. The private, nonprofit organization may provide any part of the matching funds as an in-kind contribution.

Source: Laws 2007, LB425, § 6.

81-12,135 Information regarding activities; department; report.

The Department of Economic Development shall submit information regarding its activities under the Nebraska Operational Assistance Act as part of the department's annual status report under section 81-1201.11.

Source: Laws 2007, LB425, § 7; Laws 2011, LB404, § 8.

(r) SMALL BUSINESS INNOVATION ACT

81-12,136 Repealed. Laws 2017, LB5, § 1.

81-12,137 Repealed. Laws 2017, LB5, § 1.

81-12,138 Repealed. Laws 2017, LB5, § 1.

81-12,139 Repealed. Laws 2017, LB5, § 1.

81-12,140 Repealed. Laws 2017, LB5, § 1.

81-12,141 Repealed. Laws 2017, LB5, § 1.

81-12,142 Repealed. Laws 2017, LB5, § 1.

81-12,143 Repealed. Laws 2017, LB5, § 1.

(s) SITE AND BUILDING DEVELOPMENT ACT

81-12,144 Act, how cited.

Sections 81-12,144 to 81-12,151 shall be known and may be cited as the Site and Building Development Act.

Source: Laws 2011, LB388, § 1.

81-12,145 Legislative findings.

(1) The Legislature finds that current economic conditions, lack of available industrial sites and buildings, and declining resources at all levels of government adversely affect the ability of Nebraska's cities and villages to obtain

viable industrial sites on which to build businesses, obtain buildings, and create jobs. Lack of industrial sites and buildings also affects the ability of communities to maintain and develop stable and growth-prone economies.

(2) The Legislature finds that Nebraska is at a competitive disadvantage for business development relative to other states in the nation due to a lack of appropriately sized industrial sites and buildings available for business relocations to Nebraska and expansions. The future of investment and jobs in Nebraska will suffer should the state continue to ignore this challenge.

(3) The Legislature finds that development of a public-private-partnership facility in conjunction with the United States Strategic Command will enhance the economic conditions and create conditions favorable to the industrial readiness of the state.

(4) To enhance the economic development of the state and to provide for the general prosperity of all of Nebraska's citizens, it is in the public interest to assist in the provision of industrial-ready sites and buildings in all areas of the state. The establishment of the Site and Building Development Fund will assist in creating conditions favorable to meeting the industrial readiness of the state.

Source: Laws 2011, LB388, § 2; Laws 2022, LB1012, § 17.

81-12,146 Site and Building Development Fund; created; funding; use; investment.

(1) The Site and Building Development Fund is created. The fund shall receive money pursuant to section 76-903 and may include revenue from transfers by the Legislature, grants, private contributions, repayment of loans, and all other sources. The Department of Economic Development, as part of its comprehensive business development strategy, shall administer the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Site and Building Development Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) It is the intent of the Legislature to transfer five million dollars from the General Fund to the Site and Building Development Fund for fiscal year 2022-23 and five million dollars from the General Fund to the Site and Building Development Fund for fiscal year 2023-24. Such money shall be placed in a subaccount of the Site and Building Development Fund and earmarked for use to fund large shovel-ready commercial and industrial sites developed under the Municipal Inland Port Authority Act.

(3)(a) It is the intent of the Legislature to appropriate five hundred thousand dollars from the Site and Building Development Fund for fiscal year 2024-25 to the department to enter into one or more contracts to conduct a comprehensive study or studies to identify and evaluate large commercial and industrial sites in Nebraska that have the potential to attract major investment and employment opportunities. The study shall include consideration of super sites that encompass between five hundred and one thousand acres and mega sites that encompass more than one thousand acres. At least one proposed site shall be located west of the one hundredth meridian in Nebraska. The contracts shall be awarded based on a competitive selection process as determined by the department. The studies shall be completed no later than December 15, 2024.

(b) The study shall assess the potential geographic locations; the infrastructure assets that would be required for each site, including highway, rail, and air transportation, and utilities such as water, wastewater treatment, electrical power, and natural gas; the population within fifty miles of each site and whether such population would be sufficient to provide an adequate workforce for such site; and the appropriate level of state investment necessary to position Nebraska as a nationally or globally competitive location for site selection targeting various sectors, including, but not limited to, advanced manufacturing, trade, bioscience, agribusiness, warehousing and supply chain logistics, technology, aerospace, automotive, clean energy, military support, and life sciences. Such identified state investment levels may include, but are not limited to, land acquisition costs and infrastructure investments. The purpose of the study is to provide strategic insights that will enable the state to attract major investment and employment opportunities in order to support the growth of transformational industries within Nebraska.

(c) The Director of Economic Development shall appoint an advisory committee comprised of representatives of Nebraska economic development organizations, equally representing each of Nebraska's three congressional districts, to assist the department in identifying the location of potential and preferred super sites and mega sites.

Source: Laws 2011, LB388, § 3; Laws 2015, LB457, § 3; Laws 2021, LB156, § 14; Laws 2024, LB644, § 1; Laws 2024, LB1413, § 51.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB644, section 1, with LB1413, section 51, to reflect all amendments.

Note: Changes made by LB644 became effective April 3, 2024. Changes made by LB1413 became effective April 2, 2024.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

Nebraska Capital Expansion Act, see section 72-1269.

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

81-12,147 Site and Building Development Fund; use; eligible activities.

(1) Except as provided in subsection (2) of this section, the Department of Economic Development shall use the Site and Building Development Fund to finance loans, grants, subsidies, credit enhancements, and other financial assistance for industrial site and building development and for expenses of the department as appropriated by the Legislature for administering the fund. The following activities are eligible for assistance from the fund:

(a) Grants or zero-interest loans to villages, cities, or counties to acquire land, infuse infrastructure, or otherwise make large sites and buildings ready for industrial development;

(b) Matching funds for new construction, rehabilitation, or acquisition of land and buildings to assist villages, cities, and counties;

(c) Technical assistance, design and finance services, and consultation for villages, cities, and counties for the preparation and creation of industrial-ready sites and buildings;

(d) Loan guarantees for eligible projects;

(e) Projects making industrial-ready sites and buildings more accessible to business and industry;

(f) Infrastructure projects necessary for the development of industrial-ready sites and buildings;

(g) Projects that mitigate the economic impact of a closure or downsizing of a private-sector entity by making necessary improvements to buildings and infrastructure;

(h) Public and private sector initiatives that will improve the military value of military installations by making necessary improvements to buildings and infrastructure, including, but not limited to, a grant for the establishment of the United States Strategic Command Nuclear Command, Control, and Communications public-private-partnership facility;

(i) A grant to a city of the second class that is served by two first-class railroads, that is within fifteen miles of two state borders, and that partners with public power utilities for purposes of expanding electrical system capacities and enhancing redundancy and resilience;

(j) A grant of two million dollars to a city of the first class located in the third congressional district if the property previously housed a university or college that is no longer extant and if the improvement and revitalization of the real property is for purposes of supporting the housing, employment, and program needs of youth exiting the foster care system. In addition, the real property may be used for youth exiting juvenile court supervision in an out-of-home placement;

(k) Public and private sector initiatives that will improve the value of cities of the second class that have partnered with the United States Department of Defense or its contractors on upgrades to ground-based nuclear deterrence. Such improvements include the construction of electrical, drinking water, and clean water infrastructure; and

(l) Identification, evaluation, and development of large commercial and industrial sites and building infrastructure to attract major investment and employment opportunities for advanced manufacturing, processing, trade, technology, aerospace, automotive, clean energy, life science, and other transformational industries in Nebraska by means of the department providing grants to or partnering with political subdivisions, including inland port authorities under the Municipal Inland Port Authority Act, or nonprofit economic development corporations and entering into contracts for consulting, engineering, and development studies to identify, evaluate, and develop large commercial and industrial sites in Nebraska.

(2) The Department of Economic Development shall use the subaccount of the Site and Building Development Fund described in subsection (2) of section 81-12,146 to provide financial assistance to any inland port authority created under the Municipal Inland Port Authority Act to help finance large shovel-ready commercial and industrial sites developed under such act.

Source: Laws 2011, LB388, § 4; Laws 2015, LB457, § 4; Laws 2018, LB96, § 1; Laws 2021, LB156, § 15; Laws 2022, LB977, § 1; Laws 2022, LB1012, § 18; Laws 2023, LB818, § 24; Laws 2024, LB1413, § 52.

Effective date April 2, 2024.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

81-12,148 Entities eligible to receive assistance; matching funds; requirements; exception; applicability of section.

(1) Governmental subdivisions and Nebraska nonprofit organizations are eligible to receive assistance under the Site and Building Development Act. Any entity receiving assistance under subsection (1) of section 81-12,147 shall provide, or cause to be provided, matching funds for the eligible activity in an amount determined by the Department of Economic Development, which amount shall be at least equal to one hundred percent of the amount of assistance provided by the Site and Building Development Fund. Nothing in the act shall be construed to allow individuals or businesses to receive direct loans from the fund.

(2) An applicant for a grant for development of a public-private-partnership facility under subdivision (1)(h) of section 81-12,147 shall provide the Director of Economic Development with a letter of support from the United States Strategic Command prior to approval of the application and with proof of the availability of twenty million dollars in private or other funds for the facility. No funds shall be expended or grants awarded until receipt of proof of the availability of twenty million dollars in private or other funds for the facility and certification is provided by the Director of Economic Development to the budget administrator of the budget division of the Department of Administrative Services.

(3) An applicant for a grant for development under subdivision (1)(k) of section 81-12,147 is not required to meet the matching fund requirements pursuant to this section but shall provide the Director of Economic Development a letter from the United States Department of Defense or contractor providing upgrades to ground-based nuclear deterrence that infrastructure improvements, including the construction of electrical, drinking water, and clean water infrastructure, will not be included in the scope of the project. No grants shall be awarded or funds expended until such letter is received.

(4) This section does not apply to any inland port authority receiving assistance under subsection (2) of section 81-12,147.

Source: Laws 2011, LB388, § 5; Laws 2021, LB156, § 16; Laws 2022, LB1012, § 19; Laws 2023, LB818, § 25.

81-12,149 Department; allocate funds; qualified action plan; contents; powers of department; applicability of section.

(1) During each calendar year in which funds are available from the Site and Building Development Fund for use by the Department of Economic Development pursuant to subdivisions (1)(a) through (g) of section 81-12,147, 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 such fund assistance, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall give first priority to financially viable projects that have an agreement with a business that will locate a site within ninety days of the signed agreement and to financially viable projects located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97. The plan shall set forth selection criteria to be used to determine priorities of the fund for activities pursuant to subdivisions (1)(a) through (g) of section 81-12,147 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 for activities pursuant to subdivisions (1)(a) through (g) of section 81-12,147 as will utilize available money in the Site and Building Development Fund less actual administrative costs of the department in administering the fund. In administering the fund, the department may contract for services or directly provide money to other governmental entities or instrumentalities.

(3) This section does not apply to any inland port authority receiving assistance under subsection (2) of section 81-12,147.

Source: Laws 2011, LB388, § 6; Laws 2013, LB78, § 14; Laws 2014, LB800, § 7; Laws 2019, LB87, § 3; Laws 2021, LB156, § 17; Laws 2022, LB1012, § 20.

Cross References

Enterprise Zone Act, see section 13-2101.01.

81-12,150 Rules and regulations.

The Department of Economic Development may adopt and promulgate rules and regulations to carry out the Site and Building Development Act, including rules and regulations relating to reviewing and prioritizing inland port authority proposals pursuant to sections 13-3304 and 13-3304.01 and providing financial assistance to any inland port authority created under the Municipal Inland Port Authority Act.

Source: Laws 2011, LB388, § 7; Laws 2013, LB78, § 15; Laws 2021, LB156, § 18; Laws 2022, LB998, § 7.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

81-12,151 Annual report.

The Department of Economic Development shall submit electronically an annual report regarding the Site and Building Development Act to the Legislature no later than July 1 of each year beginning July 1, 2012. The report shall contain no information that is protected by state or federal confidentiality laws.

Source: Laws 2011, LB388, § 8; Laws 2012, LB782, § 195.

(t) BUSINESS INNOVATION ACT

81-12,152 Act, how cited.

Sections 81-12,152 to 81-12,166 shall be known and may be cited as the Business Innovation Act.

Source: Laws 2011, LB387, § 1; Laws 2017, LB641, § 3; Laws 2019, LB334, § 8.

81-12,153 Terms, defined.

For purposes of the Business Innovation Act:

- (1) Department means the Department of Economic Development;
- (2) Economic redevelopment area means an area in the State of Nebraska in which:
 - (a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate by the United States Bureau of the Census is at least one hundred fifty percent of the average rate of unemployment in the state during the same period; and
 - (b) The average poverty rate in the area is twenty percent or more for the federal census tract in the area;
- (3) Federal grant program means the federal Small Business Administration's Small Business Innovation Research grant program or Small Business Technology Transfer grant program;
- (4) Microenterprise means a for-profit business entity with not more than ten full-time equivalent employees;
- (5) Prototype means an original model on which something is patterned by a resident of Nebraska or a company located in Nebraska; and
- (6) Value-added agriculture means increasing the net worth of food or nonfood agricultural products by processing, alternative production and handling methods, collective marketing, or other innovative practices.

Source: Laws 2011, LB387, § 2; Laws 2015, LB449, § 1; Laws 2017, LB217, § 34; Laws 2022, LB598, § 6; Laws 2022, LB1012, § 21.

81-12,154 Purpose of act.

The purpose of the Business Innovation Act is to encourage and support the transfer of Nebraska-based technology and innovation in rural and urban areas of Nebraska in order to create high growth, high technological companies, small businesses, and microenterprises and to enhance creation of wealth and quality jobs. The Legislature finds that the act will:

- (1) Provide technical assistance planning grants pursuant to section 81-12,157 to facilitate phase one applications for the federal grant program;
- (2) Provide financial assistance pursuant to section 81-12,157 to companies receiving phase one and phase two grants pursuant to the federal grant program;
- (3) Provide financial assistance pursuant to section 81-12,158 to companies or individuals creating prototypes;
- (4) Establish a financial assistance program pursuant to section 81-12,159 for innovation in value-added agriculture;
- (5) Establish a financial assistance program for innovation in biosciences;
- (6) Establish a financial assistance program pursuant to section 81-12,160 to identify commercial products and processes;
- (7) Provide financial assistance pursuant to section 81-12,161 to companies using Nebraska public or private college and university researchers and facilities for applied research projects;
- (8) Provide support and funding pursuant to section 81-12,162 for microlending entities, microenterprise entities, and innovation hubs; and

(9) Provide support for locally owned and operated Nebraska-based, high growth businesses by providing technical resources to foster development, growth, and high wage creation. For purposes of this subdivision, Nebraska-based, high growth business means a corporation, partnership, limited liability company, limited partnership, or limited liability partnership registered with the Secretary of State that has two to fifty employees and has annual sales of no less than five hundred thousand dollars and no more than two million five hundred thousand dollars.

Source: Laws 2011, LB387, § 3; Laws 2014, LB1114, § 2; Laws 2017, LB641, § 4; Laws 2022, LB1012, § 22.

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.

81-12,155.01 Bioscience Innovation Program; provide financial assistance.

(1) The department shall establish a Bioscience Innovation Program under the Business Innovation Act. The purpose of this program is to provide financial assistance to:

(a) Support small enterprise formation in the bioscience sector of Nebraska's rural and urban economies;

(b) Support the development of bioscience communities and economic opportunity through innovation in biofuels, biosensors, and biotechnology as it relates to animals, equipment, humans, industry, research, medical and health information, medical and health products, medical and health services, medical diagnostics, medical therapeutics, and pharmaceuticals;

(c) Enhance the creation of high-wage bioscience jobs to employ graduates of postsecondary educational institutions in Nebraska and to attract graduate students from other states;

(d) Encourage the development of new technologies in the bioscience sector and the creation of new startup businesses focused on bioscience;

(e) Leverage the state's agricultural sector to support the development of emerging bioscience technologies impacting livestock operations and crop production; and

(f) Leverage the bioscience research and development conducted at postsecondary educational institutions in Nebraska to create private-sector bioscience enterprises.

(2) Private bioscience businesses and enterprises operating in Nebraska shall be eligible for financial assistance as described in sections 81-12,157, 81-12,158, 81-12,160, and 81-12,161. A bioscience business or enterprise re-

ceiving financial assistance pursuant to any of such sections shall provide a match of one hundred percent for such assistance.

(3) The program shall terminate when the fund created under section 81-12,163.01 terminates.

Source: Laws 2017, LB641, § 2.

81-12,156 Funding; preference.

When selecting projects for funding under the Business Innovation Act, the department shall give a preference to projects located in whole or in part within an economic redevelopment area, an enterprise zone designated pursuant to the Enterprise Zone Act, or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97.

Source: Laws 2011, LB387, § 5; Laws 2014, LB800, § 8; Laws 2017, LB217, § 35; Laws 2019, LB87, § 4; Laws 2022, LB1012, § 23.

Cross References

Enterprise Zone Act, see section 13-2101.01.

81-12,157 Planning grants; phase one application program; limitations.

(1) The department shall establish a phase one application program to provide grants to small businesses that qualify under the federal grant program for the purposes of planning for an application under the federal grant program. If a small business receives funding under the federal grant program, the department or a nonprofit entity designated by the department may make grants to match up to sixty-five percent of the amount of the federal grant.

(2) Planning grants under subsection (1) of this section shall not exceed five thousand dollars per project. Federal award matching grants under this section shall not exceed (a) one hundred fifty thousand dollars for a business receiving a phase one grant under the federal grant program and (b) three hundred thousand dollars for a business receiving a phase two grant under the federal grant program.

(3) The department may award up to six million dollars per year for grants under this section.

Source: Laws 2011, LB387, § 6; Laws 2015, LB449, § 2; Laws 2022, LB598, § 7; Laws 2024, LB1413, § 53.
Effective date April 2, 2024.

81-12,158 Financial assistance program to create prototype of certain products; established; funds; match required; limitation.

(1) The department shall establish a financial assistance program to provide financial assistance to businesses that employ no more than five hundred employees or to individuals for the purposes of creating a prototype of a product stemming from research and development at a business operating in Nebraska or a public or private college or university in Nebraska.

(2)(a) Until three months after April 20, 2022, funds shall be matched by nonstate funds equivalent in money equal to fifty percent of the funds requested; and

(b) Beginning three months after April 20, 2022, funds shall be matched by nonstate funds equivalent in money equal to:

(i) Twenty-five percent of the funds requested if the applicant's principal residence or principal place of business is located in an economic redevelopment area within a city of the metropolitan class; or

(ii) Fifty percent of the funds requested for any other applicant.

(3) Matching funds may be from any nonstate source, including private foundations, federal or local government sources, quasi-governmental entities, or commercial lending institutions, or any other funds whose source does not include funds appropriated by the Legislature.

(4) The amount the department may provide shall not exceed one hundred fifty thousand dollars per project.

(5) A business or individual applying for financial assistance under this section shall include a business plan that includes a proof-of-concept demonstration.

(6) Financial assistance under this section shall be expended within twenty-four months after the date of the awarding decision.

(7) The department may award up to six million dollars per year for financial assistance under this section.

Source: Laws 2011, LB387, § 7; Laws 2015, LB449, § 3; Laws 2022, LB598, § 8.

81-12,159 Innovation in value-added agriculture program; established; purpose; eligibility; match required; limitation.

(1) The department shall establish an innovation in value-added agriculture program. The purpose of this program is to provide financial assistance to:

(a) Support small enterprise formation in the agricultural sector of Nebraska's rural economy, including innovative efforts for value-added enterprises;

(b) Support the development of agricultural communities and economic opportunity through innovation in farming and ranching operations, rural communities, and businesses for the development of value-added agricultural products;

(c) Enhance the income and opportunity for farming and ranching operations in Nebraska in order to stem the decline in their numbers;

(d) Increase the farming and ranching operations' share of the food-system profit;

(e) Enhance opportunities for farming and ranching operations to participate in electronic commerce and new and emerging markets that strengthen rural economic opportunities; and

(f) Encourage the production and marketing of specialty crops in Nebraska and support the creation and development of agricultural enterprises and businesses that produce and market specialty crops in Nebraska.

(2) Agricultural cooperatives, farming or ranching operations, and private businesses and enterprises operating in Nebraska shall be eligible for financial assistance under this section.

(3) An entity receiving financial assistance shall provide a match of twenty-five percent for such assistance.

(4) The department may award up to six million dollars per year for financial assistance under this section.

Source: Laws 2011, LB387, § 8; Laws 2015, LB449, § 4; Laws 2022, LB598, § 9.

81-12,160 Financial assistance program to commercialize product or process; established; purpose; funds; match required; limitation; contract with venture development organization.

(1) The department shall establish a financial assistance program to provide financial assistance to businesses operating in Nebraska that employ no more than five hundred employees or to individuals that have a prototype of a product or process for the purposes of commercializing such product or process. The applicant shall submit a feasibility study stating the potential sales and profit projections for the product or process.

(2) The department shall create a program with the following provisions to support commercialization of a product or process:

(a) Commercialization infrastructure documentation, including market assessments and start-up strategic planning;

(b) Promotion, marketing, advertising, and consulting;

(c) Management and business planning support;

(d) Linking companies and entrepreneurs to mentors;

(e) Preparing companies and entrepreneurs to acquire venture capital; and

(f) Linking companies to sources of capital.

(3) Funds shall be matched by nonstate funds equal to fifty percent of the funds requested. Matching funds may be from any nonstate source, including private foundations, federal or local government sources, quasi-governmental entities, or commercial lending institutions, or any other funds whose source does not include funds appropriated by the Legislature.

(4) The department shall not provide more than five hundred thousand dollars to any one project. Each year the department may award up to six million dollars under this section.

(5) Financial assistance provided under this section shall be expended within twenty-four months after the date of the awarding decision.

(6) To carry out this section, the department shall contract with one statewide venture development organization that is incorporated in the State of Nebraska and exempt for federal tax purposes under section 501(c)(3) of the Internal Revenue Code.

Source: Laws 2011, LB387, § 9; Laws 2015, LB449, § 5; Laws 2016, LB1093, § 3; Laws 2017, LB331, § 50; Laws 2022, LB598, § 10.

81-12,161 Financial assistance program relating to college or university research and development; established; funds; match required; limitation.

(1) The department shall establish a financial assistance program to provide financial assistance to businesses operating in Nebraska that use the faculty or facilities of a public or private college or university in Nebraska for applied research and development of new products or use intellectual property generated at a public or private college or university in Nebraska.

(2) A business may apply for up to two awards in any four-year period per project. The department may provide up to one hundred thousand dollars for the first phase of a project. If the first phase is successful and agreed-upon contractual requirements are met during the first phase, the department may provide up to four hundred thousand dollars for the second phase of the project.

(3) Funds shall be matched by nonstate funds equivalent in money equal to one hundred percent of the funds requested for both phases of the project. Matching funds may be from any nonstate source, including private foundations, federal or local government sources, quasi-governmental entities, or commercial lending institutions, or any other funds whose source does not include funds appropriated by the Legislature.

(4) The department may award up to six million dollars per year for financial assistance under this section.

Source: Laws 2011, LB387, § 10; Laws 2015, LB449, § 6; Laws 2022, LB598, § 11.

81-12,162 Small business investment program; established; award; criteria; considerations; funds; match required; department; contracts authorized; limitation.

(1) The department shall establish a small business investment program. The program:

(a) Shall provide grants to microloan delivery organizations, microloan technical assistance organizations, and innovation hubs to:

(i) Better assure that Nebraska's microenterprises are able to realize their full potential to create jobs, enhance entrepreneurial skills and activity, and increase low-income households' capacity to become self-sufficient;

(ii) Provide funding to foster the creation of microenterprises;

(iii) Establish the department as the coordinating office for the facilitation of microlending and microenterprise development;

(iv) Facilitate the development of a permanent, statewide infrastructure of microlending support organizations to serve Nebraska's microenterprise and self-employment sectors;

(v) Enable the department to provide grants to community-based microenterprise development organizations in order to encourage the development and growth of microenterprises throughout Nebraska; and

(vi) Enable the department to engage in contractual relationships with statewide microlending support organizations and innovation hubs which have the capacity to leverage additional nonstate funds for microenterprise lending.

To the maximum extent possible, the selection process should assure that the distribution of such financial assistance provides equitable access to the benefits of the Business Innovation Act by all geographic areas of the state; and

(b) May identify and coordinate other state and federal sources of funds which may be available to the department to enhance the state's ability to facilitate financial assistance pursuant to the program.

(2) To establish the criteria for making an award to a microloan delivery organization, microloan technical assistance organization, or innovation hub, the department shall consider:

(a) The plan for providing business development services and microloans to microenterprises;

(b) The scope of services to be provided by the microloan delivery organization, microloan technical assistance organization, or innovation hub;

(c) The plan for coordinating the services and loans provided by the microloan delivery organization, microloan technical assistance organization, or innovation hub with commercial lending institutions;

(d) The geographic representation of all regions of the state, including both urban and rural communities and neighborhoods;

(e) The ability of the microloan delivery organization, microloan technical assistance organization, or innovation hub to provide for business development in areas of chronic economic distress and low-income regions of the state;

(f) The ability of the microloan delivery organization, microloan technical assistance organization, or innovation hub to provide business training and technical assistance to microenterprise clients;

(g) The ability of the microloan delivery organization, microloan technical assistance organization, or innovation hub to monitor and provide financial oversight of recipients of microloans; and

(h) Sources and sufficiency of operating funds for the microenterprise development organization.

(3) Awards made by the department to a microloan delivery organization, microloan technical assistance organization, or innovation hub may be used to:

(a) Satisfy matching fund requirements for other federal or private grants;

(b) Establish a revolving loan fund from which the microloan delivery organization, microloan technical assistance organization, or innovation hub may make loans to microenterprises;

(c) Establish a guaranty fund from which the microloan delivery organization, microloan technical assistance organization, or innovation hub may guarantee loans made by commercial lending institutions to microenterprises;

(d) Provide funding for the operating costs of a microloan delivery organization, microloan technical assistance organization, or innovation hub not to exceed twenty percent; and

(e) Provide grants to establish loan-loss reserve funds to match loan capital borrowed from other sources, including federal microenterprise loan programs.

(4) Any award of financial assistance to a microloan delivery organization, microloan technical assistance organization, or innovation hub shall meet the following qualifications:

(a) Funds shall be matched by nonstate funds equivalent in money or in-kind contributions or a combination of both equal to thirty-five percent of the grant funds requested. Such matching funds may be from any nonstate source, including private foundations, federal or local government sources, quasi-governmental entities, or commercial lending institutions, or any other funds whose source does not include funds appropriated by the Legislature;

(b) Microloan funds shall be disbursed in microloans which do not exceed one hundred fifty thousand dollars or used to capitalize loan-loss reserve funds for such loans; and

(c) A minimum of fifty percent of the microloan funds shall be used by a microenterprise development assistance organization for small business technical assistance.

The department shall contract with a statewide microenterprise development assistance organization to carry out this section.

(5) Each year the department may award up to three million dollars under this section.

Source: Laws 2011, LB387, § 11; Laws 2015, LB449, § 7; Laws 2016, LB1093, § 4; Laws 2017, LB331, § 51; Laws 2022, LB598, § 12; Laws 2022, LB1012, § 24.

81-12,163 Appropriations; legislative intent.

(1) It is the intent of the Legislature that (a) the four million dollars saved due to the elimination of funding for the Angel Investment Tax Credit Act be used to increase the appropriation to the department for the Business Innovation Act by four million dollars for fiscal year 2021-22 and each fiscal year thereafter and (b) the one hundred thousand dollars saved due to the reduction in tax credits authorized under the Angel Investment Tax Credit Act for calendar year 2019 be used to increase the appropriation to the Department of Revenue by one hundred thousand dollars for fiscal year 2019-20 to offset the costs incurred by the Department of Revenue to implement Laws 2019, LB334.

(2) Up to five percent of the funds appropriated for the Business Innovation Act may be used by the department, or by a nonprofit entity with which the department contracts, for administrative expenses.

Source: Laws 2011, LB387, § 12; Laws 2015, LB449, § 8; Laws 2019, LB334, § 9.

Cross References

Angel Investment Tax Credit Act, see section 77-6301.

81-12,163.01 Bioscience Innovation Cash Fund; created; use; investment.

(1) The Bioscience Innovation Cash Fund is created. The fund shall be administered by the department to provide financial assistance to bioscience-related businesses applying for financial assistance under the Business Innovation Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer shall credit to the fund such money as is (a) transferred to the fund by the Legislature, (b) paid to the state as fees, deposits, payments, and repayments relating to the fund, both principal and interest, (c) donated as gifts, bequests, or other contributions to such fund from public or private entities, (d) made available by any department or agency of the United States if so directed by such department or agency, and (e) beginning October 1, 2017, received by the department as repayments of loans from the Nebraska Progress Loan Fund as authorized by the federal State Small Business Credit Initiative Act of 2010, 12 U.S.C. 5701 et seq., as such act existed on January 1, 2017.

(3) Money in the fund shall be expended by the department for the purpose of carrying out the Bioscience Innovation Program.

(4) Up to five percent of the fund may be used by the department for administrative expenses.

(5) The fund shall terminate on exhaustion of its funds following receipt of the final loan repayment provided for in subdivision (2)(b) of this section.

Source: Laws 2017, LB641, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

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.

81-12,165 Department; contract authorized.

The department may enter into a contract with a Nebraska-based nonprofit entity for the purposes of carrying out any or all of the provisions of the Business Innovation Act.

Source: Laws 2011, LB387, § 14.

81-12,166 Report; contents; department; duties; analysis of programs; certain records confidential.

(1) The department shall submit an annual report to the Governor and the Legislature on or before July 1 of each year which includes, but is not limited to, a description of the demand for financial assistance and programs under the Business Innovation Act from all geographic regions in Nebraska, a listing of the recipients and amounts of financial assistance awarded pursuant to the act in the previous fiscal year, the impact of the financial assistance, and an evaluation of the act's performance based on the documented goals of the recipients. The report submitted to the Legislature shall be submitted electronically. The department may require recipients to provide periodic performance reports to enable the department to fulfill the requirements of this subsection. The report shall contain no information that is protected by state or federal confidentiality laws.

(2) Beginning in 2020 and in every even-numbered year thereafter, the department shall assess and evaluate the economic impact of the programs funded under the Business Innovation Act and shall include the findings from such assessment and evaluation in the next annual report it submits under subsection (1) of this section. To carry out this subsection, the department shall contract with an organization or entity pursuant to state agency procurement requirements.

(3) Beginning with the FY2021-23 biennial budget review process, the Appropriations Committee of the Legislature shall conduct a biennial analysis of the financial status and impact of the programs funded under the Business Innovation Act.

(4) Applications for funding and related documentation which may be received, developed, created, or otherwise maintained by the Department of

Economic Development in administering the Business Innovation Act may be deemed confidential by the department and not subject to public disclosure.

Source: Laws 2011, LB387, § 15; Laws 2012, LB782, § 196; Laws 2015, LB449, § 9; Laws 2019, LB334, § 10.

81-12,167 Repealed. Laws 2019, LB334, § 12.

(u) NEBRASKA TRANSFORMATIONAL PROJECTS ACT

81-12,168 Act, how cited.

Sections 81-12,168 to 81-12,194 shall be known and may be cited as the Nebraska Transformational Projects Act.

Source: Laws 2020, LB1107, § 84.

81-12,169 Definitions, where found.

For purposes of the Nebraska Transformational Projects Act, the definitions found in sections 81-12,170 to 81-12,181 shall be used.

Source: Laws 2020, LB1107, § 85.

81-12,170 Applicant, defined.

Applicant means a postsecondary institution having a college of medicine located in the State of Nebraska.

Source: Laws 2020, LB1107, § 86.

81-12,171 Continuation period, defined.

Continuation period means the period of five years immediately following the end of the transformational period.

Source: Laws 2020, LB1107, § 87.

81-12,172 Date of application, defined.

Date of application means the date that a completed application is filed under the Nebraska Transformational Projects Act.

Source: Laws 2020, LB1107, § 88.

81-12,173 Director, defined.

Director means the Director of Economic Development.

Source: Laws 2020, LB1107, § 89.

81-12,174 Investment, defined.

Investment means the amount paid by the applicant for:

(1) Real property that is (a) constructed after the date of application, (b) owned by the applicant, (c) located at the qualified location, and (d) used to carry out the project; or

(2) Equipment that is (a) purchased after the date of application, (b) owned by the applicant, (c) located at the qualified location, and (d) used to carry out the project.

Source: Laws 2020, LB1107, § 90.

81-12,175 Matching funds, defined.

Matching funds means the funds provided toward investment at a project by the State of Nebraska pursuant to section 81-12,185.

Source: Laws 2020, LB1107, § 91.

81-12,176 Private dollars, defined.

(1) Private dollars means dollars donated to the applicant specifically for the project by any combination of one or more of the following:

- (a) An individual;
- (b) An organization that is exempt from income tax under section 501(c) of the Internal Revenue Code; or
- (c) Any nongovernmental organization.

(2) Private dollars does not include any direct or indirect funding from any federal, state, or local government.

Source: Laws 2020, LB1107, § 92.

81-12,177 Project, defined.

Project means an investment by the applicant of at least one billion six hundred million dollars at one qualified location which is made to carry out the requirements for the qualified location to be included in the program described in Title VII, Subtitle C, section 740 of Public Law 116-92.

Source: Laws 2020, LB1107, § 93.

81-12,178 Qualified location, defined.

Qualified location means any parcel of real property, or contiguous or adjacent parcels of real property, within the State of Nebraska that is or are owned by the applicant, and such other parcels owned by the applicant that are necessary to support the applicant's project at such parcel or parcels. Except to the extent required for a project to be included in the program described in Title VII, Subtitle C, section 740 of Public Law 116-92, the award made for a qualified location may not be used for athletic or recreational purposes, except that a qualified location may contain space, totaling less than ten percent of the facility square footage at the project, that may be used for food service or for exercise or recreational purposes as is commonly used for the health and well-being of employees, students, and patients.

Source: Laws 2020, LB1107, § 94.

81-12,179 Related entity, defined.

Related entity means any entity which is a subsidiary or affiliated entity of the applicant or which has, as one of its purposes for existence, the financial support of the applicant.

Source: Laws 2020, LB1107, § 95.

81-12,180 Transformational period, defined.

Transformational period means the period of time from the date of the complete application through the earlier of (1) the end of the tenth year after the year in which the complete application was filed with the director or (2) the

end of the year in which the applicant attains the one-billion-six-hundred-million-dollar investment requirement.

Source: Laws 2020, LB1107, § 96.

81-12,181 Year, defined.

Year means the fiscal year of the State of Nebraska.

Source: Laws 2020, LB1107, § 97.

81-12,182 Matching funds; eligibility; application; requirements; approval; deadlines.

(1) In order to be eligible to receive the matching funds allowed in the Nebraska Transformational Projects Act, the applicant shall file an application with the director, on a form developed by the director, requesting an agreement.

(2) The application shall:

(a) Identify the project, including the qualified location of such project, and state that the applicant is pursuing a partnership with the federal government pursuant to Title VII, Subtitle C, section 740 of Public Law 116-92 for the project;

(b) State the estimated, projected amount of total new investment at the project, which shall not be less than one billion six hundred million dollars, including the estimated, projected amount of private dollars and matching funds;

(c) Include an independent assessment of the economic impact to Nebraska from the project and its construction, which shall be performed by a professional economist or economics firm which is not in the regular employ of the applicant. The assessment must show, to the reasonable satisfaction of the director, an economic impact to Nebraska of at least two billion seven hundred million dollars during the planning and construction period and at least four billion six hundred million dollars during the ten-year period beginning either when construction is commenced or when the application is approved;

(d) Include approval of the project and of submission of the application by the governing body of the applicant. Approval of the project may be subject to other federal, state, and local government approvals needed to complete the project and subject to obtaining the funding, financing, and donations needed for the project;

(e) State the E-Verify number or numbers that will be used by the applicant for employees at the qualified location as provided by the United States Citizenship and Immigration Services; and

(f) Contain a nonrefundable application fee of twenty-five thousand dollars. The fee shall be remitted to the State Treasurer for credit to the Nebraska Transformational Project Fund.

(3) An application must be complete to establish the date of the application. An application shall be considered complete once it contains the items listed in subsection (2) of this section.

(4) Once satisfied that the application is complete and that the applicant is eligible to receive the matching funds allowed in the Nebraska Transformational Projects Act, the director shall approve the application.

(5) There shall be no new applications filed under this section after December 31, 2025. Any complete application filed on or before December 31, 2025, shall be considered by the director and approved if the location and applicant qualify for approval. Agreements may be executed with regard to any complete application filed on or before December 31, 2025.

Source: Laws 2020, LB1107, § 98; Laws 2023, LB727, § 102.

81-12,183 Agreement; requirements; documentation of private funds.

(1) Within ninety days after approval of the application, the director shall prepare and deliver a written agreement to the applicant for the applicant's signature. The applicant and the director, on behalf of the State of Nebraska, shall enter into such written agreement. Under the agreement, the applicant shall agree to undertake the project and report all investment at the project to the director annually. The director, on behalf of the State of Nebraska, shall agree to allow the applicant to receive the matching funds allowed in the Nebraska Transformational Projects Act, subject to appropriation of such funds by the Legislature. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement shall state:

- (a) The qualified location;
- (b) The type of documentation the applicant will need to document its investment and receipt of private dollars under the act;
- (c) The date the application was complete;
- (d) A requirement that the applicant be and will stay registered for the E-Verify Program provided by the United States Citizenship and Immigration Services for the duration of the project;
- (e) A requirement that the applicant update the director within sixty days of the following events:
 - (i) Execution of an agreement for construction of real property at the project;
 - (ii) Local approval for construction of real property at the project;
 - (iii) A binding commitment for financing of the project by a private lender, to the extent applicable;
 - (iv) Commencement of construction of real property at the project; and
 - (v) The issuance of a certificate of occupancy for real property at the project;
 - (f) A requirement that the applicant provide any information needed by the director to perform his or her responsibilities under the Nebraska Transformational Projects Act, in the manner specified by the director;
 - (g) A requirement that the applicant provide an annually updated timetable showing the private dollars donated and received and the investment at the project, in the manner specified by the director; and
 - (h) A requirement that the applicant update the director annually, with its timetable or in the manner specified by the director, on any changes in plans or circumstances which it reasonably expects will affect the investment or expected donations for the project.

(2) Any failure by the applicant to timely provide the updates or information required by the director or the act may result in the loss of the right to receive matching funds or, at the discretion of the director, result in the deferral of

matching fund disbursements until such updates and information have been provided to the director by the applicant.

(3) The applicant shall provide documentation to the director validating the receipt of private dollars but is not required to disclose the names of any donors of private dollars.

(4) An agreement under the Nebraska Transformational Projects Act shall have a duration of no more than fifteen years after the date of application, consisting of up to the ten years of the transformational period followed by the five-year continuation period, except that such agreement shall remain effective until all matching fund payments have been received as provided for under the act.

(5) An agreement under the Nebraska Transformational Projects Act must be approved by the governing body of the applicant to be valid.

Source: Laws 2020, LB1107, § 99.

81-12,184 Transactions or activities excluded.

The following transactions or activities shall not create investment under the Nebraska Transformational Projects Act except as specifically allowed by this section:

(1) The renegotiation of any private donor commitment in existence before the date of application, except to the extent of additional donation commitments;

(2) The purchase of any property which was previously owned by the applicant or a related entity. The first purchase by either the applicant or a related entity shall be treated as investment if the item was first placed in service in the state after the date of the application;

(3) The renegotiation of any agreement in existence on the date of application which does not materially change any of the material terms of the agreement shall be presumed to be a transaction entered into for the purpose of facilitating benefits under the act and shall not be allowed in the meeting of the required investment level under the act; and

(4) Any purchase of property from a related entity, except that the applicant will be considered to have made investment under the act to the extent the related entity would have been considered to have made investment on the purchase of the property if the related entity was considered the applicant.

Source: Laws 2020, LB1107, § 100.

81-12,185 Matching funds; receipt; conditions; payment.

(1) Subject to section 81-12,188, an applicant shall, upon the applicant's project being selected for the program established under Title VII, Subtitle C, section 740 of Public Law 116-92 and the receipt of one billion federal dollars, be entitled to receive, from the State of Nebraska, three hundred million dollars as matching funds for the three hundred million dollars of private dollars received by the applicant by the end of the continuation period.

(2) Subject to section 81-12,188, the state shall pay the available matching funds to the applicant on an annual basis.

Source: Laws 2020, LB1107, § 101.

81-12,186 Matching funds; filing required; use; repayment; interest; director; powers and duties.

(1) The right to matching funds prescribed in section 81-12,185 shall be established by filing the forms required by the director. The matching funds may only be used by the applicant to make investments at the project or to pay off debt financing for such investments. Matching funds and private dollars shall be counted towards the attainment of the one-billion-six-hundred-million-dollar investment requirement.

(2) Interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, shall be due by the applicant on any repayment of matching funds.

(3) All interpretations of the Nebraska Transformational Projects Act shall be made by the director.

(4) An audit of a project shall be made by the director to the extent and in the manner determined by the director. The director may recover any matching funds which were erroneously allowed by issuing a repayment determination within the later of three years from the date the matching funds were paid or three years after the end of the continuation period.

(5) Any determination by the director that the applicant does not qualify, that a location is not a qualified location, that a project does not qualify, that a private-dollar donation does not qualify, or that matching funds must be repaid may be protested by the applicant to the director within sixty days after the mailing to the applicant of the written notice of the proposed determination by the director. If the notice of proposed determination is not protested in writing by the applicant within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the director, after a formal hearing by the director or by an independent hearing officer appointed by the director, if requested by the applicant in such protest, shall issue a written order resolving such protest.

Source: Laws 2020, LB1107, § 102.

81-12,187 Matching funds; repayment; required; when.

(1) The applicant must make an investment of one billion six hundred million dollars at the project, of which at least one billion dollars shall come from federal funding, before the end of the transformational period. If the applicant fails to reach such threshold, all of the matching funds paid to the applicant under the Nebraska Transformational Projects Act shall be repaid by the applicant to the director, and the applicant shall be entitled to no matching funds for the project.

(2) The applicant must maintain the required level of investment for the entire continuation period. If the applicant fails to maintain the required level of investment for the entire continuation period, all of the matching funds paid to the applicant under the act shall be repaid by the applicant to the director, and the applicant shall be entitled to no matching funds for the project.

(3) If the applicant fails to receive, before the end of the continuation period, three hundred million dollars of donations of private dollars to be used for the project, then all matching funds paid to the applicant under the act shall be repaid by the applicant to the director.

(4) The repayment required by this section shall not occur if the failure to receive a donation, or achieve or maintain the required level of investment, was caused by an act of God or a national emergency.

Source: Laws 2020, LB1107, § 103.

81-12,188 Matching funds; receipt; conditions.

The right to receive matching funds under the Nebraska Transformational Projects Act:

- (1) Shall be subject to the limitations provided in the act;
- (2) Shall be subject to funds being appropriated by the Legislature; and
- (3) Shall not be transferable.

Source: Laws 2020, LB1107, § 104.

81-12,189 Matching funds; payment.

If the applicant cannot be paid in full in any given fiscal year, then the matching funds shall be paid in later years until fully funded.

Source: Laws 2020, LB1107, § 105.

81-12,190 Application; valid; when.

Any complete application shall be considered a valid application on the date submitted for the purposes of the Nebraska Transformational Projects Act.

Source: Laws 2020, LB1107, § 106.

81-12,191 Report; joint hearing.

(1) No later than October 1, 2024, and no later than October 1 of each year thereafter, the director shall submit electronically an annual report for the previous fiscal year to the Legislature. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The director shall, on or before December 15, 2024, and on or before December 15 of each year thereafter, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) The report shall state (a) the payment of matching funds made by the State of Nebraska, (b) the expected payments of matching funds still to be made by the State of Nebraska, and (c) the investment made by the applicant.

(3) The report shall provide an explanation of the audit and review processes of the Department of Economic Development in approving and rejecting the provision of matching funds and in enforcing matching funds repayment.

(4) No information shall be provided in the report or in supplemental information that is protected by state or federal confidentiality laws. The identity of private donors shall not be included in the report.

Source: Laws 2020, LB1107, § 107.

81-12,192 Rules and regulations.

Except as otherwise provided in the Nebraska Transformational Projects Act, the director may adopt and promulgate all procedures and rules and regulations necessary to carry out the purposes of the act.

Source: Laws 2020, LB1107, § 108.

81-12,193 Nebraska Transformational Project Fund; created; use; investment.

(1) The Nebraska Transformational Project Fund is hereby created. The fund shall receive money from application fees paid under the Nebraska Transformational Projects Act and from appropriations from the Legislature, grants, private contributions, repayments of matching funds, and all other sources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) It is the intent of the Legislature that the State Treasurer shall transfer an amount not to exceed three hundred million dollars to the Nebraska Transformational Project Fund. Such transfers shall only occur after the applicant has been selected for participation in the program described in Title VII, Subtitle C, section 740 of Public Law 116-92 and commitments totaling one billion three hundred million dollars in total investment, including only federal dollars and private donations, have been secured. In no case shall any transfer occur before fiscal year 2025-26. Distributions shall only be made from the fund in amounts equal to the amount of private dollars received by the applicant for the project.

(3) Any money remaining in the fund after all obligations have been met shall be transferred to the General Fund.

Source: Laws 2020, LB1107, § 109; Laws 2024, First Spec. Sess., LB34, § 29.

Effective date August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-12,194 Applicant; contracts authorized; powers.

(1) In order to accomplish a project under the Nebraska Transformational Projects Act, an applicant may enter into contracts with any person, firm, or corporation providing for the implementation of any such project and providing for the long-term payment of the cost of such project.

(2) No applicant shall pledge the credit of the State of Nebraska for the payment of any sum owing on account of such contract, except that there may be pledged for the payment of any such contract any appropriation specifically made by the Legislature for such purpose, together with such funds of the applicant as the governing body of the applicant determines. An applicant may also convey, lease, or lease back all or any part of the project authorized by the Nebraska Transformational Projects Act and the land on which such project is situated to such person, firm, or corporation as the applicant may contract with pursuant to this section to facilitate the long-term payment of the cost of such project. Any such conveyance or lease shall provide that when the cost of such project has been paid, together with interest and other costs thereon, such

project and the land on which such project is located shall become the property of the applicant.

Source: Laws 2020, LB1107, § 110.

(v) NEBRASKA RURAL PROJECTS ACT

81-12,195 Act, how cited.

Sections 81-12,195 to 81-12,218 shall be known and may be cited as the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 1; Laws 2024, LB164, § 19.

Operative date April 17, 2024.

81-12,196 Definitions, where found.

For purposes of the Nebraska Rural Projects Act, the definitions found in sections 81-12,197 to 81-12,207 shall be used.

Source: Laws 2021, LB40, § 2; Laws 2024, LB164, § 20.

Operative date April 17, 2024.

81-12,197 Applicant, defined.

Applicant means a nonprofit economic development corporation.

Source: Laws 2021, LB40, § 3.

81-12,198 Applicant resources, defined.

Applicant resources means:

(1) Dollars donated to the applicant specifically for the project by any combination of one or more of the following:

(a) An individual;

(b) An organization that is exempt from income tax under section 501(c) of the Internal Revenue Code; or

(c) Any nongovernmental organization; and

(2) Any direct or indirect funding for the project from any federal, state, or local government, excluding any matching funds received pursuant to the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 4.

81-12,199 Date of application, defined.

Date of application means the date that a completed application is filed under the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 5.

81-12,200 Director, defined.

Director means the Director of Economic Development.

Source: Laws 2021, LB40, § 6.

81-12,200.01 Inland port authority, defined.

Inland port authority has the same meaning as in section 13-3303.

Source: Laws 2024, LB164, § 21.
Operative date April 17, 2024.

81-12,201 Investment, defined.

Investment means the amount paid by the applicant for the project and includes any funding and other resources directed toward the project by a city, a county, an inland port authority, or a public utility. The term also includes any applicant resources received by the applicant for the project. The term does not include any matching funds received by the applicant under the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 7; Laws 2024, LB164, § 22.
Operative date April 17, 2024.

81-12,202 Matching funds, defined.

Matching funds means the funds provided by the State of Nebraska pursuant to section 81-12,211.

Source: Laws 2021, LB40, § 8.

81-12,203 Project, defined.

Project means expenses incurred or to be incurred at one qualified location for:

(1) Site acquisition and preparation, transportation infrastructure, utility extensions, and rail spur construction for the development of a new industrial rail access business park, including any such expenses incurred to assist an initial tenant at such business park that conducts business in the manufacturing, processing, distribution, or transloading trades; or

(2) Site acquisition and preparation, transportation infrastructure, or rail spur construction within thirty miles of the largest artificial reservoir constructed in this state for the storage of water.

Source: Laws 2021, LB40, § 9; Laws 2023, LB531, § 39; Laws 2024, LB164, § 23.
Operative date April 17, 2024.

81-12,204 Qualified location, defined.

Qualified location means a location within a county in this state that has a population of less than one hundred thousand inhabitants.

Source: Laws 2021, LB40, § 10.

81-12,205 Related entity, defined.

Related entity means any entity which is a subsidiary or affiliated entity of the applicant or which has, as one of its purposes for existence, the financial support of the applicant.

Source: Laws 2021, LB40, § 11.

81-12,206 Transformational period, defined.

Transformational period means the period of time from the date of application through the end of the tenth year after the year in which the complete application was filed with the director.

Source: Laws 2021, LB40, § 12.

81-12,207 Year, defined.

Year means the fiscal year of the State of Nebraska.

Source: Laws 2021, LB40, § 13.

81-12,208 Matching funds; eligibility; application; requirements; approval; deadlines.

(1) In order to be eligible to receive the matching funds allowed in the Nebraska Rural Projects Act, the applicant shall file an application with the director, on a form developed by the director, requesting an agreement.

(2) The application shall:

(a) Identify the project, including the qualified location of such project;

(b) State the estimated, projected amount of total new investment at the project, including the estimated, projected amount of applicant resources;

(c) State the E-Verify number or numbers that will be used by the applicant for employees at the qualified location as provided by the United States Citizenship and Immigration Services; and

(d) Contain a nonrefundable application fee of one thousand dollars. The director shall collect all application fees and shall remit the fees to the State Treasurer for credit to the Nebraska Rural Projects Fund.

(3) An application must be complete to establish the date of application. An application shall be considered complete once it contains the items listed in subsection (2) of this section.

(4) Once satisfied that the application is complete and that the applicant is eligible to receive the matching funds allowed in the Nebraska Rural Projects Act, the director shall approve the application.

(5) There shall be no new applications filed under this section after June 30, 2023. Any complete application filed on or before June 30, 2023, shall be considered by the director and approved if the location and applicant qualify for approval. Agreements may be executed with regard to any complete application filed on or before June 30, 2023.

Source: Laws 2021, LB40, § 14.

81-12,209 Agreement; requirements; documentation of applicant resources.

(1) Within ninety days after approval of the application, the director shall prepare and deliver a written agreement to the applicant for the applicant's signature. The applicant and the director, on behalf of the State of Nebraska, shall enter into such written agreement. Under the agreement, the applicant shall agree to undertake the project and report all investment at the project to the director annually. The director, on behalf of the State of Nebraska, shall agree to allow the applicant to receive the matching funds allowed in the Nebraska Rural Projects Act, subject to appropriation of such funds by the Legislature. The application, and all supporting documentation, to the extent

approved, shall be considered a part of the agreement. The agreement shall state:

- (a) The qualified location;
 - (b) The total amount of matching funds approved for the project;
 - (c) The type of documentation the applicant will need to document its receipt of applicant resources and all other investment made under the act;
 - (d) The date of application;
 - (e) A requirement that any access to the primary rail carrier, land purchase option, or zoning approval needed to carry out the project will be secured;
 - (f) A requirement that the applicant be and will stay registered for the E-Verify Program provided by the United States Citizenship and Immigration Services for the duration of the project;
 - (g) A requirement that the applicant provide any information needed by the director to perform his or her responsibilities under the Nebraska Rural Projects Act, in the manner specified by the director;
 - (h) A requirement that the applicant provide an annually updated timetable showing the applicant resources donated and received and all other investment at the project, in the manner specified by the director; and
 - (i) A requirement that the applicant update the director annually, with its timetable or in the manner specified by the director, on any changes in plans or circumstances which it reasonably expects will affect the applicant resources or any other investment for the project.
- (2) Any failure by the applicant to timely provide the updates or information required by the director or the act may result in the loss of the right to receive matching funds or, at the discretion of the director, result in the deferral of matching fund disbursements until such updates and information have been provided to the director by the applicant.
 - (3) The applicant shall provide documentation to the director validating the receipt of applicant resources but is not required to disclose the names of any private donors.
 - (4) An agreement under the Nebraska Rural Projects Act shall have a duration of no more than ten years after the date of application, consisting of up to the ten years of the transformational period, except that such agreement shall remain effective until all matching fund payments that are allowed under the act have been received.

Source: Laws 2021, LB40, § 15.

81-12,210 Transactions or activities excluded.

The following transactions or activities shall not create investment under the Nebraska Rural Projects Act except as specifically allowed by this section:

- (1) The renegotiation of any private donor commitment in existence before the date of application, except to the extent of additional donation commitments;
- (2) The purchase of any property which was previously owned by the applicant or a related entity. The first purchase by either the applicant or a related entity shall be treated as investment if the item was first placed in service in the state after the date of application;

(3) The renegotiation of any agreement in existence on the date of application which does not materially change any of the material terms of the agreement shall be presumed to be a transaction entered into for the purpose of facilitating benefits under the act and shall not be allowed in the calculation of investment under the act; and

(4) Any purchase of property from a related entity, except that the applicant will be considered to have made investment under the act to the extent the related entity would have been considered to have made investment on the purchase of the property if the related entity was considered the applicant.

Source: Laws 2021, LB40, § 16.

81-12,211 Matching funds; receipt; conditions; exception; payment.

(1) Except as provided in subsection (2) of this section, an applicant shall, subject to section 81-12,213, be entitled to receive matching funds from the State of Nebraska as follows:

(a) For any amount of investment up to two million five hundred thousand dollars made by the applicant by the end of the transformational period, the applicant shall be entitled to receive two dollars of matching funds for each such dollar of investment; and

(b) For any amount of investment in excess of two million five hundred thousand dollars made by the applicant by the end of the transformational period, the applicant shall be entitled to receive five dollars of matching funds for each such dollar of investment.

(2) For any project described in subdivision (2) of section 81-12,203, the applicant shall be entitled to receive up to five million dollars of matching funds from the State of Nebraska without having to make any investment in the project. Any amount of matching funds in excess of five million dollars shall be paid in accordance with subsection (1) of this section.

(3) Subject to section 81-12,213, the state shall pay the available matching funds to the applicant on an annual basis.

Source: Laws 2021, LB40, § 17; Laws 2023, LB531, § 40.

81-12,212 Matching funds; filing required; use; repayment; interest; director; powers and duties.

(1) The right to matching funds prescribed in section 81-12,211 shall be established by filing the forms required by the director. Such forms shall be filed by the applicant on an annual basis and shall be used by the director to determine the amount of matching funds to be paid to the applicant each year. The matching funds may only be used by the applicant to pay for the project or to pay off debt financing related to the project.

(2) Interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, shall be due by the applicant on any repayment of matching funds required under the Nebraska Rural Projects Act.

(3) All interpretations of the Nebraska Rural Projects Act shall be made by the director.

(4) An audit of a project shall be made by the director to the extent and in the manner determined by the director. The director may recover any matching funds which were erroneously allowed by issuing a repayment determination

within the later of three years from the date the matching funds were paid or three years after the end of the transformational period.

(5) Any determination by the director that the applicant does not qualify, that a location is not a qualified location, that a project does not qualify, that investment does not qualify, or that matching funds must be repaid may be protested by the applicant to the director within sixty days after the mailing to the applicant of the written notice of the proposed determination by the director. If the notice of proposed determination is not protested in writing by the applicant within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the director, after a formal hearing by the director or by an independent hearing officer appointed by the director, if requested by the applicant in such protest, shall issue a written order resolving such protest.

Source: Laws 2021, LB40, § 18.

81-12,213 Matching funds; receipt; conditions; limitations; legislative intent regarding appropriations.

(1) The right to receive matching funds under the Nebraska Rural Projects Act:

(a) Shall be subject to the limitations on matching funds provided in subsections (3) and (4) of this section and any other limitations provided in the act;

(b) Shall be subject to funds being appropriated by the Legislature; and

(c) Shall not be transferable.

(2) No less than fifty million dollars of matching funds shall be paid in total under the Nebraska Rural Projects Act.

(3) No more than thirty million dollars of matching funds shall be paid for any one project out of the initial fifty million dollars appropriated pursuant to subsection (7) of this section. If more than fifty million dollars are appropriated under the act, no one project shall receive more than sixty percent of the amount appropriated in excess of fifty million dollars.

(4) An applicant shall not receive more matching funds than the amount of matching funds approved under the applicant's agreement.

(5) For any year in which more than one applicant qualifies for matching funds, the applicant with the earlier date of application shall receive the full amount of matching funds to which he or she is entitled before any matching funds may be paid to the applicant with the later date of application. If an applicant cannot be paid in full in any given year, then the matching funds shall be paid in later years until fully funded, subject to the limitations provided in this section.

(6) It is the intent of the Legislature that all matching funds owed to applicants under agreements signed pursuant to the Nebraska Rural Projects Act shall be paid by the state in full if the applicant has met all requirements for such funds.

(7) It is further the intent of the Legislature to appropriate twenty-five million dollars for fiscal year 2021-22 and twenty-five million dollars for fiscal year 2022-23 to the Department of Economic Development for purposes of carrying out the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 19; Laws 2022, LB1012, § 25.

81-12,214 Application; valid; when.

Any complete application shall be considered a valid application on the date submitted for the purposes of the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 20.

81-12,215 Project; land on which project is situated; sale; approval required; conditions.

(1) If approved by the director, an applicant may sell all or any part of the project authorized by the Nebraska Rural Projects Act or the land on which such project is situated to (a) a person who is seeking to establish a business at the site of such project, (b) a city, a county, or a public utility for the purpose of public works infrastructure, including, but not limited to, storm water management, or (c) an inland port authority for the purpose of developing, operating, or managing an inland port district located at the site of such project.

(2) The director shall approve a sale under this section if the director finds that:

(a) The sale furthers the goals of the project and the Nebraska Rural Projects Act; or

(b) If the sale is to an inland port authority, the sale furthers the goals of both the Nebraska Rural Projects Act and the Municipal Inland Port Authority Act.

(3) Any sale under this section shall not affect any matching funds already granted to the applicant and shall not disqualify the applicant from receiving matching funds after the sale.

Source: Laws 2021, LB40, § 21; Laws 2024, LB164, § 24.
Operative date April 17, 2024.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

81-12,216 Report; joint hearing.

(1) No later than October 1, 2022, and no later than October 1 of each year thereafter, the director shall submit electronically an annual report for the previous fiscal year to the Legislature. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The director shall, on or before December 15, 2022, and on or before December 15 of each year thereafter, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) The report shall state (a) the total amount of matching funds paid by the State of Nebraska, (b) the expected amount of matching funds still to be paid by the State of Nebraska, and (c) the total investment made by the applicants.

(3) The report shall provide an explanation of the audit and review processes of the Department of Economic Development in approving and rejecting the provision of matching funds and in enforcing matching funds repayment.

(4) No information shall be provided in the report or in supplemental information that is protected by state or federal confidentiality laws. The identity of private donors shall not be included in the report.

Source: Laws 2021, LB40, § 22.

81-12,217 Rules and regulations.

The director may adopt and promulgate all procedures and rules and regulations necessary to carry out the purposes of the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 23.

81-12,218 Nebraska Rural Projects Fund; created; use; investment.

(1) The Nebraska Rural Projects Fund is hereby created. The fund shall receive money from application fees paid under the Nebraska Rural Projects Act and from transfers authorized by the Legislature, grants, private contributions, repayments of matching funds, and all other sources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

(2) Distributions of matching funds shall only be made from the Nebraska Rural Projects Fund in amounts determined pursuant to section 81-12,211.

Source: Laws 2021, LB40, § 24; Laws 2022, LB1012, § 26; Laws 2023, LB531, § 41; Laws 2024, First Spec. Sess., LB3, § 39.
Effective date August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(w) SHOVEL-READY CAPITAL RECOVERY AND INVESTMENT ACT

81-12,219 Act, how cited.

Sections 81-12,219 to 81-12,226 shall be known and may be cited as the Shovel-Ready Capital Recovery and Investment Act.

Source: Laws 2021, LB566, § 1.

81-12,220 Act; purpose.

The purpose of the Shovel-Ready Capital Recovery and Investment Act is to partner with the private sector by providing grants to qualified nonprofit organizations to assist such organizations with capital projects that have been delayed due to COVID-19 or that will provide a positive economic impact in the State of Nebraska.

Source: Laws 2021, LB566, § 2; Laws 2023, LB818, § 26.

81-12,221 Terms, defined.

For purposes of the Shovel-Ready Capital Recovery and Investment Act:

(1) Capital project means a construction project to build, expand, or develop a new or existing facility or facilities or restoration work on a facility designated as a National Historic Landmark;

(2) Cost, in the context of a capital project, means the cost of land, engineering, architectural planning, contract services, construction, materials, and equipment needed to complete the capital project;

(3) COVID-19 means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom, and the health conditions or threats associated with the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom;

(4) Department means the Department of Economic Development;

(5) Qualified nonprofit organization means a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code that:

(a) Is related to arts, culture, or the humanities, including any organization formed for the purpose of developing and promoting the work of artists and the humanities in various visual and performing forms, such as film, sculpture, dance, painting, horticulture, multimedia, poetry, photography, performing arts, zoology, or botany;

(b) Operates a sports complex;

(c) Is a postsecondary educational institution in a city of the metropolitan class and partners with an organization hosting a regional or national event for purposes of infrastructure development related to furnishing and equipment for a health sciences education center, enhanced mobility by vacation of a public street, pedestrian safety, and construction of a community athletic complex;

(d) Is a county agricultural society with facilities located within the boundaries of a city of the primary class; or

(e) Operates a multifunction center which provides facilities to the public for at least two of the following uses:

(i) As an early childhood learning center;

(ii) As a community event center; or

(iii) As an indoor and outdoor sports training center;

(6) Sports complex means property that:

(a) Includes indoor areas, outdoor areas, or both;

(b) Is primarily used for competitive sports; and

(c) Contains multiple separate sports venues; and

(7) Sports venue includes, but is not limited to:

(a) A baseball field;

(b) A softball field;

(c) A soccer field;

(d) An outdoor stadium primarily used for competitive sports;

(e) An outdoor arena primarily used for competitive sports; and

(f) An enclosed, temperature-controlled building primarily used for competitive sports.

Source: Laws 2021, LB566, § 3; Laws 2023, LB531, § 42; Laws 2023, LB818, § 27; Laws 2024, LB1413, § 54.
Effective date April 2, 2024.

81-12,222 Grant; application; approval; amount.

(1) Beginning July 1, 2023, through September 1, 2024, a qualified nonprofit organization may apply to the department for a grant under the Shovel-Ready Capital Recovery and Investment Act. The application shall include, but not be limited to, the following information:

- (a) A description of the qualified nonprofit organization's capital project;
- (b) The estimated cost of the capital project; and

(c) Documentation on the amount of funds for the capital project which have been received or will be received by the qualified nonprofit organization from other sources. Such amount shall be at least equal to the amount of any grant received under the act. The documentation provided under this subdivision does not need to identify the names of any donors.

(2) The department shall consider applications in the order in which they are received. If an applicant is a qualified nonprofit organization and otherwise qualifies for funding under the Shovel-Ready Capital Recovery and Investment Act, the department shall, subject to subsection (3) of this section, approve the application and notify the applicant of the approval.

(3) The department may approve applications within the limits of available funding. The amount of any grant approved under this section shall be equal to the amount of funds to be supplied by the qualified nonprofit organization from other sources, as documented under subdivision (1)(c) of this section, subject to the following limitations:

(a) For any capital project with an estimated cost of less than five hundred thousand dollars, the grant shall not exceed two hundred fifty thousand dollars;

(b) For any capital project with an estimated cost of at least five hundred thousand dollars but less than five million dollars, the grant shall not exceed one million five hundred thousand dollars;

(c) For any capital project with an estimated cost of at least five million dollars but less than twenty-five million dollars, the grant shall not exceed five million dollars;

(d) For any capital project with an estimated cost of at least twenty-five million dollars but less than fifty million dollars, the grant shall not exceed ten million dollars;

(e) For any capital project with an estimated cost of at least fifty million dollars but less than one hundred million dollars, the grant shall not exceed fifteen million dollars; and

(f) For any capital project with an estimated cost of at least one hundred million dollars, the grant shall not exceed thirty million dollars.

Source: Laws 2021, LB566, § 4; Laws 2023, LB531, § 43; Laws 2023, LB818, § 28; Laws 2024, LB1413, § 55.
Effective date April 2, 2024.

81-12,223 Qualified nonprofit organization; grant; requirements; repayment, when.

(1) Each qualified nonprofit organization that receives a grant under the Shovel-Ready Capital Recovery and Investment Act shall:

(a) Secure all of the other funds described in subdivision (1)(c) of section 81-12,222 through a written pledge or payment by December 31, 2024, and

shall begin or resume construction on the organization's capital project by June 30, 2025; and

(b) Abide by the federal laws commonly known as the Davis-Bacon and Related Acts.

(2) Any qualified nonprofit organization that fails to meet the requirements of subsection (1) of this section shall repay any grant funds received under the act.

Source: Laws 2021, LB566, § 5; Laws 2023, LB531, § 44; Laws 2023, LB818, § 29.

81-12,224 Shovel-Ready Capital Recovery and Investment Fund; created; use; investment.

The Shovel-Ready Capital Recovery and Investment Fund is created. The fund shall consist of transfers authorized by the Legislature and any gifts, grants, or bequests from any source, including federal, state, public, and private sources. The fund shall be administered by the department and shall be used to make grants under the Shovel-Ready Capital Recovery and Investment Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 2021, LB566, § 6; Laws 2024, First Spec. Sess., LB3, § 40. Effective date August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-12,225 Federal funds and cash funds; use; legislative intent; changes to sections; applicability.

(1) For any federal funds appropriated to the department pursuant to the Shovel-Ready Capital Recovery and Investment Act, it is the intent of the Legislature that the department divide the total appropriation for grants to capital projects eligible under the act equally for each congressional district and give priority to grant requests less than or equal to five million dollars. After eligible grantees with priority status have been awarded grant funds, remaining funds may be awarded on a statewide basis with the department considering each project based on the overall economic impact of the project to the respective community and the overall benefit to the State of Nebraska. It is the intent of the Legislature that the department make reasonable adjustments to dates and deadlines and request additional documentation pursuant to any requirements for the use of funds received pursuant to the federal American Rescue Plan Act of 2021.

(2) For any cash funds appropriated to the department pursuant to the Shovel-Ready Capital Recovery and Investment Act, it is the intent of the Legislature that the department divide the total appropriation for grants to capital projects eligible under the act as follows:

(a) Thirty million dollars for grants to nonprofit organizations holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code

that are qualified nonprofit organizations under subdivision (5)(c) of section 81-12,221; and

(b) Remaining funds equally by each congressional district.

(3) The changes made in this section and sections 81-12,220, 81-12,221, 81-12,222, and 81-12,223 by Laws 2023, LB818, apply to all grant applications filed on or after July 1, 2023. For all applications filed prior to May 25, 2023, the provisions of the Shovel-Ready Capital Recovery and Investment Act as they existed immediately prior to such date apply.

(4) The changes made in this section and sections 81-12,220, 81-12,221, 81-12,222, and 81-12,223 by Laws 2023, LB531, apply to all grant applications filed on or after July 1, 2023. For all applications filed prior to June 7, 2023, the provisions of the Shovel-Ready Capital Recovery and Investment Act as they existed immediately prior to such date apply.

Source: Laws 2021, LB566, § 7; Laws 2023, LB531, § 45; Laws 2023, LB818, § 30.

81-12,226 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Shovel-Ready Capital Recovery and Investment Act.

Source: Laws 2021, LB566, § 8.

(x) SMALL BUSINESS STABILIZATION GRANT PROGRAM ACT

81-12,227 Act, how cited.

Sections 81-12,227 to 81-12,231 shall be known and may be cited as the Small Business Stabilization Grant Program Act.

Source: Laws 2022, LB598, § 1.

81-12,228 Purpose of act.

The purpose of the Small Business Stabilization Grant Program Act is to provide grant funds to eligible businesses that are experiencing a significant loss of revenue as a result of a qualifying event.

Source: Laws 2022, LB598, § 2.

81-12,229 Terms, defined.

For purposes of the Small Business Stabilization Grant Program Act:

(1) Department means the Department of Economic Development;

(2) Eligible business means a for-profit business that:

(a) Is located in this state; and

(b) Had no more than one million dollars of gross revenue in the most recently completed calendar year; and

(3) Qualifying event means any natural disaster, pandemic, or other event for which a state of emergency proclamation is issued by the Governor pursuant to section 81-829.40.

Source: Laws 2022, LB598, § 3.

81-12,230 Grant program; when established; eligibility; application; approval; amount.

(1) If a qualifying event occurs, the department shall establish a grant program to provide financial assistance to eligible businesses that have experienced a significant loss of revenue as a result of such qualifying event. An eligible business shall be considered to have experienced a significant loss of revenue if its gross revenue over a period of one month or more has declined by at least fifty percent from the amount of gross revenue received over the same period in the prior year.

(2) Whenever such a grant program is established, an eligible business may submit an application to the department with sufficient documentation to show the loss of revenue required under subsection (1) of this section.

(3) If the applicant is an eligible business and meets the requirements of subsection (1) of this section, the department shall approve the application and shall notify the applicant of such approval.

(4) The department shall consider applications in the order in which they are received and may approve applications within the limits of available appropriations.

(5) Each grant approved under this section shall be no more than twelve thousand dollars.

Source: Laws 2022, LB598, § 4.

81-12,231 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Small Business Stabilization Grant Program Act.

Source: Laws 2022, LB598, § 5.

(y) SMALL BUSINESS ASSISTANCE ACT

81-12,232 Act, how cited.

Sections 81-12,232 to 81-12,237 shall be known and may be cited as the Small Business Assistance Act.

Source: Laws 2022, LB450, § 11.

81-12,233 Terms, defined.

For purposes of the Small Business Assistance Act:

- (1) Department means the Department of Economic Development; and
- (2) Small business means a business with five or fewer employees.

Source: Laws 2022, LB450, § 12.

81-12,234 Small business grant program; grant; eligibility; amount; professional counseling services; department; contract with private entity.

(1) The department shall create and administer a grant program to:

(a) Provide grants of up to twenty-five thousand dollars to individuals looking to start a small business. An individual shall be eligible for a grant under this subdivision if the following requirements are met:

(i) The individual earned no more than fifty-five thousand dollars in the most recently completed calendar year;

(ii) The individual has a personal net worth of no more than two hundred thousand dollars, excluding the individual's primary residence; and

(iii) The individual does not have an ownership interest in any other business; and

(b) Provide grants of up to twelve thousand five hundred dollars to individuals who own a small business that has been in existence for no more than five years. An individual shall be eligible for a grant under this subdivision if the following requirements are met:

(i) The gross revenue of the small business has grown by no more than twenty-five percent over the most recently completed calendar year;

(ii) The individual has a personal net worth of no more than two hundred thousand dollars, excluding the individual's primary residence; and

(iii) The individual does not have an ownership interest in any other business.

(2) The department shall contract with a private entity to provide professional counseling services to individuals who are looking to start a small business or who have started a small business within the previous five years. Such counseling services shall be in the following areas:

(a) Accounting and budgeting;

(b) Tax return preparation;

(c) Human resources;

(d) How to write a business plan;

(e) Payroll processes;

(f) Financial planning and investments;

(g) Debt management;

(h) Strategic planning;

(i) Technology coaching; and

(j) Financial statement review.

(3) The private entity with which the department contracts under subsection (2) of this section shall not have any other contracts with the state that involve the provision of services described in subsection (2) of this section.

Source: Laws 2022, LB450, § 13.

81-12,235 Reports.

(1) On or before October 1, 2024, and on or before October 1 of each even-numbered year thereafter, the department shall submit a report to the Governor and the Legislature that includes, but is not limited to:

(a) A description of the demand for grants and counseling services under the Small Business Assistance Act from all geographic regions in Nebraska;

(b) A listing of the grant recipients and the amounts of grants awarded pursuant to the act in the previous two fiscal years;

(c) A listing of the recipients of counseling services under the act in the previous two fiscal years;

(d) The impact of the grants provided under the act, including information on:

- (i) The number of jobs created;
- (ii) The economic impact on the area where the grant recipient is located;
- (iii) The impact on state and local tax revenue; and
- (iv) The types of businesses created, listed by industry.

(2) The report submitted to the Legislature shall be submitted electronically.

(3) The department may require the private entity described in section 81-12,234 and any recipients of grants or counseling services to provide periodic reports and information to enable the department to fulfill the requirements of this section.

(4) The report shall contain no information that is protected by state or federal confidentiality laws.

Source: Laws 2022, LB450, § 14.

81-12,236 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Small Business Assistance Act.

Source: Laws 2022, LB450, § 15.

81-12,237 Legislative intent to appropriate.

It is the intent of the Legislature to appropriate five million dollars to the department each fiscal year to carry out the Small Business Assistance Act.

Source: Laws 2022, LB450, § 16.

(z) ECONOMIC RECOVERY ACT

81-12,238 Act, how cited.

Sections 81-12,238 to 81-12,244 shall be known and may be cited as the Economic Recovery Act.

Source: Laws 2022, LB1024, § 1; Laws 2023, LB531, § 46.

81-12,239 Legislative findings.

The Legislature finds that:

(1) The COVID-19 public health emergency has caused widespread economic, social, and public health-related turmoil that deepened existing disparities;

(2) The social and economic challenges caused and exacerbated by the COVID-19 public health emergency include high unemployment, wage decreases, increased homelessness, and food insecurity;

(3) The impact of the COVID-19 public health emergency and related challenges were disproportionately felt in low-income and minority communities such as North Omaha and South Omaha;

(4) The social and economic challenges in North Omaha and South Omaha have persisted for multiple generations, partially fueled by past racial segregation and the historical practice known as redlining;

(5) Funding under the federal American Rescue Plan Act of 2021 presents a once-in-a-lifetime opportunity to respond to the challenges facing North Omaha and South Omaha that have been worsened by the COVID-19 public health emergency; and

(6) Federal guidance issued by the United States Department of the Treasury has identified qualified census tracts as areas in which certain activities and investments will be deemed presumptively eligible for the use of funds under the federal American Rescue Plan Act of 2021.

Source: Laws 2022, LB1024, § 2.

81-12,240 Terms, defined.

For purposes of the Economic Recovery Act:

(1) Economic redevelopment area means an area in the State of Nebraska in which:

(a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate by the United States Bureau of the Census is at least one hundred fifty percent of the average rate of unemployment in the state during the same period; and

(b) The average poverty rate in the area is twenty percent or more for the federal census tract in the area; and

(2) Qualified census tract means a qualified census tract as defined in 26 U.S.C. 42(d)(5)(B)(ii)(I), as such section existed on January 1, 2022.

Source: Laws 2022, LB1024, § 3; Laws 2023, LB531, § 47.

81-12,241 Economic Recovery and Incentives Division; grants; payment; use; prioritize; Qualified Census Tract Recovery Grant Program; other grant funding; purposes; preparing land parcels; permitted activities; compliance with federal law; applicability to state-funded grants.

(1) A primary responsibility of the Economic Recovery and Incentives Division of the Department of Economic Development shall be to utilize federal or state funding to award grants as provided in this section. For grants awarded under this section, the division shall pay a grantee an advance of fifty percent of the total grant awarded with the remaining grant funds paid on a monthly basis until the grant is paid in full or by December 31, 2026, whichever occurs sooner. The division may (a) require a grantee to return unused grant funds upon a documented finding that such funds are not being used for the purpose for which the grant was awarded or (b) reduce any future monthly payments by the amount of such unused funds already paid.

(2) The division shall direct and prioritize the use of grants awarded under this section toward the economic recovery of those communities and neighborhoods within qualified census tracts or economic redevelopment areas located within the boundaries of a city of the metropolitan class that were disproportionately impacted by the COVID-19 public health emergency and related challenges, with an emphasis on housing needs, assistance for small businesses, job training, and business development within such communities and neighborhoods. In prioritizing the use of grants awarded within the boundaries of a city of the metropolitan class, the Economic Recovery and Incentives Division shall rely on any studies produced pursuant to section 81-12,242.

(3)(a) The Economic Recovery and Incentives Division shall create a Qualified Census Tract Recovery Grant Program to provide funding to public and private entities located within qualified census tracts throughout the state to respond to the negative impact of the COVID-19 public health emergency.

(b) Not to exceed ten million dollars in grants shall be distributed under the grant program to eligible grantees in qualified census tracts that are located in a city of the primary class.

(c) Not to exceed ten million dollars in grants shall be distributed under the grant program to eligible grantees in qualified census tracts that are located outside of a city of the metropolitan class or a city of the primary class.

(d)(i) All remaining funds shall be allocated for grants distributed under the grant program to eligible grantees in qualified census tracts that are located in a city of the metropolitan class.

(ii) Any funds not applied for within such areas may be allocated for grants to eligible grantees in any qualified census tract in such city.

(4) In addition to grants under the Qualified Census Tract Recovery Grant Program, the Economic Recovery and Incentives Division shall provide grant funding for the following purposes:

(a) Not to exceed ninety million dollars in grants to a nonprofit economic development organization for the development of a business park located within or adjacent to one or more qualified census tracts located within the boundaries of a city of the metropolitan class and within two miles of a major airport as defined in section 13-3303. An innovation hub as defined in section 81-12,108 shall not qualify for a grant under this subdivision. Before the release of such grant funds, the division shall:

(i) Require each recipient of a grant under this subdivision (a) to attend all meetings of the community advisory committee created pursuant to section 13-3306.01;

(ii) Require each grant recipient to establish a distinct bank account exclusively for the management of grant funds received under this subdivision (a). All proceeds from the lease, sale, or purchase of any real property in the business park by any grant recipient shall only be used for the business park for a minimum of fifteen years after receipt of the grant funding; and

(iii) Not release any funds other than the planning grant to any recipient of a grant under this subdivision (a) until the following occurs:

(A) The division receives from the grantee a ten-year financial pro forma and the grantee completes due diligence on such ten-year financial pro forma;

(B) The grantee holds two public input meetings to receive public input regarding concerns, ideas, and priorities for economic development initiatives within the business park. Such public input meetings shall provide a platform for dialogue and collaboration between residents, the developer, local government officials, and other stakeholders; and

(C) A letter of support is received from the inland port authority managing the inland port district in which such business park is located;

(b) Not to exceed six million dollars in grants to a nonprofit organization partnering with a city of the metropolitan class for the purpose of providing internships and crime prevention within qualified census tracts located within the boundaries of such city;

(c) Not to exceed five million dollars in grants pursuant to the purposes of the Nebraska Film Office Fund on or before June 30, 2023, for the purpose of producing a film on Chief Standing Bear, a portion of which is to be filmed in one or more qualified census tracts located within the boundaries of a city of the metropolitan class;

(d) Not to exceed twenty million dollars in grants to public or private entities to prepare land parcels for affordable housing or conduct other eligible affordable housing interventions under the federal American Rescue Plan Act of 2021 including production, rehabilitation, and preservation of affordable rental housing and affordable homeownership units within qualified census tracts which are located in a city of the metropolitan class;

(e) Not to exceed twenty million dollars in grants to public or private entities to prepare land parcels for affordable housing or conduct other eligible affordable housing interventions under the federal American Rescue Plan Act of 2021 including production, rehabilitation, and preservation of affordable rental housing and affordable homeownership units within qualified census tracts which are located in a city of the primary class;

(f) Not to exceed five million dollars in grants to a county agricultural society with facilities within a city of the primary class to recoup lost revenue; and

(g) Not to exceed one million dollars in grants to a postsecondary institution located in a qualified census tract in a city of the metropolitan class to provide funding for a financial literacy program to improve economic and health outcomes for individuals residing in qualified census tracts.

(5) For purposes of subdivisions (4)(d) and (e) of this section, preparing land parcels shall include:

(a) Costs and fees associated with legal land surveys and structural assessments;

(b) Laying drinking water mains, lines, pipes, or channels;

(c) Development of access to essential utilities, such as sanitary sewer, electric, gas, and high-speed Internet;

(d) Rehabilitation, renovation, maintenance, or other costs to secure vacant or abandoned properties in disproportionately impacted communities;

(e) Acquiring and securing legal title of vacant or abandoned properties in disproportionately impacted communities;

(f) Testing, removal, and remediation of environmental contaminants or hazards from vacant or abandoned properties in disproportionately impacted communities when conducted in compliance with applicable environmental laws or regulations;

(g) Demolition or deconstruction of vacant or abandoned buildings in disproportionately impacted communities; and

(h) Costs associated with inspection fees and other administrative costs incurred to ensure compliance with applicable environmental laws and regulations for demolition or other remediation activities in disproportionately impacted communities.

(6) All grants made by the Economic Recovery and Incentives Division utilizing federal funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund under the federal American Rescue Plan Act of 2021 shall meet the eligible uses under such act and any relevant

guidance on the use of such funds by the United States Department of the Treasury.

(7) All grants made by the Economic Recovery and Incentives Division utilizing state funds to carry out subsection (2) of section 81-1239 are subject to the intent and basic parameters of the federal American Rescue Plan Act of 2021 but are not subject to meet the time restraints for allocation and spending of funds or the federal reporting requirements indicated in the federal American Rescue Plan Act of 2021.

Source: Laws 2022, LB1024, § 4; Laws 2023, LB531, § 48; Laws 2023, LB818, § 31; Laws 2024, LB164, § 25.
Operative date April 17, 2024.

81-12,241.01 Economic Recovery and Incentives Division; North and South Omaha Recovery Grant Program; other grant funding; purposes; project; eligibility for grant; requirements; grants; payment; grant or contract, assignment.

(1)(a) The Economic Recovery and Incentives Division of the Department of Economic Development shall create and administer the North and South Omaha Recovery Grant Program to provide grants as provided in this section to public and private entities to respond to the negative impact of the COVID-19 public health emergency and build resilient and innovative communities.

(b) To be eligible for a grant under the North and South Omaha Recovery Grant Program, a project shall:

(i) Be listed in the coordination plan or appendices by the Economic Recovery Special Committee of the Legislature dated January 10, 2023; and

(ii) Explain how the grant will relieve the negative impact of the COVID-19 public health emergency within a qualified census tract or an economic redevelopment area located within the boundaries of a city of the metropolitan class and build resilient and innovative communities, with a priority on small business development, job creation, and economic development within such communities.

(2) When considering projects for grants under this section, the division shall use the coordination plan and appendices, dated January 10, 2023. Projects that would benefit communities and neighborhoods within qualified census tracts or economic redevelopment areas located within the boundaries of a city of the metropolitan class with a priority on small business development, job creation, and economic development within such communities and neighborhoods shall be prioritized.

(3) The division shall award additional grants for the following purposes:

(a) Not to exceed twenty million dollars in grants for the purpose of creating a museum located in one or more qualified census tracts located within the boundaries of a city of the metropolitan class and that is named in honor of a person inducted into the Nebraska Hall of Fame on or before September 1, 2023; and

(b) Not to exceed twenty million dollars in grants to federally qualified health centers located in a city of the metropolitan class. Such grants shall be used for persons receiving services under subsections (g), (h), or (i) of section 330 of the

federal Public Health Service Act, 42 U.S.C. 254b, as such section existed on January 1, 2023.

(4) For grants awarded under this section, the division shall pay a grantee an advance of fifty percent of the total grant awarded with the remaining grant funds paid on a monthly basis until the grant is paid in full or by December 31, 2027, whichever occurs sooner. If a grantee does not use the grant funds paid, the division may (a) require such grantee to return such unused grant funds upon a documented finding that such funds have not been used or (b) reduce any future monthly payments by the amount of such unused grant funds already paid.

(5) The Department of Economic Development may assign any grant or contract awarded under the Economic Recovery Act to a city of the metropolitan class or to an inland port authority located within such city.

Source: Laws 2023, LB531, § 51; Laws 2024, LB164, § 26.
Operative date April 17, 2024.

81-12,242 Economic Recovery Special Committee of the Legislature; members; powers and duties.

(1) The Economic Recovery Special Committee of the Legislature is established as a special committee of the Legislature to perform the duties provided in the Economic Recovery Act. The special legislative committee shall consist of the chairperson of the Urban Affairs Committee of the Legislature, who shall serve as chairperson of the special legislative committee, the Speaker of the Legislature, the chairperson of the Appropriations Committee of the Legislature or his or her designee, and four other members of the Legislature appointed by the chairperson of the Executive Board of the Legislative Council. The appointed members of the special legislative committee shall include members who represent legislative districts containing one or more qualified census tracts located within the boundaries of a city of the metropolitan class.

(2) The Executive Board of the Legislative Council shall provide staff as required by the special legislative committee from existing legislative staff. In addition, the special legislative committee may hire additional staff, make expenditures for travel, and enter into contracts for consulting, engineering, and development studies. The contracts shall be based on competitive bids and subject to approval of the executive board upon the recommendation of a majority of the members of the special legislative committee. It is the intent of the Legislature to appropriate two million dollars for fiscal year 2022-23 to carry out this section.

(3) The special legislative committee may hold hearings and request and receive reports from the federal government, state agencies, counties, municipalities, and other public and private entities regarding the impact of the COVID-19 public health emergency on low-income and minority communities in Nebraska. The special legislative committee may hold one or more closed sessions for the receipt of confidential information if at least one-half of the members of the special legislative committee vote in open session to hold a closed session.

(4) No later than June 30, 2022, the special legislative committee shall issue a request for proposals for studies on potential eligible uses of funds made available under the federal American Rescue Plan Act of 2021 or state funds within or adjacent to qualified census tracts located within the boundaries of a

city of the metropolitan class. Such studies shall include, but not be limited to, potential eligible uses of such funds in the areas of entrepreneurship, housing, employment, job creation, and small business assistance. Copies of all such studies received by the special legislative committee shall be forwarded to the Economic Recovery and Incentives Division of the Department of Economic Development.

Source: Laws 2022, LB1024, § 5.

81-12,243 Economic Recovery Contingency Fund; created; use; prioritize; investment.

(1) The Economic Recovery Contingency Fund is created. The fund shall consist of transfers by the Legislature to carry out the Economic Recovery Act. Transfers may be made from the Economic Recovery Contingency Fund to the Museum Construction and Maintenance Fund at the direction of the Legislature. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings on and after July 1, 2023, shall be credited to the fund.

(2) The Department of Economic Development may review the projects listed in the coordination plan and the appendices by the Economic Recovery Special Committee of the Legislature dated January 10, 2023, and shall prioritize the use of the fund on projects listed in the coordination plan followed by the projects in the appendices.

(3) The State Treasurer shall transfer seven hundred fifty thousand dollars from the Economic Recovery Contingency Fund to the Museum Construction and Maintenance Fund on or after July 1, 2024, but before December 31, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. The State Treasurer shall transfer fifteen million dollars from the Economic Recovery Contingency Fund to the Museum Construction and Maintenance Fund on or after July 1, 2025, but before December 31, 2025, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(4) The State Treasurer shall transfer thirty million dollars from the Economic Recovery Contingency Fund to the Inland Port Authority Fund no later than five business days after April 17, 2024, for the purpose of creating and operating an innovation district by an inland port authority and for any other purpose authorized under the Municipal Inland Port Authority Act.

(5) The State Treasurer shall transfer any unobligated funds remaining in the Economic Recovery Contingency Fund on July 31, 2026, to the Inland Port Authority Fund.

(6) The State Treasurer shall transfer seven million dollars from the Economic Recovery Contingency Fund to the Museum Construction and Maintenance Fund on or after January 1, 2026, but before June 30, 2026, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2022, LB1024, § 6; Laws 2023, LB531, § 49; Laws 2023, LB818, § 32; Laws 2024, LB164, § 27; Laws 2024, LB1413, § 56.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB164, section 27, with LB1413, section 56, to reflect all amendments.

Note: Changes made by LB164 became operative April 17, 2024. Changes made by LB1413 became effective April 2, 2024.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

Nebraska Capital Expansion Act, see section 72-1269.

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

81-12,244 Appropriations and transfers of funds; legislative intent; use; restrictions.

(1) It is the intent of the Legislature to appropriate ten million dollars from the General Fund for fiscal year 2023-24 to the Department of Economic Development to carry out the Economic Recovery Act. The department may use not more than ten million dollars of such money for the administration of the Economic Recovery Act.

(2) The State Treasurer shall transfer (a) interest earned after April 19, 2022, on federal funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal American Rescue Plan Act of 2021, 42 U.S.C. 802, as amended, to the Economic Recovery Contingency Fund between June 1, 2023, and June 30, 2023, and on or before June 30, 2024, and as provided in section 84-622, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services, (b) investment earnings from the investment of money in the Perkins County Canal Project Fund pursuant to section 61-305 to the Economic Recovery Contingency Fund as provided in section 84-622, and (c) investment earnings from the investment of money in the Nebraska Capital Construction Fund from transfers credited to such fund that are designated for the construction of a new state prison pursuant to section 72-1001 to the Economic Recovery Contingency Fund between June 1, 2023, and June 30, 2023, and as provided in section 84-622.

(3) It is the intent of the Legislature that any unobligated amount as of July 1, 2024, of the federal funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal American Rescue Plan Act of 2021, 42 U.S.C. 802, as amended, be appropriated to the Department of Economic Development to carry out the Economic Recovery Act no later than August 1, 2024.

(4) It is the intent of the Legislature to transfer ten million dollars from the General Fund to the Economic Recovery Contingency Fund for fiscal year 2023-24 and ten million dollars from the General Fund to the Economic Recovery Contingency Fund for fiscal year 2024-25 to provide grants under the Economic Recovery Act.

Source: Laws 2022, LB1024, § 7; Laws 2023, LB531, § 50; Laws 2024, LB164, § 28.

Operative date April 17, 2024.

(aa) FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND

81-12,245 Department of Economic Development; use of funds; restrictions; grant applications; priorities.

(1) The Department of Economic Development shall use any funds received from the federal Coronavirus Capital Projects Fund under the federal American Rescue Plan Act of 2021 as follows:

(a) No more than thirty-five million dollars to eligible projects that are located within a congressional district which contains a city of the metropolitan

class. Within a city of the metropolitan class, grants shall be given to multipurpose community facilities;

(b) No less than forty million dollars to eligible projects that are located within a congressional district which contains a city of the primary class;

(c) No less than forty million dollars to eligible projects that are located within a congressional district which does not contain a city of the metropolitan class or a city of the primary class. Grants under this subdivision shall be awarded to eligible projects in cities of the second class and villages; and

(d) No more than five million dollars of such federal funds for the administration by the department of funds received from the federal Coronavirus Capital Projects Fund under the federal American Rescue Plan Act of 2021.

(2) Any funds received from the federal Coronavirus Capital Projects Fund under the federal American Rescue Plan Act of 2021 utilized for eligible broadband infrastructure projects shall be administered in a manner consistent with the Nebraska Broadband Bridge Act, except that the matching funds requirement in section 86-1304 shall not apply to such federal funding for broadband projects.

(3) The department shall, beginning July 1, 2022, through July 15, 2022, allow a qualified public or private entity to apply for a grant using funds received from the federal Coronavirus Capital Projects Fund under the federal American Rescue Plan Act of 2021. The department may open additional grant application periods as needed until all funds are allocated.

(4) Grants under subdivision (1)(a) of this section shall be restricted to eligible projects located within or adjacent to one or more qualified census tracts or economic redevelopment areas as defined in section 81-12,153 in a city of the metropolitan class. Priority for grants under subdivision (1)(a) of this section shall be given to a city of the metropolitan class in partnership with a nonprofit organization for eligible projects for the rehabilitation or expansion of existing multipurpose community facilities.

Source: Laws 2022, LB1024, § 13; Laws 2023, LB727, § 103.

Cross References

Nebraska Broadband Bridge Act, see section 86-1301.

81-12,246 Department of Economic Development; Legislative intent to appropriate.

It is the intent of the Legislature to appropriate one hundred twenty-eight million seven hundred forty thousand one hundred seventy-eight dollars from federal funds for fiscal year 2022-23 to the Department of Economic Development to provide grants as provided in section 81-12,245. The federal funds described in this section are the funds allocated to the State of Nebraska from the federal Coronavirus Capital Projects Fund under the federal American Rescue Plan Act of 2021.

Source: Laws 2022, LB1024, § 14.

**(bb) AMERICAN RESCUE PLAN TRAVEL, TOURISM
AND OUTDOOR RECREATION PROGRAM**

81-12,247 Legislative intent to appropriate; grants; restrictions.

(1) It is the intent of the Legislature to appropriate three million seventy-four thousand dollars from federal funds for FY2022-23 to the Department of

Economic Development. The federal funds described in this subsection are the funds received by the State of Nebraska from the United States Economic Development Administration's American Rescue Plan Travel, Tourism and Outdoor Recreation program.

(2) Money from the intended appropriation described in subsection (1) of this section shall be for grants awarded to eligible grantees as follows:

(a) No less than one million dollars to eligible grantees located within one or more qualified census tracts within a city of the metropolitan class;

(b) No less than one million dollars to eligible grantees located within one or more qualified census tracts within a city of the primary class; and

(c) No less than one million dollars to eligible grantees in qualified census tracts that are located outside of a city of the metropolitan class or a city of the primary class.

Source: Laws 2022, LB1024, § 15.

(cc) DEVELOPMENT OF UNDERUTILIZED TAX-EXEMPT PROPERTY

81-12,248 Development of underutilized tax-exempt property; covered nonprofit organization; requirements; sale restrictions; violations; penalty.

(1) For purposes of this section:

(a) Community development corporation means a private, nonprofit corporation whose board of directors is comprised of business, civic, and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities;

(b) Community development organization means a private, nonprofit organization that works to improve the social, economic, and environmental well-being of a specific geographic area or community. Community development organizations focus on grassroots efforts and community engagement to address local needs and promote sustainable development. Community development organizations may engage in a wide range of activities, including, but not limited to, affordable housing, economic development, education and training, community engagement, health and social services, environmental sustainability, civic engagement, infrastructure development, and cultural and recreational activities;

(c) Covered nonprofit organization means any community development corporation, community development organization, or economic development corporation. The term does not include any political subdivision of the state;

(d) Department means the Department of Economic Development;

(e) Director means the Director of Economic Development;

(f) Economic development corporation means a private, nonprofit corporation whose primary goal is the promotion of economic growth, job creation, and overall economic prosperity within a specific geographic area. Economic development corporations may engage in a wide range of activities, including, but not limited to, promoting business growth, supporting entrepreneurship, attracting investment, workforce development, infrastructure development, industry cluster development, and industry collaboration and advocacy;

(g) High-poverty area means an area consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons with incomes below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts, as determined by the most recent federal decennial census;

(h) Market value means the fair market value of real property as determined by an independent appraisal; and

(i) Underutilized tax-exempt property means any real property in this state that (i) is exempt from property taxes and (ii) is completely undeveloped or contains deteriorating structures.

(2)(a) A covered nonprofit organization that owns or acquires underutilized tax-exempt property located within a high-poverty area shall develop such property within three years after July 19, 2024, or the date of acquiring such property, whichever is later. Such development must:

(i) Increase the market value of the property by at least twenty-five percent; and

(ii) Result in the creation of new jobs or the starting of a new business on such property.

(b) The covered nonprofit organization shall electronically submit a development plan for the underutilized tax-exempt property to the department, the Clerk of the Legislature, and the chairperson of the Urban Affairs Committee of the Legislature within ninety days after July 19, 2024, or the date of acquiring the property, whichever is later. The development plan shall include a description of the proposed development and an estimated timeline for such development.

(c)(i) If a covered nonprofit organization fails to develop the property within the three-year period described in subdivision (a) of this subsection, the director shall, following notice and opportunity for hearing in accordance with the Administrative Procedure Act, impose a fine equal to the amount of property taxes that would be owed for such property if the property had not been tax-exempt or ten thousand dollars, whichever is greater.

(ii) If the failure to develop the property persists for twelve months after the end of the three-year period described in subdivision (a) of this subsection, the director shall, following notice and opportunity for hearing in accordance with the Administrative Procedure Act, impose a fine equal to the amount of property taxes that would be owed for such property if the property had not been tax-exempt or twenty thousand dollars, whichever is greater.

(iii) If the failure to develop the property persists for twenty-four months after the end of the three-year period described in subdivision (a) of this subsection, the director shall, following notice and opportunity for hearing in accordance with the Administrative Procedure Act, make a written recommendation to the county board of equalization in the county where the property is located that the property tax exemption be revoked for the underutilized tax-exempt property.

(d) If any covered nonprofit organization transfers ownership of underutilized tax-exempt property located within a high-poverty area to another covered nonprofit organization, the time periods prescribed in this subsection shall not be restarted. Such periods shall be determined as if no transfer occurred.

(3)(a) A covered nonprofit organization that owns or acquires underutilized tax-exempt property located within a high-poverty area shall not attempt to sell such property at a price that is more than fifty percent above the market value for such property.

(b) If a covered nonprofit organization violates subdivision (a) of this subsection, the director shall, following notice and opportunity for hearing in accordance with the Administrative Procedure Act, revoke the property tax exemption for the underutilized tax-exempt property.

(4) All money collected as a fine under this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(5) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2024, LB1317, § 32.
Operative date July 19, 2024.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 13
PERSONNEL

(a) STATE PERSONNEL SERVICE

- Section
- 81-1301. Sections; purpose.
- 81-1302. Terms, defined.
- 81-1303. Personnel division within the Department of Administrative Services; director; appointment.
- 81-1304. Director of Personnel; qualifications.
- 81-1305. Director of Personnel; compensation.
- 81-1306. Director of Personnel; employees.
- 81-1307. Director of Personnel; duties.
- 81-1307.01. Director of Personnel; salary survey; duties.
- 81-1307.02. Legislature; salary survey; consideration.
- 81-1308. Repealed. Laws 1997, LB 5, § 5.
- 81-1309. Repealed. Laws 1997, LB 5, § 5.
- 81-1310. Repealed. Laws 1997, LB 5, § 5.
- 81-1311. Agency heads; management personnel; powers and duties.
- 81-1312. Director of Personnel; administration; delegation of powers; exempted agency; coverage; agreement.
- 81-1313. Repealed. Laws 1997, LB 314, § 29.
- 81-1314. Delegation of authority.
- 81-1315. Employees subject to sections; prohibited from political activities; when; disciplinary action.
- 81-1316. State Personnel System; exemptions.
- 81-1317. Director; adjust terms and conditions of employment; employees not covered by collective-bargaining agreements.
- 81-1317.01. Terms and conditions of employment; employees not covered under State Personnel System; adjustments.
- 81-1318. State Personnel Board; created; members; appointment; term; powers.
- 81-1318.01. State Personnel Board; duties.
- 81-1318.02. State Personnel Board; grievance appeal; procedure; hearing officer; qualifications.
- 81-1319. Board; appeal; procedure.
- 81-1320. Permanent state employees; sick leave; schedule.
- 81-1321. State employee, defined.

PERSONNEL

- Section
81-1322. State employee; terminated; returns within one year; sick leave computed; exceptions.
81-1323. Sick leave account; balanced as of December 31 each year.
81-1324. Sick leave; termination.
81-1325. Employee; retirement; death; payment for unused sick leave benefits.
81-1326. Permanent employee; transferred to another agency; sick leave transferred.
81-1327. Repealed. Laws 2019, LB298, § 25.
81-1328. State employees; vacation time; schedule; request to use vacation time; employing agency; duties.
81-1328.01. Repealed. Laws 1997, LB 314, § 29.
81-1328.02. Repealed. Laws 1997, LB 314, § 29.
81-1328.03. Repealed. Laws 1997, LB 314, § 29.
81-1329. Community College State Dependents Fund; created; use; investment.
81-1330. Repealed. Laws 1997, LB 314, § 29.
81-1331. Repealed. Laws 1997, LB 314, § 29.
81-1332. Repealed. Laws 1997, LB 314, § 29.
81-1333. Repealed. Laws 1997, LB 314, § 29.
81-1334. Repealed. Laws 1997, LB 314, § 29.
81-1335. Repealed. Laws 1987, LB 661, § 39.
81-1336. Repealed. Laws 1987, LB 661, § 39.
81-1337. Repealed. Laws 1987, LB 661, § 39.
81-1338. Repealed. Laws 1987, LB 661, § 39.
81-1339. Repealed. Laws 1987, LB 661, § 39.
81-1340. Repealed. Laws 1987, LB 661, § 39.
81-1341. Repealed. Laws 1987, LB 661, § 39.
81-1341.01. Repealed. Laws 1989, LB 309, § 6.
81-1341.02. Repealed. Laws 1988, LB 1040, § 6.
81-1341.03. Repealed. Laws 1989, LB 309, § 6.
81-1342. Repealed. Laws 1978, LB 946, § 15.
81-1343. Repealed. Laws 1978, LB 946, § 15.
81-1344. Repealed. Laws 1978, LB 946, § 15.
81-1345. Repealed. Laws 1987, LB 661, § 39.
81-1346. Employee suggestion system program; established; purpose; applicability.
81-1347. Employee suggestion system; Director of Personnel; adopt rules and regulations.
81-1347.01. Employee suggestion system; annual report.
81-1348. Suggestion Award Board; created; membership; expenses; rules and regulations.
81-1349. Repealed. Laws 1981, LB 545, § 52.
81-1350. Employee suggestion system; award granted; amount.
81-1351. Employee suggestion system; award granted; limitations.
81-1352. Employee suggestion system; approved suggestions; warrants; issued by State Treasurer.
81-1353. Employee suggestion system; awards; paid from appropriated money saved.
81-1354. Employee suggestion system; suggestions; ineligible for award.
81-1354.01. Employee rights; not restricted.
81-1354.02. Repealed. Laws 2000, LB 654, § 57.
81-1354.03. Training Revolving Fund; created; investment.
81-1354.04. Temporary Employee Pool Revolving Fund; created; use; investment.
81-1354.05. Personnel Division Revolving Fund; created; use; investment.
- (b) AFFIRMATIVE ACTION PROGRAM
- 81-1355. Public policy; equal employment opportunity.
81-1356. Terms, defined.
81-1357. Affirmative Action Office; created.
81-1358. Affirmative Action Office; employees.
81-1359. Affirmative Action Administrator; selection.
81-1360. Affirmative Action Administrator; duties; enumerated.
81-1361. Agency; plan; submit; update.

§ 81-1301

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-1362. Agency affirmative action individual; appointed.
 - 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.
 - 81-1367. Affirmative action; cooperation.
 - 81-1368. Agency plan; reviewed; noncompliance; effect; report.
- (c) STATE EMPLOYEES COLLECTIVE BARGAINING ACT
- 81-1369. Act, how cited.
 - 81-1370. Legislative findings; purpose of act.
 - 81-1371. Terms, defined.
 - 81-1372. Act; supplementary to Industrial Relations Act.
 - 81-1373. Bargaining units; created; other employee units.
 - 81-1374. Repealed. Laws 2011, LB 397, § 36.
 - 81-1375. Certified collective-bargaining agents; procedures applicable.
 - 81-1376. Division of Employee Relations; created; Chief Negotiator; powers and duties.
 - 81-1377. Negotiation of labor contracts; Nebraska State Patrol; limitation on disciplinary procedures or collective bargaining.
 - 81-1378. Computation of dates; effect.
 - 81-1379. Negotiations; when commenced and completed; negotiated agreements; requirements; supplementary bargaining.
 - 81-1380. Repealed. Laws 2011, LB 397, § 36.
 - 81-1381. Submission to mediator; selection of mediator.
 - 81-1382. Unresolved issues; final offers; prehearing conference; commission; authority.
 - 81-1383. Commission order; commission; powers; duties; procedure; modification; appeal.
 - 81-1384. Chief or appointed negotiator; report.
 - 81-1385. Commission proceeding; effect on employment; order; interest.
 - 81-1386. Prohibited practices; enumerated; expressions permitted.
 - 81-1387. Prohibited practices; proceedings; appeal; grounds.
 - 81-1388. Commission; adopt rules and regulations.
 - 81-1389. Repealed. Laws 2011, LB 397, § 36.
 - 81-1390. Repealed. Laws 2011, LB 397, § 36.

(d) STATE EMPLOYEES

- 81-1391. Certified disaster service volunteer of American Red Cross; leave authorized.
- 81-1392. Approved youth mentoring program; participation; request; Director of Personnel; powers; state agency; denial; grounds.
- 81-1393. Repealed. Laws 2005, LB 54, § 38.
- 81-1394. Participation in employee discount program; authorized.

(e) SEXUAL HARASSMENT

- 81-1395. Report of sexual harassment to Department of Administrative Services; duties; confidentiality; prohibited actions.

(f) CRIMINAL HISTORY RECORD CHECKS

- 81-1396. Employee with access and use of protected tax information; criminal history record checks; required, when; procedure.

(a) STATE PERSONNEL SERVICE

81-1301 Sections; purpose.

The purposes of sections 81-1301 to 81-1316 are to:

- (1) Promote economy and efficiency in state government through the selection, employment, and effective utilization of qualified persons in all departments and agencies of the state;

(2) Provide equal opportunity to qualified persons for employment on the basis of ability;

(3) Avoid salary competition among government departments and agencies to secure or retain the services of equally qualified employees for similar positions in the state's employ;

(4) Retain maximum authority and responsibility at the department and agency level for decisions to select or to terminate employees and for other facets of personnel management as may be consistent with the rulemaking authority of the personnel division for the development of uniform state personnel administrative procedures;

(5) Establish the necessary procedures to assure reasonably uniform and consistent personnel practices and provide a reliable basis for personnel cost projections and staffing patterns; and

(6) Establish uniform control over the description of and compensation for positions in all departments and agencies so that position titles and duties have similar meanings throughout the state service and provide equal pay for persons holding similar positions in the state's service.

Source: Laws 1967, c. 573, § 1, p. 1885; Laws 1969, c. 802, § 3, p. 3021; Laws 1992, Third Spec. Sess., LB 14, § 10.

81-1302 Terms, defined.

As used in sections 81-1301 to 81-1316 and 81-1354.01, unless the context otherwise requires:

(1) Gender when referring to masculine also includes feminine;

(2) State personnel service shall refer to the personnel system established by such sections together with those aspects of personnel systems established under any other law as such systems may be affected by such sections;

(3) Position shall mean an office or employment in an agency of this state, whether part time or full time, temporary or permanent, and whether occupied or vacant, or existing for the performance of specific duties;

(4) Employee shall mean any person in the employ of an agency or department who receives a salary or wage;

(5) Position title shall mean the title assigned a position having discrete characteristics relative to the duties, responsibilities, skills, training, experience, and other factors under the state position classification plan;

(6) Job description shall mean the description of duties, responsibilities, typical tasks to be performed, degree of supervision to which subject or for which responsible, and conditions under which an incumbent in a given position shall perform, for each class and position in the state service;

(7) Pay grade shall mean a specified range of salary or wage, the starting and intermediate rates within such range, and the maximum rate of such range as may be approved by legislative enactment;

(8) Position classification plan shall mean the system of classifying each position in the state service in accordance with the kinds of skills, experience, working conditions, and other factors peculiar to each and the structuring of classes of positions in accordance with the different kinds of treatment necessary for each class and the positions within each class;

(9) Salary or pay plan shall mean a plan by which positions, as previously arranged under the classification plan, are evaluated by classes in relation to one another, by which pay grades are specified for each class of positions, and which is governed by a set of fundamental rules authorizing and controlling changes in the pay of classes of positions and their incumbents as may be provided for by law and rules and regulations promulgated pursuant to such law;

(10) Fiscal year shall mean the twelve months between July 1 of one year and June 30 of the next succeeding year;

(11) Biennium shall mean the twenty-four months between July 1 of each odd-numbered year and June 30 of the year following the next succeeding calendar year;

(12) Qualified shall mean, with reference either to a candidate for employment or an employee, that he or she has been examined by appropriate means and found to possess the minimum ability and the minimum requirements of training, experience, and other requirements for the position sought or held and may therefor be certified as eligible for employment in such position;

(13) Job specifications shall mean a formal statement of skills, experience, personal qualities, education, and other factors to be required of persons who hold or seek employment for each position in the state's service;

(14) Recruiting shall mean the act or actions through which potentially qualified persons are caused to apply for employment with any agency of the state;

(15) Classification shall mean the process by which the duties, responsibilities, working conditions, skills required, experience required, supervision received or exercised, or both, and other factors relative to a position are established in proper relationship to the same factors for all other positions in the state's service and from which there shall result a job description, job specifications, and assignment to a pay grade for the position so affected;

(16) Budget division shall mean the budget division of the Department of Administrative Services;

(17) Staffing pattern shall mean the number of positions in each class and the specific classes of positions as may be authorized for each department or agency of state government by the budget division;

(18) Authorized position shall mean any position the creation of which has been approved by the budget division;

(19) Merit increase shall mean any increase in the rate of pay for any position in the state's service beyond the starting rate and which shall be provided for by the pay plan and which shall be granted in recognition of length of service, superior or outstanding performance, or as otherwise provided for by law;

(20) Grievance shall mean a management action resulting in an injury, injustice, or wrong involving a misinterpretation or misapplication of rules promulgated by the personnel division or agency rules and regulations;

(21) Director shall mean the Director of Personnel; and

(22) Personnel division shall mean the personnel division of the Department of Administrative Services.

Source: Laws 1967, c. 573, § 2, p. 1886; Laws 1971, LB 1030, § 1; Laws 1986, LB 258, § 39; Laws 1987, LB 491, § 9; Laws 1992, Third Spec. Sess., LB 14, § 11; Laws 1997, LB 314, § 12.

81-1303 Personnel division within the Department of Administrative Services; director; appointment.

There is hereby established a division within the Department of Administrative Services to be known as the personnel division, to be headed by a Director of Personnel. The director shall be appointed by the Director of Administrative Services.

Source: Laws 1967, c. 573, § 3, p. 1889; Laws 1969, c. 802, § 4, p. 3022; Laws 1971, LB 1030, § 2; Laws 1992, Third Spec. Sess., LB 14, § 12.

81-1304 Director of Personnel; qualifications.

Any person who is a graduate of an accredited four-year college or university and who has at least five years of progressively responsible experience in development and administration of a public or private personnel program, including responsibility for development and administration of company or agency policies, supervision of staff or programs, negotiations of personnel matters with other agencies or organizations and a demonstrated knowledge of public personnel administration, testing, classification, wage and salary administration, recruiting, certification, and modern office procedures may be appointed as Director of Personnel; *Provided*, that not more than two years' experience as a full-time paid faculty member with primary responsibilities for teaching in public or business administration, industrial engineering, sociology or psychology may be substituted for two of the five years' experience required; *and provided further*, that not more than one year of graduate training in one of the foregoing fields may be substituted for one year of experience.

Source: Laws 1967, c. 573, § 4, p. 1890; Laws 1971, LB 1030, § 3.

81-1305 Director of Personnel; compensation.

The compensation of the Director of Personnel shall be fixed by the Director of Administrative Services.

Source: Laws 1967, c. 573, § 5, p. 1890; Laws 1971, LB 1030, § 4; Laws 1992, Third Spec. Sess., LB 14, § 13.

81-1306 Director of Personnel; employees.

The Director of Personnel shall employ the necessary personnel to carry out the duties of the personnel division subject to the amount of funds appropriated for such purpose.

Source: Laws 1967, c. 573, § 6, p. 1890; Laws 1969, c. 802, § 5, p. 3022; Laws 1971, LB 1030, § 5; Laws 1992, Third Spec. Sess., LB 14, § 14.

81-1307 Director of Personnel; duties.

The Director of Personnel shall be responsible for the administration of the personnel division. Subject to the review powers of the State Personnel Board, the director shall be responsible for development of recommendations on personnel policy and for development of specific administrative systems and shall have the authority to adopt, promulgate, and enforce rules and regulations pertaining thereto. The director shall be responsible for specific administrative systems including, but not limited to, the following:

- (1) Employment Services:
 - (a) General employment policies and procedures;
 - (b) Position classification plans;
 - (c) Job descriptions;
 - (d) Job specifications;
 - (e) Salary or pay plans;
 - (f) Staffing patterns; and
 - (g) Recruiting of qualified applicants for employment and the maintenance of qualified applicants for employment for all positions in state government;
- (2) Personnel Records:
 - (a) A system of records and statistical reports containing general data on all employees, including current salary levels and such other information as may be required by the operating needs of state departments and agencies and the budget division; and
 - (b) Standards for the development and maintenance of personnel records to be maintained within operating departments of the state government;
- (3) Personnel Management:
 - (a) Minimum standards for evaluation of employee efficiency and a system of regular evaluation of employee performance;
 - (b) Administrative guidelines governing such matters as hours of work, promotions, transfers, demotions, probation, terminations, reductions in force, salary actions, and other such matters as may not be otherwise provided for by law;
 - (c) Administrative policies and general procedural instructions for use by all state agencies relating to such matters as employee benefits, vacation, sick leave, holidays, insurance, sickness and accident benefits, and other employee benefits as the Legislature may from time to time prescribe; and
 - (d) A system of formally defined relationships between the personnel division and departments and agencies to be covered by the State Personnel System;
- (4) Salary and Wage Survey: Measuring, through the use of surveys, the state's comparative level of employee compensation with the labor market;
- (5) Staffing Patterns:
 - (a) Staffing patterns for each department and agency of state government that conform with those authorized by the budget division;
 - (b) Revisions to staffing patterns of all departments and agencies that have been approved by the budget division;
 - (c) Merit increases provided for any employee of the state that are the result of positive action by the appropriate supervisor; and
 - (d) The state's pay plan, as enacted by the Legislature, together with such amendments as may occur, is explained in appropriate handbooks for employees of the state;
- (6) Temporary Employees:
 - (a) The director shall administer the Temporary Employee Pool containing applicants from which state agencies can draw when in need of a short-term labor supply; and

(b) State agencies must receive approval from the director before hiring any temporary employee; and

(7) Employee Recognition Program: The director shall administer an employee recognition program for state employees. The program shall serve as the authorized program for honoring state employees for dedicated and quality service to the government of the State of Nebraska.

Source: Laws 1967, c. 573, § 7, p. 1891; Laws 1969, c. 802, § 6, p. 3022; Laws 1971, LB 1030, § 6; Laws 1987, LB 491, § 10; Laws 1987, LB 661, § 32; Laws 1992, Third Spec. Sess., LB 14, § 15; Laws 1993, LB 44, § 12; Laws 1997, LB 314, § 13; Laws 1998, LB 1162, § 83.

81-1307.01 Director of Personnel; salary survey; duties.

The Director of Personnel shall measure, through the use of salary surveys, the competitive standing of state salaries with salary levels of the labor market. The State Personnel Board shall review the methodology and results of the survey. A report of the survey findings, including the board's review, shall be provided to the Legislature and the Governor along with the recommendations regarding wages, hours, and terms and conditions of employment for unorganized employees by the Chief Negotiator pursuant to section 81-1376. The report submitted to the Legislature shall be submitted electronically.

Source: Laws 1987, LB 661, § 33; Laws 2012, LB782, § 197.

81-1307.02 Legislature; salary survey; consideration.

The Legislature shall consider the results of the salary survey and any recommendation from the Governor, Director of Personnel, or Chief Negotiator concerning unorganized state employee salary increases when making appropriations to state agencies. The Legislature shall attempt to provide an appropriate balance between assuring that all employees performing at a satisfactory level will receive appropriate salary increases and the need for administrative flexibility to reward those who perform at a superior level.

Source: Laws 1987, LB 661, § 34.

81-1308 Repealed. Laws 1997, LB 5, § 5.

81-1309 Repealed. Laws 1997, LB 5, § 5.

81-1310 Repealed. Laws 1997, LB 5, § 5.

81-1311 Agency heads; management personnel; powers and duties.

Agency heads and other management personnel so designated by the agency head shall have the following authorities and responsibilities, consistent with rules and regulations adopted and promulgated by the personnel division:

- (1) Decisions concerning the mission of the agency;
- (2) Decisions on how to maintain and improve the efficiency and effectiveness of government operations;
- (3) Decisions on services to be rendered, operations to be performed, technology to be utilized, or matters to be budgeted;
- (4) Decisions concerning the overall methods, processes, means, or personnel by which operations are to be conducted;

- (5) Decisions concerning the processes and acts of hiring, directing, or supervising employees;
- (6) Determining the performance evaluation rating of individual employees on at least an annual basis;
- (7) Employee salary administration decisions;
- (8) Assuring that position titles and job descriptions are accurate;
- (9) Decisions concerning employee job assignments, employee work schedules, promotions of employees, transfers of employees, and discipline of employees including terminations;
- (10) Decisions to reimburse the best qualified job applicants for travel, meals, and lodging expenses incurred in traveling to and from the prospective job site, except that no more than three applicants for any position may be reimbursed under this subdivision;
- (11) Decisions to relieve employees from duties because of lack of work or funds or under conditions when the employer determines continued work would be inefficient or nonproductive including the contracting out for goods and services;
- (12) Decisions concerning development and maintenance of any personnel records necessary for the operation of the agency;
- (13) Decisions to confer with any or all of its employees in the process of developing policies; and
- (14) Decisions to take any other action not otherwise specified in this section.

Source: Laws 1967, c. 573, § 11, p. 1894; Laws 1971, LB 106, § 1; Laws 1971, LB 1030, § 8; Laws 1987, LB 491, § 12; Laws 1992, Third Spec. Sess., LB 14, § 16.

81-1312 Director of Personnel; administration; delegation of powers; exempted agency; coverage; agreement.

(1) The Director of Personnel may, for reasons of practical difficulties anticipated or experienced in the development of the state personnel service, in anticipation of practical problems during the transition to effective operation of the several technical aspects of the state personnel service by the staff of the personnel division by reason of existence of agency personnel offices which, in the judgment of the director, have adequate capability to undertake responsibilities for development of or administration of sections 81-1301 to 81-1316, or for the convenience of either the personnel division or the individual agencies of state government, or both, delegate responsibility for administration of any of the requirements of such sections to any department or agency. Such delegation shall be limited to the administration of such sections or of the policies, rules, and regulations promulgated under such sections as such provisions may affect the department or agency.

(2) The director may make such arrangements for the production, development, or maintenance of records and reports as may be necessary, relying for such arrangements on the facilities of other state agencies.

(3) Any position within any agency exempted from coverage by the Constitution of Nebraska or by sections 81-1301 to 81-1316 may be covered by the state personnel service through specific agreement between the exempted agency or

the agency having responsibility for exempted positions and the personnel division.

Source: Laws 1967, c. 573, § 12, p. 1895; Laws 1971, LB 1030, § 9; Laws 1992, Third Spec. Sess., LB 14, § 17.

81-1313 Repealed. Laws 1997, LB 314, § 29.

81-1314 Delegation of authority.

Any official named in sections 81-1301 to 81-1317 shall have the power to delegate authority for execution of responsibilities under sections 81-1301 to 81-1317 to any person such official may designate.

Source: Laws 1967, c. 573, § 14, p. 1896.

81-1315 Employees subject to sections; prohibited from political activities; when; disciplinary action.

State employees subject to sections 81-1301 to 81-1316 shall be prohibited from participation in political activities during office hours or while otherwise engaged in the performance of official duties as employees of this state. Any employee violating this section shall be subject to disciplinary action under the rules and regulations adopted and promulgated pursuant to sections 81-1301 to 81-1328. Such disciplinary action may include demotion, dismissal, reduction of salary, or suspension.

Source: Laws 1967, c. 573, § 15, p. 1896; Laws 1987, LB 110, § 1; Laws 1997, LB 314, § 14.

Cross References

Other prohibitions and requirements relating to political activities, see section 20-160.

81-1316 State Personnel System; exemptions.

(1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;
- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;
- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;

- (o) All personnel of the University of Nebraska;
 - (p) All personnel of the Coordinating Commission for Postsecondary Education;
 - (q) All personnel of the Governor’s Policy Research Office;
 - (r) All personnel of the Commission on Public Advocacy;
 - (s) All agency heads;
 - (t)(i) The Director of Behavioral Health of the Division of Behavioral Health; (ii) the Director of Children and Family Services of the Division of Children and Family Services; (iii) the Director of Developmental Disabilities of the Division of Developmental Disabilities; (iv) the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care; and (v) the Director of Public Health of the Division of Public Health;
 - (u) The chief medical officer established under section 81-3115, the Administrator of the Office of Juvenile Services, and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Central Nebraska Veterans’ Home, Norfolk Veterans’ Home, Eastern Nebraska Veterans’ Home, Western Nebraska Veterans’ Home, and each youth rehabilitation and treatment center;
 - (v) The chief executive officers of all facilities operated by the Department of Correctional Services and the medical director for the department appointed pursuant to section 83-4,156;
 - (w) All personnel employed as pharmacists, physicians, psychiatrists, or psychologists by the Department of Correctional Services;
 - (x) All personnel employed as pharmacists, physicians, psychiatrists, psychologists, service area administrators, or facility operating officers of the Department of Health and Human Services or the Department of Veterans’ Affairs;
 - (y) Deputies and examiners of the Department of Banking and Finance and the Department of Insurance as set forth in sections 8-105 and 44-119, except for those deputies and examiners who remain in the State Personnel System;
 - (z) All personnel of the Tax Equalization and Review Commission;
 - (aa) The associate director of the Conservation Division of the Nebraska State Historical Society and all personnel employed as a Conservator I or Conservator II of the Conservation Division of the Nebraska State Historical Society; and
 - (bb) Assistant directors and deputies of the Nebraska Public Employees Retirement Systems.
- (2) At each agency head’s discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency Employees	Number of Noncovered Positions
25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
1001 to 2000	5
2001 to 3000	8
3001 to 4000	11

PERSONNEL

§ 81-1317

4001 to 5000	40
over 5000	50

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head. An agency with over five thousand employees shall provide notice in writing to the Health and Human Services Committee of the Legislature when forty noncovered positions have been filled by the agency head pursuant to this subsection.

(3) No changes to this section or to the number of noncovered positions within an agency shall affect the status of personnel employed on the date the changes become operative without their prior written agreement. A state employee’s career protections or coverage by personnel rules and regulations shall not be revoked by redesignation of the employee’s position as a noncovered position without the prior written agreement of such employee.

Source: Laws 1967, c. 573, § 16, p. 1896; Laws 1969, c. 802, § 8, p. 3025; Laws 1971, LB 637, § 1; Laws 1987, LB 491, § 13; Laws 1988, LB 1106, § 1; Laws 1996, LB 1044, § 867; Laws 1998, LB 1073, § 165; Laws 2000, LB 654, § 41; Laws 2002, LB 876, § 86; Laws 2002, LB 1062, § 65; Laws 2003, LB 85, § 3; Laws 2003, LB 245, § 16; Laws 2006, LB 994, § 114; Laws 2007, LB296, § 756; Laws 2008, LB745, § 1; Laws 2008, LB965, § 23; Laws 2011, LB218, § 1; Laws 2017, LB340, § 17; Laws 2018, LB827, § 3; Laws 2019, LB302, § 105; Laws 2019, LB447, § 1; Laws 2021, LB273, § 6; Laws 2024, LB198, § 17; Laws 2024, LB252, § 8.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB198, section 17, with LB252, section 8, to reflect all amendments.

Note: Changes made by LB198 became effective March 19, 2024. Changes made by LB252 became effective July 19, 2024.

Cross References

For other exemptions, see sections 49-14,121 and 72-1242.

81-1317 Director; adjust terms and conditions of employment; employees not covered by collective-bargaining agreements.

Except as may be prohibited by the Industrial Relations Act or the State Employees Collective Bargaining Act and except for the pay increases provided by the Legislature, the Director of Personnel shall have authority to establish programs and otherwise adjust terms and conditions of employment for employees not covered by collective-bargaining agreements, including terms and conditions of employment which may not be specifically provided or may otherwise be provided by law, in order to make such terms and conditions of employment more consistent with those of such covered employees or otherwise address changes arising out of collective bargaining, but in no event shall the adjustment exceed the benefits derived from collective bargaining.

Source: Laws 1988, LB 1040, § 3; Laws 1989, LB 309, § 2; Laws 1990, LB 1125, § 1; Laws 1991, LB 502, § 1; Laws 1993, LB 697, § 3; Laws 1995, LB 395, § 1; Laws 1997, LB 314, § 15; Laws 1999, LB 113, § 5; Laws 2001, LB 96, § 3.

Cross References

Industrial Relations Act, see section 48-801.01.

State Employees Collective Bargaining Act, see section 81-1369.

81-1317.01 Terms and conditions of employment; employees not covered under State Personnel System; adjustments.

Except for employees of the University of Nebraska and the state colleges and except as may be prohibited by the Industrial Relations Act or the State Employees Collective Bargaining Act, terms and conditions of employment which may otherwise be provided by law for employees not covered under the State Personnel System may be adjusted by the employer-representative as defined in section 81-1371 to address changes arising out of collective bargaining, but in no event shall the adjustment exceed the benefits derived from collective bargaining.

Source: Laws 1988, LB 1040, § 4; Laws 1989, LB 309, § 3; Laws 1990, LB 1125, § 2; Laws 1991, LB 502, § 2; Laws 1993, LB 697, § 4; Laws 1995, LB 395, § 2; Laws 1997, LB 314, § 16; Laws 1999, LB 113, § 6; Laws 2001, LB 96, § 4.

Cross References

Industrial Relations Act, see section 48-801.01.

State Employees Collective Bargaining Act, see section 81-1369.

81-1318 State Personnel Board; created; members; appointment; term; powers.

There is hereby created a State Personnel Board composed of five persons appointed by the Governor subject to confirmation by the Legislature. Not more than three of the members shall be members of the same political party. Each board member shall retain his or her position until resignation or until a successor is appointed at the expiration of the member's appointive term. Any member of the board may be removed by the Governor, upon notice and hearing as determined by the Governor, for neglect of duty or malfeasance in office, but for no other cause. New members shall be appointed for terms of five years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member succeeded. State employees covered by sections 81-1301 to 81-1319 shall not be appointed to the State Personnel Board. At least three appointees to the board shall have experience in personnel administration, business or public administration, labor relations, or law. The board, by majority vote, shall designate one member to serve as chairperson. The principal office and business address of the board shall be the personnel division of the Department of Administrative Services in Lincoln, Nebraska, but the board may meet and exercise any or all of its powers at any other location.

The board may delegate to a group of three or more members any or all of the powers which it may exercise. The board shall be authorized to designate and delegate its powers under section 81-1318.01 to hearing officers to conduct grievance appeal hearings and recommend a decision to the board for final action. A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board, and three members of the board shall at all times constitute a quorum of the board.

Source: Laws 1969, c. 802, § 9, p. 3026; Laws 1979, LB 322, § 54; Laws 1981, LB 545, § 35; Laws 1987, LB 491, § 14; Laws 1992, Third Spec. Sess., LB 14, § 18; Laws 1997, LB 314, § 17.

81-1318.01 State Personnel Board; duties.

The State Personnel Board shall ensure the fair and equitable administration of the State Personnel System by:

- (1) Operating as prescribed by rules and regulations adopted and promulgated by the personnel division of the Department of Administrative Services;
- (2) Reviewing and approving, by majority vote, rules and regulations adopted and promulgated by the personnel division;
- (3) Determining the grievability of issues or doing so through the designation of a board member. Issues determined to be not grievable shall be subject to summary dismissal;
- (4) Adjudicating grievance appeals and rendering final binding decisions;
- (5) Rendering decisions consistent with the rules and regulations adopted and promulgated by the personnel division;
- (6) Reviewing and providing counsel regarding any matter affecting the State Personnel System; and
- (7) Performing the actions required pursuant to the State Government Effectiveness Act.

Source: Laws 1987, LB 491, § 15; Laws 1992, Third Spec. Sess., LB 14, § 19; Laws 1993, LB 44, § 14.

Cross References

State Government Effectiveness Act, see section 81-2701.

81-1318.02 State Personnel Board; grievance appeal; procedure; hearing officer; qualifications.

Any employee appealing a ruling made pursuant to Chapter 81, article 13, shall file a grievance appeal with the State Personnel Board. The chairperson of the board may assign the appeal to a hearing officer who shall be chosen from a list of hearing officers established and maintained by the board. The board shall establish the qualifications necessary to be a hearing officer. Such qualifications shall be consistent with experience in personnel administration, labor relations, or administrative law proceedings. Persons eligible to be hearing officers shall include (1) employees of the personnel division of the Department of Administrative Services, (2) employees of the Division of Employee Relations of the Department of Administrative Services, (3) employees included within the State Personnel System who the board determines are qualified, and (4) other qualified persons, except that no person who has negotiated or assisted in the negotiation of the contract at issue shall be eligible to be a hearing officer.

After the chairperson of the State Personnel Board assigns the grievance appeal to a hearing officer, the appellant may disapprove such assignment and request that another person be assigned as his or her hearing officer. The second assignment shall be final.

Source: Laws 1987, LB 491, § 16; Laws 1992, Third Spec. Sess., LB 14, § 20.

81-1319 Board; appeal; procedure.

Appeal from the decision of the State Personnel Board shall be in accordance with the Administrative Procedure Act.

Source: Laws 1969, c. 802, § 10, p. 3026; Laws 1987, LB 19, § 4; Laws 1988, LB 352, § 173.

Cross References

Administrative Procedure Act, see section 84-920.

State Administrative Procedures Act does not limit right of review to appeal procedure therein. *Lanc v. Douglas County Welfare Administration*, 189 Neb. 651, 204 N.W.2d 387 (1971).

81-1320 Permanent state employees; sick leave; schedule.

Permanent employees of the State of Nebraska shall be entitled to sick leave with full pay computed at the rate of eight work hours per month for each calendar month of service. Those employees who have completed five or more years of service shall be entitled to one hundred thirty-six hours of sick leave during their sixth year of employment and shall thereafter be entitled to an additional eight hours of sick leave for each year of service not to exceed two hundred forty hours per calendar year. Sick leave shall be earned in accordance with the following schedule:

During 1st year of continuous employment	96 hours per year
During 2nd year of continuous employment	96 hours per year
During 3rd year of continuous employment	96 hours per year
During 4th year of continuous employment	96 hours per year
During 5th year of continuous employment	96 hours per year
During 6th year of continuous employment	136 hours per year
During 7th year of continuous employment	144 hours per year
During 8th year of continuous employment	152 hours per year
During 9th year of continuous employment	160 hours per year
During 10th year of continuous employment	168 hours per year
During 11th year of continuous employment	176 hours per year
During 12th year of continuous employment	184 hours per year
During 13th year of continuous employment	192 hours per year
During 14th year of continuous employment	200 hours per year
During 15th year of continuous employment	208 hours per year
During 16th year of continuous employment	216 hours per year
During 17th year of continuous employment	224 hours per year
During 18th year of continuous employment	232 hours per year
During 19th year of continuous employment and thereafter	240 hours per year;

Provided, that employees who are regularly employed less than forty hours a week shall be entitled to sick leave proportionate to their regular workweek; *and provided further*, that any employee who has been employed by the Legislature or Legislative Council shall, for sick leave entitlement purposes, be credited with one continuous year of employment for each two hundred sixty

working days such employee was employed by the Legislature or Legislative Council.

Source: Laws 1973, LB 340, § 1.

81-1321 State employee, defined.

As used in sections 81-1320 to 81-1326, state employee shall mean any person or officer employed by the state including the head of any department or agency, except when such head is a board or commission, and who works a full-time or part-time schedule on an ongoing basis.

Source: Laws 1973, LB 340, § 2; Laws 1974, LB 1003, § 1; Laws 1997, LB 314, § 18.

81-1322 State employee; terminated; returns within one year; sick leave computed; exceptions.

For the purpose of sections 81-1320 to 81-1326, any state employee whose employment has been terminated, for other than disciplinary reasons, and who returns to state employment within one year from the date of such termination shall have his or her service for sick leave entitlement computed by combining prior continuous service with current continuous service disregarding such period of absence and shall have reinstated to his or her sick leave account all earned sick leave not used at the time of his or her departure, except that any employee who has retired or voluntarily terminated in lieu of retirement shall, if he or she returns to state employment, be considered a new employee for the purpose of sick leave entitlement.

Source: Laws 1973, LB 340, § 3; Laws 1974, LB 1003, § 2; Laws 1997, LB 314, § 19.

81-1323 Sick leave account; balanced as of December 31 each year.

The sick leave account shall be balanced as of 11:59 p.m. Central Standard Time on December 31 each calendar year. Sick leave shall be cumulative for not more than one thousand four hundred forty hours.

Source: Laws 1973, LB 340, § 4; Laws 1993, LB 697, § 5.

81-1324 Sick leave; termination.

All sick leave shall expire on the date of separation and no employee shall be reimbursed for sick leave outstanding at the time of termination except as provided in sections 81-1320 to 81-1326.

Source: Laws 1973, LB 340, § 5; Laws 1997, LB 314, § 20.

81-1325 Employee; retirement; death; payment for unused sick leave benefits.

Each employee who meets the minimum age and service requirements for retirement under any existing state or federal retirement system shall, upon termination of employment with the state by reason of retirement or voluntary resignation in lieu of retirement, be entitled to a one-time payment of one-fourth of his or her accumulated unused sick leave, with the rate of payment based upon his or her regular pay at the time of termination or retirement. Upon the death of an employee, his or her beneficiary shall be paid one-fourth

of his or her accumulated unused sick leave, with the rate of payment based upon his or her regular pay at the date of death.

Source: Laws 1973, LB 340, § 6; Laws 1974, LB 1003, § 3; Laws 1986, LB 325, § 14; Laws 1986, LB 311, § 23.

81-1326 Permanent employee; transferred to another agency; sick leave transferred.

A permanent employee who is transferred from one agency to another shall have his accrued sick leave transferred to the receiving agency.

Source: Laws 1973, LB 340, § 7.

81-1327 Repealed. Laws 2019, LB298, § 25.

81-1328 State employees; vacation time; schedule; request to use vacation time; employing agency; duties.

(1) State employees shall, during each year of continuous employment, be entitled to ninety-six working hours of vacation leave with full pay.

(2) State employees who complete five years of continuous employment by the state shall be entitled to one hundred twenty hours of vacation leave during their sixth year of employment and shall thereafter be entitled to eight additional hours of vacation leave with full pay for each additional year of continuous state employment up to a maximum of two hundred hours of vacation leave a year. Vacation leave shall be earned in accordance with the following schedule:

During 1st year of continuous employment	96 hours per year
During 2nd year of continuous employment	96 hours per year
During 3rd year of continuous employment	96 hours per year
During 4th year of continuous employment	96 hours per year
During 5th year of continuous employment	96 hours per year
During 6th year of continuous employment	120 hours per year
During 7th year of continuous employment	128 hours per year
During 8th year of continuous employment	136 hours per year
During 9th year of continuous employment	144 hours per year
During 10th year of continuous employment	152 hours per year
During 11th year of continuous employment	160 hours per year
During 12th year of continuous employment	168 hours per year
During 13th year of continuous employment	176 hours per year
During 14th year of continuous employment	184 hours per year
During 15th year of continuous employment	192 hours per year
During 16th year of continuous employment	200 hours per year
After 16th year of continuous employment	200 hours per year

(3) State employees who are regularly employed less than forty hours a week shall be entitled to vacation leave proportionate to their regular workweek. Any state employee who has been employed by the Legislature or Legislative Council shall, for vacation leave entitlement purposes, be credited with one continuous year of employment for each two hundred sixty working days such state employee was employed by the Legislature or Legislative Council.

(4) As used in this section, state employee shall mean any person or officer employed by the state including the head of any department or agency, except when such a head is a board or commission, and who works a full-time or part-time schedule on an ongoing basis.

(5) For purposes of this section, a state employee who has terminated employment with the state for any reason other than disciplinary and who returns to state employment within one year from the date of termination shall have his or her service for vacation leave entitlement computed by combining prior continuous service with current continuous service disregarding the period of absence, except that a state employee who has retired or voluntarily terminated in lieu of retirement shall, if he or she returns to state employment, be considered a new state employee for the purpose of vacation leave entitlement.

(6) The vacation leave account of each state employee shall be balanced as of 11:59 p.m. Central Standard Time on December 31 each calendar year. Each state employee shall be entitled to have accumulated as of such time the number of hours of vacation leave which he or she earned during that calendar year. Hours of vacation leave accumulated in excess of that number shall be forfeited. Any state employee shall be entitled to use any vacation time as soon as it has accrued. Any vacation time not used within one calendar year following the calendar year during which the time accrued shall be forfeited. In special and meritorious cases, when to limit the annual leave to the period therein specified would work a peculiar hardship, such leave may be extended in the discretion of the Governor, or in situations involving employees of the Legislature, in the discretion of the Executive Board of the Legislative Council.

(7) It is the responsibility of the head of an employing agency to provide reasonable opportunity for a state employee to use rather than forfeit accumulated vacation leave. If a state employee makes a reasonable written request to use vacation leave before the leave must be forfeited under this section and the employing agency denies the request, the employing agency shall pay the state employee the cash equivalent of the amount of forfeited vacation leave that was requested and denied. Such cash payment shall be made within thirty days after the requested and denied vacation leave is forfeited under this section. Such cash payment shall be considered compensation for purposes of a state employee's retirement benefit in a defined contribution or cash balance benefit plan administered by the Public Employees Retirement Board but shall not be considered compensation for purposes of a state employee's retirement benefit in any other defined benefit plan administered by the Public Employees Retirement Board. In determining whether a state employee's request to use vacation leave is reasonable, the employing agency shall consider the amount of vacation leave requested, the number of days remaining prior to forfeiture during which the state employee may take vacation leave, the amount of notice given to the employing agency prior to the requested vacation leave, any effects on public safety, and other relevant factors. This subsection shall not apply to state employees who are exempt from the State Personnel System pursuant to subdivisions (1)(g) and (h) of section 81-1316.

(8) Each state employee, upon retirement, dismissal, or voluntary separation from state employment, shall be paid for unused accumulated vacation leave. Upon the death of a state employee, his or her beneficiary shall be paid for unused accumulated vacation leave.

(9) A permanent state employee who is transferred from one agency to another shall have his or her accrued vacation leave transferred to the receiving agency.

(10) The Director of Personnel shall adopt and promulgate such rules and regulations as are necessary to administer this section.

Source: Laws 1973, LB 469, § 1; Laws 1974, LB 890, § 1; Laws 1993, LB 697, § 6; Laws 2016, LB830, § 2.

81-1328.01 Repealed. Laws 1997, LB 314, § 29.

81-1328.02 Repealed. Laws 1997, LB 314, § 29.

81-1328.03 Repealed. Laws 1997, LB 314, § 29.

81-1329 Community College State Dependents Fund; created; use; investment.

The Community College State Dependents Fund is created. The fund shall be used to reimburse tuition expenses for dependents of Nebraska state employees enrolled in one of the state's six community colleges. The Department of Administrative Services shall administer the fund through the benefits administration program. The fund shall consist of transfers authorized by the Legislature and any gifts, grants, or bequests for such purposes from any source, including federal, state, public, and private sources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2022, LB1012, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1330 Repealed. Laws 1997, LB 314, § 29.

81-1331 Repealed. Laws 1997, LB 314, § 29.

81-1332 Repealed. Laws 1997, LB 314, § 29.

81-1333 Repealed. Laws 1997, LB 314, § 29.

81-1334 Repealed. Laws 1997, LB 314, § 29.

81-1335 Repealed. Laws 1987, LB 661, § 39.

81-1336 Repealed. Laws 1987, LB 661, § 39.

81-1337 Repealed. Laws 1987, LB 661, § 39.

81-1338 Repealed. Laws 1987, LB 661, § 39.

81-1339 Repealed. Laws 1987, LB 661, § 39.

81-1340 Repealed. Laws 1987, LB 661, § 39.

81-1341 Repealed. Laws 1987, LB 661, § 39.

81-1341.01 Repealed. Laws 1989, LB 309, § 6.

81-1341.02 Repealed. Laws 1988, LB 1040, § 6.

81-1341.03 Repealed. Laws 1989, LB 309, § 6.

81-1342 Repealed. Laws 1978, LB 946, § 15.

81-1343 Repealed. Laws 1978, LB 946, § 15.

81-1344 Repealed. Laws 1978, LB 946, § 15.

81-1345 Repealed. Laws 1987, LB 661, § 39.

81-1346 Employee suggestion system program; established; purpose; applicability.

There is hereby established a program to be known as the employee suggestion system to encourage the development of ideas for improving the economy and efficiency of state government and to grant awards for ideas of proper merit and implement them in the governmental process. The employee suggestion system shall apply to all state personnel except those personnel listed in subdivisions (1)(n), (o), and (s) of section 81-1316, any judge, or any elected official.

Source: Laws 1978, LB 286, § 1; Laws 2007, LB5, § 1.

81-1347 Employee suggestion system; Director of Personnel; adopt rules and regulations.

The Director of Personnel or such director's designated representative is hereby directed to develop and adopt rules and regulations in accordance with sections 81-1346 to 81-1354 for the administration of an employee suggestion system. Consideration of a suggestion shall begin when an eligible employee contacts the director or the director's designated representative with a qualifying suggestion. The employee shall supply and the director or the director's designated representative shall record the employee's name, the date and exact time of day the suggestion is submitted, and a brief description of the suggestion. The names of employees who make suggestions shall be kept confidential unless the employee is granted an award under sections 81-1346 to 81-1354.

Source: Laws 1978, LB 286, § 2; Laws 2003, LB 307, § 1.

81-1347.01 Employee suggestion system; annual report.

The Director of Personnel shall prepare and annually transmit a report detailing the operations of the employee suggestion system, including an accounting of all awards granted, whether the accepted suggestions were implemented, the number of suggestions submitted, and the number of suggestions declined. The reason for declining each suggestion that is declined shall be recorded.

Source: Laws 1993, LB 44, § 17; Laws 2003, LB 307, § 2.

81-1348 Suggestion Award Board; created; membership; expenses; rules and regulations.

There is hereby created the Suggestion Award Board. The membership of such board shall consist of the Director of Personnel, the Director of Administrative Services, the Auditor of Public Accounts or his or her designee, and

three persons, each to serve a term of three years, selected and appointed by the Governor from the bargaining units listed in section 81-1373, except that the first three appointments made after February 23, 2000, shall be for terms of one year, two years, and three years, as designated by the Governor. Of the persons selected from such bargaining units, one person shall be selected from each of such bargaining units as follows:

- (1) The first term from the bargaining units listed in subdivisions (1)(a), (b), and (l) of such section;
- (2) The second term from the bargaining units listed in subdivisions (1)(c), (d), and (g) of such section;
- (3) The third term from the bargaining units listed in subdivisions (1)(e), (f), and (h) of such section; and
- (4) The fourth term from the bargaining units listed in subdivisions (1)(i), (j), and (k) of such section.

After the fourth term, the appointments shall be made starting from subdivision (1) of this section and following the same sequence.

Whenever a vacancy occurs on the board for any reason, the Governor shall appoint an individual to fill such vacancy from the same bargaining unit in which the vacancy exists.

The members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

The board shall adopt and promulgate rules and regulations to aid in carrying out sections 81-1350 and 81-1351.

Source: Laws 1978, LB 286, § 3; Laws 1993, LB 44, § 15; Laws 1995, LB 395, § 3; Laws 2000, LB 654, § 42; Laws 2017, LB151, § 7; Laws 2020, LB381, § 114.

81-1349 Repealed. Laws 1981, LB 545, § 52.

81-1350 Employee suggestion system; award granted; amount.

Any award granted shall be the greater of one hundred dollars or ten percent of the amount of savings referred to in section 81-1353 but not to exceed the limitations provided for in section 81-1351.

Source: Laws 1978, LB 286, § 5; Laws 1993, LB 44, § 16; Laws 2007, LB5, § 2.

81-1351 Employee suggestion system; award granted; limitations.

Any award granted under the provisions of sections 81-1346 to 81-1354 shall be limited to six thousand dollars unless a larger award is recommended by resolution of the Legislature.

Source: Laws 1978, LB 286, § 6; Laws 2007, LB5, § 3.

81-1352 Employee suggestion system; approved suggestions; warrants; issued by State Treasurer.

Notwithstanding any other provisions of law, the State Treasurer shall issue warrants to employees for approved suggestions in accordance with sections 81-1346 to 81-1354.

Source: Laws 1978, LB 286, § 7.

81-1353 Employee suggestion system; awards; paid from appropriated money saved.

No agency, board, or commission shall receive additional appropriations to carry out sections 81-1346 to 81-1354 except the personnel division of the Department of Administrative Services which shall be allocated funds to administer such sections. All awards shall be made from the amount of appropriated money saved by the suggestions of employees.

Source: Laws 1978, LB 286, § 8; Laws 1992, Third Spec. Sess., LB 14, § 23.

81-1354 Employee suggestion system; suggestions; ineligible for award.

No employee making a suggestion that requires legislative enactment or concerns policies already implemented or which are in the process of implementation by the agency shall be eligible for an award under sections 81-1346 to 81-1354.

Source: Laws 1978, LB 286, § 9; Laws 2003, LB 307, § 3.

81-1354.01 Employee rights; not restricted.

Nothing in sections 81-1301 to 81-1354 shall prohibit state employees from exercising their rights granted in Chapter 48, article 8, or any other applicable sections of law.

Source: Laws 1987, LB 491, § 11.

81-1354.02 Repealed. Laws 2000, LB 654, § 57.**81-1354.03 Training Revolving Fund; created; investment.**

There is hereby created the Training Revolving Fund to be administered by the personnel division of the Department of Administrative Services. All funds received by the personnel division for employee training programs shall be remitted by the personnel division to the State Treasurer for credit to the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1994, LB 1006, § 1; Laws 1995, LB 7, § 123.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1354.04 Temporary Employee Pool Revolving Fund; created; use; investment.

There is hereby created the Temporary Employee Pool Revolving Fund. The fund shall be administered by the personnel division of the Department of Administrative Services. The fund shall consist of fees paid for services provided to state agencies by the division in providing temporary employees. The fund shall be used to pay for expenses incurred by the division in providing temporary employees.

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

Source: Laws 1994, LB 1194, § 4; Laws 1995, LB 7, § 124.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1354.05 Personnel Division Revolving Fund; created; use; investment.

(1) The Personnel Division Revolving Fund is created. The fund shall be administered by the personnel division of the Department of Administrative Services. The fund shall consist of (a) all funds received by the personnel division for employee recognition programs and advertising and (b) assessments charged by the Director of Personnel to state agencies, boards, and commissions for human service management services provided by the division. Such assessments shall be adequate to cover actual and necessary expenses associated with providing the services. The fund shall be used to pay for expenses incurred by the division to provide such services.

(2) State agencies, boards, and commissions shall make the personnel division assessment payments to the fund (a) in one payment no later than August 1 of each year, (b) in two equal payments the first of which shall be made no later than August 1 and the second of which shall be made no later than February 1 of each year, or (c) in four equal payments to be made no later than August 1, October 1, February 1, and April 1 of each year, at the discretion of the personnel administrator.

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

Source: Laws 2000, LB 654, § 36; Laws 2015, LB661, § 35.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(b) AFFIRMATIVE ACTION PROGRAM

81-1355 Public policy; equal employment opportunity.

It is declared to be in the best interest of the State of Nebraska to insure that historic and any present patterns of sex and racial discrimination are eliminated and that each agency pursue a course of action in all areas of its operation to insure that all citizens are provided with fair and equal opportunities for employment and advancement regardless of race, color, religion, national origin, age, sex, marital status, or physical or mental disability.

Affirmative action shall be taken to insure the implementation of a policy in state government employment which provides equal employment opportunity. Such policy shall apply to:

- (1) Hiring, placement, upgrading, transfer, or demotion of employees;
- (2) Recruitment, advertising, or solicitation for employment;
- (3) Treatment during employment;
- (4) Rates of pay or other forms of compensation;

- (5) Selection for training;
- (6) Layoff, termination, or reinstatement; and
- (7) Any other terms or conditions of employment.

Source: Laws 1979, LB 500, § 1; Laws 1987, LB 491, § 17.

81-1356 Terms, defined.

As used in sections 81-1355 to 81-1368, unless the context otherwise requires:

(1) Equal employment opportunity shall mean the right of all persons to work and to advance on the basis of merit and ability without regard to race, color, religion, national origin, age, sex, marital status, or physical or mental disability;

(2) Affirmative action shall mean a deliberate and sustained effort to identify and eliminate barriers to employment and advancement which may discriminate against various groups. Particular emphasis shall be focused on racial minorities, women, and the disabled but not to the exclusion of the criteria set forth in subdivision (1) of this section. The ultimate goal is to achieve, at all levels, a state government work force which is representative of the state working population. The composition of the state working population shall be determined annually through reports of the Department of Labor. Such a goal is to be an integral part of every aspect of personnel policy;

(3) Office shall mean the Affirmative Action Office;

(4) Program shall mean the Affirmative Action Program;

(5) Agency shall mean each department, agency, office, board, commission, and committee of the State of Nebraska under the executive authority of the Governor;

(6) Plan shall mean the Affirmative Action Plan prepared by the individual agencies; and

(7) Administrator shall mean the Affirmative Action Administrator.

Source: Laws 1979, LB 500, § 2; Laws 1987, LB 491, § 18.

81-1357 Affirmative Action Office; created.

There is hereby created the Affirmative Action Office which shall be within the personnel division of the Department of Administrative Services. The office shall be under the administrative control of the Director of Personnel.

Source: Laws 1979, LB 500, § 3; Laws 1992, Third Spec. Sess., LB 14, § 24.

81-1358 Affirmative Action Office; employees.

The Affirmative Action Office shall consist of such employees as may be necessary to carry out the purposes of sections 81-1355 to 81-1368.

Source: Laws 1979, LB 500, § 4.

81-1359 Affirmative Action Administrator; selection.

The Affirmative Action Administrator shall be selected by the Director of Personnel.

Source: Laws 1979, LB 500, § 5; Laws 1987, LB 491, § 19.

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.

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.

81-1362 Agency affirmative action individual; appointed.

The head of each agency with more than ten employees shall appoint at least one individual as agency affirmative action individual for the agency to coordinate equal employment and affirmative action efforts with the office.

Source: Laws 1979, LB 500, § 8.

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.

81-1367 Affirmative action; cooperation.

Each agency shall cooperate with the administrator in the performance of his or her duties. The efforts, activities, and results of all directors, managers, and supervisors shall be used in their work-performance evaluations. Directors, managers, and supervisors shall be obligated to prevent harassment of employees involved in the implementation of plans and those hired through affirmative action efforts.

Source: Laws 1979, LB 500, § 13; Laws 1987, LB 491, § 22.

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 noncompliance 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.

(c) STATE EMPLOYEES COLLECTIVE BARGAINING ACT

81-1369 Act, how cited.

Sections 81-1369 to 81-1388 shall be known and may be cited as the State Employees Collective Bargaining Act.

Source: Laws 1987, LB 661, § 1; Laws 2011, LB397, § 19.

Public employee bargaining units, created under the State Employees Collective Bargaining Act, must file any petition seeking to decertify an exclusive collective bargaining agent, under the Rules of the Nebraska Commission of Industrial Relations 9(II)(C)(1) (rev. 2015), during the period preceding the commencement of the statutorily required bargaining period

in section 81-1379. Nebraska Protective Servs. Unit v. State, 299 Neb. 797, 910 N.W.2d 767 (2018).

81-1370 Legislative findings; purpose of act.

The Legislature hereby finds and declares that it is the public policy of this state and the purpose of the State Employees Collective Bargaining Act to promote harmonious, peaceful, and cooperative relationships between state government and its employees and to protect the public by assuring effective and orderly operations of government. Such policy is best effectuated by (1) recognizing the right of state employees in bargaining units to organize for the purpose of collective bargaining and (2) requiring state employees represented by an exclusive collective-bargaining agent to negotiate with and enter into written agreements with the Chief Negotiator of the Division of Employee Relations or any other negotiator hired by an employer-representative on matters of wages, hours, and other terms and conditions of employment.

Source: Laws 1987, LB 661, § 2.

Where a new right is afforded by statute, one who desires such a statutory right must bring himself or herself within the provision of the statute. State Code Agencies Ed. Assn. v. State, 231 Neb. 23, 434 N.W.2d 684 (1989).

81-1371 Terms, defined.

For purposes of the State Employees Collective Bargaining Act, unless the context otherwise requires:

- (1) Chief Negotiator shall mean the Chief Negotiator of the Division of Employee Relations of the Department of Administrative Services;
- (2) Commission shall mean the Commission of Industrial Relations;
- (3) Division shall mean the Division of Employee Relations of the Department of Administrative Services;
- (4) Employee or state employee shall mean any employee of the State of Nebraska;
- (5) Employer or state employer shall mean the State of Nebraska and shall not include any political subdivision thereof;
- (6) Employer-representative shall mean (a) for negotiations involving employees of the University of Nebraska, the Board of Regents, (b) for negotiations involving employees of the Nebraska state colleges, the Board of Trustees of the Nebraska State Colleges, (c) for negotiations involving employees of other constitutional agencies, the governing officer or body for each such agency, and (d) for negotiations involving other state employees, the Governor;
- (7) Grievance shall mean a management action resulting in an injury, injustice, or wrong involving a misinterpretation or misapplication of applicable labor contracts if so agreed to by the appropriate parties;
- (8) Issue shall mean broad subjects of negotiation which are presented to the commission pursuant to section 81-1382. All aspects of wages shall be a single issue, all aspects of insurance shall be a single issue, and all other subjects of negotiations classified in broad categories shall be single issues;
- (9) Mandatory topic or topics of bargaining shall mean those subjects of negotiation on which employers must negotiate pursuant to the Industrial Relations Act, including terms and conditions of employment which may otherwise be provided by law for state employees, except when specifically prohibited by law from being a subject of bargaining; and

(10) Meet-and-confer rights shall mean the rights of employees to discuss wages, hours, and other terms and conditions of employment with the appropriate employer-representative but shall not require either party to enter into a written agreement. Employees afforded meet-and-confer rights shall not be entitled to utilize the impasse resolution procedures provided in the State Employees Collective Bargaining Act or to file a petition with the commission invoking its jurisdiction as provided in the Industrial Relations Act for the purpose of obtaining an order or orders under section 48-818. Meet-and-confer rights shall not apply to any bargaining unit other than a supervisory unit.

Source: Laws 1987, LB 661, § 3; Laws 1992, Third Spec. Sess., LB 14, § 25; Laws 2011, LB397, § 20.

Cross References

Industrial Relations Act, see section 48-801.01.

81-1372 Act; supplementary to Industrial Relations Act.

The State Employees Collective Bargaining Act shall be deemed controlling for state employees and state employers covered by such act and is supplementary to the Industrial Relations Act except when otherwise specifically provided or when inconsistent with the Industrial Relations Act, in which case the State Employees Collective Bargaining Act shall prevail.

The State of Nebraska, its employees, employee organizations, and exclusive collective-bargaining agents shall have all the rights and responsibilities afforded employers, employees, employee organizations, and exclusive collective-bargaining agents pursuant to the Industrial Relations Act to the extent that such act is not inconsistent with the State Employees Collective Bargaining Act.

Source: Laws 1987, LB 661, § 4; Laws 2011, LB397, § 21.

Cross References

Industrial Relations Act, see section 48-801.01.

The comparability requirement of the Industrial Relations Act Employees Collective Bargaining Act. State v. State Code Agencies Teachers Assn., 280 Neb. 459, 788 N.W.2d 238 (2010). is superseded by the 2-year contract requirement of the State

81-1373 Bargaining units; created; other employee units.

(1) For the purpose of implementing the state employees' right to organize for the purpose of collective bargaining, there are hereby created twelve bargaining units for all state agencies except the University of Nebraska, the Nebraska state colleges, and other constitutional offices. The units shall consist of state employees whose job classifications are occupationally and functionally related and who share a community of interest. The bargaining units shall be:

(a) Maintenance, Trades, and Technical, which unit is composed of generally recognized blue collar and technical classes, including highway maintenance workers, carpenters, plumbers, electricians, print shop workers, auto mechanics, engineering aides and associates, and similar classes;

(b) Administrative Support, which unit is composed of clerical and administrative nonprofessional classes, including typists, secretaries, accounting clerks, computer operators, office service personnel, and similar classes;

(c) Health and Human Care Nonprofessional, which unit is composed of institutional care classes, including nursing aides, psychiatric aides, therapy aides, and similar classes;

(d) Social Services and Counseling, which unit is composed of generally professional-level workers providing services and benefits to eligible persons. Classes shall include job service personnel, income maintenance personnel, social workers, counselors, and similar classes;

(e) Administrative Professional, which unit is composed of professional employees with general business responsibilities, including accountants, buyers, personnel specialists, data processing personnel, and similar classes;

(f) Protective Service, which unit is composed of institutional security personnel, including correctional officers, building security guards, and similar classes;

(g) Law Enforcement, which unit is composed of employees holding powers of arrest, including Nebraska State Patrol officers and sergeants, conservation officers, fire marshal personnel, and similar classes. Sergeants, investigators, and patrol officers employed by the Nebraska State Patrol as authorized in section 81-2004 shall be presumed to have a community of interest with each other and shall be included in this bargaining unit notwithstanding any other provision of law which may allow for the contrary;

(h) Health and Human Care Professional, which unit is composed of community health, nutrition, and health service professional employees, including nurses, doctors, psychologists, pharmacists, dietitians, licensed therapists, and similar classes;

(i) Examining, Inspection, and Licensing, which unit is composed of employees empowered to review certain public and business activities, including driver-licensing personnel, revenue agents, bank and insurance examiners who remain in the State Personnel System under sections 8-105 and 44-119, various public health and protection inspectors, and similar classes;

(j) Engineering, Science, and Resources, which unit is composed of specialized professional scientific occupations, including civil and other engineers, architects, chemists, geologists and surveyors, and similar classes;

(k) Teachers, which unit is composed of employees required to be licensed or certified as a teacher; and

(l) Supervisory, which unit is composed of employees who are supervisors as defined in section 48-801.

All employees who are excluded from bargaining units pursuant to the Industrial Relations Act, all employees of the personnel division of the Department of Administrative Services, and all employees of the Division of Employee Relations of the Department of Administrative Services shall be excluded from any bargaining unit of state employees.

(2) Any employee organization, including one which represents other state employees, may be certified or recognized as provided in the Industrial Relations Act as the exclusive collective-bargaining agent for a supervisory unit, except that such unit shall not have full collective-bargaining rights but shall be afforded only meet-and-confer rights.

(3)(a) It is the intent of the Legislature that the professional staff employee classifications, including the managerial-professional employee classification, and the office and service staff employee classification, be grouped in broad occupational units for the University of Nebraska and the Nebraska state colleges established on a university-wide or college-system-wide basis, including all campuses within the system.

(b) Any unit entirely composed of supervisory employees of the University of Nebraska or the Nebraska state colleges shall be afforded only meet-and-confer rights.

(c) Any bargaining unit seeking to represent an academic-administrative staff employee classification consisting of faculty, including adjunct faculty, of the University of Nebraska or of any administrative unit of the university may organize and seek recognition or certification by the commission on an administrative unit-wide basis as otherwise determined pursuant to the Industrial Relations Act.

(d) The bargaining units for academic, faculty, and teaching employees of the Nebraska state colleges shall continue as they existed on April 9, 1987, and any adjustments thereto or new units therefor shall continue to be determined pursuant to the Industrial Relations Act.

(4) Other constitutional offices shall continue to subscribe to the procedures for unit determination in the Industrial Relations Act, except that the commission is further directed to determine the bargaining units in such manner as to (a) reduce the effect of overfragmentation of bargaining units on the efficiency of administration and operations of the constitutional office and (b) be consistent with the administrative structure of the constitutional office. Any unit entirely composed of supervisory employees of a constitutional office shall be afforded only meet-and-confer rights.

Source: Laws 1987, LB 661, § 5; Laws 1988, LB 684, § 2; Laws 1989, LB 247, § 13; Laws 1992, Third Spec. Sess., LB 14, § 26; Laws 2003, LB 85, § 4; Laws 2011, LB397, § 22; Laws 2022, LB964, § 2.

Cross References

Industrial Relations Act, see section 48-801.01.

81-1374 Repealed. Laws 2011, LB 397, § 36.

81-1375 Certified collective-bargaining agents; procedures applicable.

Certified collective-bargaining agents representing bargaining units other than those prescribed in section 81-1373 shall not utilize the impasse procedures provided for in sections 81-1381 to 81-1385 nor file a petition with the commission invoking its jurisdiction as provided in the Industrial Relations Act.

Source: Laws 1987, LB 661, § 7; Laws 2011, LB397, § 23.

Cross References

Industrial Relations Act, see section 48-801.01.

81-1376 Division of Employee Relations; created; Chief Negotiator; powers and duties.

There is hereby created within the Department of Administrative Services the Division of Employee Relations to be headed by the Chief Negotiator who shall be appointed by, serve at the pleasure of, and represent the Governor. The Director of Administrative Services may serve as the Chief Negotiator. The division shall be responsible for negotiating and administering all labor contracts entered into by the State of Nebraska, except that the division shall not be responsible for contracts entered into by constitutional offices, the Board of Trustees of the Nebraska State Colleges, and the Board of Regents of the University of Nebraska.

The Chief Negotiator shall for agencies within the jurisdiction of the division:

- (1) Negotiate or supervise the negotiations of labor contracts on a statewide basis;
- (2) Be responsible for the administration of all collective-bargaining agreements, except that the Chief Negotiator may delegate such responsibility to designated representatives who may be employees of state agencies when the Chief Negotiator deems it appropriate;
- (3) Be vested with authority on all mandatory topics of bargaining to negotiate the contracts. Contracts may adjust or change rates of pay and other terms and conditions of employment that are mandatory topics of bargaining pursuant to the Industrial Relations Act and the State Employees Collective Bargaining Act;
- (4) Make recommendations to the Governor and Legislature regarding wages, hours, and conditions of employment for all unorganized employees. The recommendations submitted to the Legislature shall be submitted electronically;
- (5) Consult with agency and department heads regarding possible terms of labor contracts and administration of agreements when appropriate; and
- (6) Manage the day-to-day operations of the division.

The division and the Chief Negotiator may represent any of the constitutional offices in labor contract negotiations and administration of contracts if requested to do so by such offices by resolution of the governing officer or body submitted to the Chief Negotiator and affected collective-bargaining agent and filed with the commission.

The responsibilities for negotiating contracts with employees of the Nebraska state colleges and the University of Nebraska shall not be exercised by the division and the Chief Negotiator. The Board of Regents and the Board of Trustees of the Nebraska State Colleges shall be responsible for negotiating contracts with exclusive collective-bargaining agents for their employees.

Source: Laws 1987, LB 661, § 8; Laws 1992, Third Spec. Sess., LB 14, § 28; Laws 1997, LB 314, § 21; Laws 2012, LB782, § 199.

Cross References

Industrial Relations Act, see section 48-801.01.

81-1377 Negotiation of labor contracts; Nebraska State Patrol; limitation on disciplinary procedures or collective bargaining.

- (1) The Chief Negotiator or any other employer-representative and the exclusive collective-bargaining agent for employees under the Chief Negotiator's or employer-representative's jurisdiction shall bargain and negotiate labor contracts in good faith and reasonably in advance of the budget-making process.
- (2) Retirement programs shall not be bargainable by or on behalf of any state employee.
- (3) Nothing in the disciplinary procedures or collective-bargaining agreement of the Nebraska State Patrol shall:
 - (a) Limit the discretion of the Superintendent of Law Enforcement and Public Safety to disclose to the Legislature, the Nebraska Commission on Law Enforcement and Criminal Justice, the Nebraska Police Standards Advisory

Council, the Equal Opportunity Commission, or a complainant the status or outcome of an internal investigation or discipline;

(b) Limit the consideration by the patrol, for purposes of progressive discipline, of disciplinary action in a prior case that occurred within the ten years preceding the date such progressive discipline is imposed;

(c) Limit the time during which a disciplinary investigation may be initiated or discipline may be imposed to less than two years after the occurrence of the conduct which is the subject of the investigation or discipline;

(d) Require the release to a member who is under internal investigation for an allegation that could result in a charge of a Class I misdemeanor or felony or an allegation involving dishonesty, prior to the initial internal investigation interview, of reports and materials concerning the internal investigation of such member, except that the member shall be entitled to know the nature of the complaint underlying the investigation;

(e) Limit or restrict access by the individual or individuals conducting the internal investigation to materials, including records of current or past discipline or misconduct, regarding the member under investigation; or

(f) Prevent, limit, or restrict access by the Nebraska Commission on Law Enforcement and Criminal Justice to internal investigation reports or materials.

(4) The obligation to negotiate in good faith shall not compel the Chief Negotiator or any other employer-representative or the exclusive collective-bargaining agent to agree to a proposal or make a concession.

(5) All contracts involving state employees and negotiated pursuant to the Industrial Relations Act or the State Employees Collective Bargaining Act shall cover a two-year period coinciding with the biennial state budget, except that the first contract entered into by a bargaining unit may cover only the second fiscal year of the biennium.

Source: Laws 1987, LB 661, § 9; Laws 2018, LB791, § 3.

Cross References

Industrial Relations Act, see section 48-801.01.

The specific number of unused sick leave hours included in a retirement calculation does not constitute a retirement program under subsection (2) of this section. *Livengood v. Nebraska State Patrol Ret. Sys.*, 273 Neb. 247, 729 N.W.2d 55 (2007).

81-1378 Computation of dates; effect.

(1) The dates indicated in sections 81-1379 to 81-1384 shall refer to those dates immediately preceding the beginning of the contract period for which negotiations are being conducted.

(2) When any date provided in sections 81-1379 to 81-1384 falls on a Saturday, a Sunday, or any day declared by statutory enactment or proclamations of the Governor to be a holiday, the next following day which is not a Saturday, a Sunday, or a day declared by the enactment or proclamation to be a holiday shall be deemed to be the day indicated by such date.

(3) The dates indicated in sections 81-1382 and 81-1383 are jurisdictional. Failure of either party to act in a timely manner shall result in a jurisdictional bar for either the commission or Supreme Court.

Source: Laws 1987, LB 661, § 10; Laws 2011, LB397, § 24.

81-1379 Negotiations; when commenced and completed; negotiated agreements; requirements; supplementary bargaining.

The Chief Negotiator and any other employer-representative and the exclusive collective-bargaining agent shall commence negotiations on or prior to the second Wednesday in September of the year preceding the beginning of the contract period, except that the first negotiations commenced by any bargaining unit may commence after such September date in order to accommodate any unresolved representation proceedings. All negotiations shall be completed on or before March 15 of the following year.

All negotiated agreements shall be in writing and signed by the parties. The authority to enter into the agreed-upon contract shall be vested in the following:

- (1) For the University of Nebraska, the Board of Regents;
- (2) For the Nebraska state colleges, the Board of Trustees of the Nebraska State Colleges;
- (3) For other constitutional offices, the head of such office;
- (4) For all other agencies, the Governor; and
- (5) For the bargaining unit, a majority of those voting on ratification after notice of the contract terms is given and a secret ballot vote has been taken.

Nothing in the State Employees Collective Bargaining Act shall be construed to prohibit supplementary bargaining on behalf of employees in part of a bargaining unit concerning matters uniquely affecting such employees or cooperation and coordination of bargaining between two or more bargaining units. Supplementary bargaining in regard to employees for whom the Governor is the employer-representative shall be the responsibility of the Chief Negotiator and may be assigned to his or her designated representative.

Any agreements entered into pursuant to this section may be adjusted after March 15 only to reflect any order issued by the commission or the Supreme Court.

Source: Laws 1987, LB 661, § 11; Laws 1991, LB 732, § 149; Laws 2011, LB397, § 25.

Public employee bargaining units, created under the State Employees Collective Bargaining Act, section 81-1369 et seq., must file any petition seeking to decertify an exclusive collective bargaining agent, under the Rules of the Nebraska Commission

of Industrial Relations 9(II)(C)(1) (rev. 2015), during the period preceding the commencement of the statutorily required bargaining period in this section. *Nebraska Protective Servs. Unit v. State*, 299 Neb. 797, 910 N.W.2d 767 (2018).

81-1380 Repealed. Laws 2011, LB 397, § 36.

81-1381 Submission to mediator; selection of mediator.

If the parties in labor contract negotiations do not reach a voluntary agreement by January 1, the dispute shall be submitted to a mediator mutually selected by the parties or appointed by the Federal Mediation and Conciliation Service. Mediation may continue indefinitely at the request of either party or when appropriate in the judgment of the mediator. If necessary, mediation may continue after the exchange of final offers.

Source: Laws 1987, LB 661, § 13; Laws 2011, LB397, § 26.

81-1382 Unresolved issues; final offers; prehearing conference; commission; authority.

- (1) No later than January 10, the parties in labor contract negotiations shall reduce to writing and sign all agreed-upon issues and exchange final offers on

each unresolved issue. Final offers may not be amended or modified without the concurrence of the other party.

(2) No later than January 15, the parties in labor contract negotiations shall submit all unresolved issues that resulted in impasse to the commission. No party shall submit an issue to the commission that was not subject to negotiations. The commission shall conduct a prehearing conference and shall have the authority to:

- (a) Determine whether the issues are ready for adjudication;
- (b) Accept stipulations;
- (c) Schedule hearings;
- (d) Prescribe rules of conduct for the hearings;
- (e) Order additional mediation if necessary; and
- (f) Take any other actions which may aid in the disposal of the action.

The commission may consult with the parties *ex parte* only with the concurrence of both parties.

Source: Laws 1987, LB 661, § 14; Laws 2011, LB397, § 27.

The January 10 deadline provided in this section is not jurisdictional. *State v. State Code Agencies Teachers Assn.*, 280 Neb. 459, 788 N.W.2d 238 (2010).

81-1383 Commission order; commission; powers; duties; procedure; modification; appeal.

(1) No later than March 1, the commission shall enter an order on each unresolved issue.

(2)(a) The commission's order shall establish rates of pay and conditions of employment which are comparable to the prevalent wage rates paid and conditions of employment maintained by peer employers for the same or similar work of workers exhibiting like or similar skills under the same or similar working conditions.

(b)(i) In establishing wage rates, the commission shall take into consideration the overall compensation received by the employees at the time of the negotiations, having regard to:

- (A) Wages for time actually worked;
- (B) Wages for time not worked, including vacations, holidays, and other excused time, and all benefits received, including insurance and pensions; and
- (C) The continuity and stability of employment enjoyed by the employees.

(ii) The commission shall determine whether the total compensation of the members of the bargaining unit or classification falls within a ninety-eight percent to one hundred two percent range of the array's midpoint. If the total compensation falls within the ninety-eight percent to one hundred two percent range, the commission shall order no change in wage rates. If the total compensation is less than ninety-eight percent of the midpoint, the commission shall enter an order increasing wage rates to ninety-eight percent of the midpoint. If the total compensation is more than one hundred two percent of the midpoint, the commission shall enter an order decreasing wage rates to one hundred two percent of the midpoint. If the total compensation is more than one hundred seven percent of the midpoint, the commission shall enter an order reducing wage rates to one hundred two percent of the midpoint in three

equal annual reductions. If the total compensation is less than ninety-three percent of the midpoint, the commission shall enter an order increasing wage rates to ninety-eight percent of the midpoint in three equal annual increases. If the commission finds that the year in dispute occurred during a time of recession, the applicable range will be ninety-five percent to one hundred two percent. For purposes of this section, recession occurrence means the two nearest quarters in time, excluding the immediately preceding quarter, to the effective date of the contract term in which the sum of the net state sales and use tax, individual income tax, and corporate income tax receipts are less than the same quarters for the prior year. Each of these receipts shall be rate and base adjusted for state law changes. The Department of Revenue shall report and publish such receipts on a quarterly basis.

(c) For purposes of determining peer employer comparability, the following factors shall be used by the commission:

- (i) Geographic proximity of the employer;
- (ii) Size of the employer, which shall not be more than twice or less than one-half, unless evidence establishes that there are substantial differences which cause the work or conditions of employment to be dissimilar;
- (iii) The employer's budget for operations and personnel; and
- (iv) Nothing in this subdivision (2)(c) of this section shall prevent parties from stipulating to an array member that does not otherwise meet the criteria in such subdivision, and nothing in such subdivision shall prevent parties from stipulating to less than seven or more than nine array members.

(d) To determine comparability for employees of the Board of Regents of the University of Nebraska or employees of the Board of Trustees of the Nebraska State Colleges, the commission shall utilize peer institutions with similar enrollments and similar educational missions which may exclude land grant institutions or institutions that have a medical center or hospital. Additionally, the commission shall refer to peer institutions with similar program offerings including the level of degrees offered.

(e) Any order or orders entered may be modified on the commission's own motion or on application by any of the parties affected, but only upon a showing of a new and material change in the conditions from those prevailing at the time the original order was entered.

(3) In cases filed under the State Employees Collective Bargaining Act, the commission shall not be bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure, other than those adopted pursuant to section 48-809. The commission shall receive evidence relating to array selection, job match, and wages and benefits which have been assembled by telephone, electronic transmission, or mail delivery and any such evidence shall be accompanied by an affidavit from the employer or any other person with personal knowledge which affidavit shall demonstrate the affiant's personal knowledge and competency to testify on the matters therein. The commission, with the consent of the parties to the dispute and in the presence of the parties to the dispute, may contact an individual employed by an employer under consideration as an array member by telephone to inquire as to the nature or value of a working condition, wage, or benefit provided by that particular employer as long as the individual in question has personal knowledge about the information being sought. The commission may rely upon information gained in such inquiry for its decision. Opinion testimony shall be

received by the commission based upon evidence provided in accordance with this subsection. Testimony concerning job match shall be received if job match inquiries were conducted by telephone, electronic transmission, or mail delivery if the witness providing such testimony verifies the method of such job match inquiry and analysis.

(4) The commission shall file its findings of fact and conclusions of law with its order.

(5) Either party may, within thirty days after the date such order is filed, appeal to the Supreme Court. The standard of review for any appeal to the Supreme Court shall be as provided in subsection (4) of section 48-825.

(6) The commission or the Supreme Court shall not enter an order for any period which is not the same as or included within the budget period for which the contract is being negotiated.

(7) All items agreed upon during the course of negotiations and not submitted as an unresolved issue to the commission shall, when ratified by the parties, take effect concurrent with the biennial budget period and shall constitute the parties' contract. Upon final resolution of appeals of all unresolved issues, the parties shall reduce the orders of the commission or the Supreme Court to writing and incorporate them into the contract without ratification.

Source: Laws 1987, LB 661, § 15; Laws 1991, LB 732, § 150; Laws 2011, LB397, § 28.

Parties are not permitted to offer additional evidence before the Commission of Industrial Relations. The commission's review of a special master's ruling is an appeal and does not

provide for the admission of additional evidence. *State v. State Code Agencies Teachers Assn.*, 280 Neb. 459, 788 N.W.2d 238 (2010).

81-1384 Chief or appointed negotiator; report.

On March 16, the Chief Negotiator, any appointed negotiator for the Board of Regents, any appointed negotiator for the Board of Trustees of the Nebraska State Colleges, and any appointed negotiator for other constitutional offices shall report to the Legislature and the Governor on the status of negotiations. The report submitted to the Legislature shall be submitted electronically. The Governor may amend his or her budget recommendations accordingly.

Source: Laws 1987, LB 661, § 16; Laws 2011, LB397, § 29; Laws 2012, LB782, § 200.

81-1385 Commission proceeding; effect on employment; order; interest.

When an unresolved issue proceeds to the commission, there shall be no change in the term or condition of employment in effect in that issue or issues until the commission has ruled and any subsequent appeal to the Supreme Court has been concluded. Orders adjusting the term or condition of employment in an issue or issues shall be effective beginning with final resolution of the appeal. Upon final resolution, the commission or Supreme Court shall order increases or other changes in a term or condition of employment to be concurrent with the biennial budget. Interest shall be paid, at the rate established by section 45-103 which is in effect at the time of the final order, by the state on all withheld wages or insurance premium payments.

Source: Laws 1987, LB 661, § 17; Laws 1991, LB 732, § 151; Laws 2011, LB397, § 30.

81-1386 Prohibited practices; enumerated; expressions permitted.

(1) It shall be a prohibited practice for any employer, employee, employee organization, or exclusive collective-bargaining agent to refuse to negotiate in good faith with respect to mandatory topics of bargaining.

(2) It shall be a prohibited practice for any employer or the employer's negotiator to:

(a) Interfere with, restrain, or coerce state employees in the exercise of rights granted by the State Employees Collective Bargaining Act or the Industrial Relations Act;

(b) Dominate or interfere in the administration of any employee organization;

(c) Encourage or discourage membership in any employee organization, committee, or association by discrimination in hiring, tenure, or other terms or conditions of employment;

(d) Discharge or discriminate against a state employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under the Industrial Relations Act or the State Employees Collective Bargaining Act or because the employee has formed, joined, or chosen to be represented by any employee organization;

(e) Refuse to negotiate collectively with representatives of exclusive collective-bargaining agents as required in the Industrial Relations Act and the State Employees Collective Bargaining Act;

(f) Deny the rights accompanying certification or exclusive recognition granted in the Industrial Relations Act or the State Employees Collective Bargaining Act; and

(g) Refuse to participate in good faith in any impasse procedures for state employees as set forth in sections 81-1381 to 81-1385.

(3) It shall be a prohibited practice for any employees, employee organization, or bargaining unit or for any of their representatives or exclusive collective-bargaining agents to:

(a) Interfere with, restrain, coerce, or harass any state employee with respect to any of the employee's rights under the Industrial Relations Act or the State Employees Collective Bargaining Act;

(b) Interfere, restrain, or coerce an employer with respect to rights granted in the Industrial Relations Act or the State Employees Collective Bargaining Act or with respect to selecting a representative for the purposes of negotiating collectively on the adjustment of grievances;

(c) Refuse to bargain collectively with an employer as required in the Industrial Relations Act or the State Employees Collective Bargaining Act; and

(d) Refuse to participate in good faith in any impasse procedures for state employees set forth in sections 81-1381 to 81-1385.

(4) The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of any unfair labor practice under any of the provisions of the Industrial Relations Act or the State Employees Collective Bargaining Act if such expression contains no threat of reprisal or force or promise of benefit.

Source: Laws 1987, LB 661, § 18; Laws 2011, LB397, § 31.

Cross References

Industrial Relations Act, see section 48-801.01.

81-1387 Prohibited practices; proceedings; appeal; grounds.

(1) Proceedings against a party alleging a violation of section 81-1386 shall be commenced by filing a complaint with the commission within one hundred eighty days of the alleged violation thereby causing a copy of the complaint to be served upon the accused party. The accused party shall have ten days within which to file a written answer to the complaint. If the commission determines that the complaint has no basis in fact, the commission may dismiss the complaint. If the complaint has a basis in fact, the commission shall set a time for hearing. The parties shall be permitted to be represented by counsel, summon witnesses, and request the commission to subpoena witnesses on the requester's behalf.

(2) The commission shall file its findings of fact and conclusions of law. If the commission finds that the party accused has committed a prohibited practice, the commission, within thirty days of its decision, shall order an appropriate remedy. Any party may petition the district court for injunctive relief pursuant to rules of civil procedure.

(3) Any party aggrieved by any decision or order of the commission may, within thirty days from the date such decision or order is filed, appeal therefrom to the Supreme Court.

(4) Any order or decision of the commission may be modified, reversed, or set aside by the appellate court on one or more of the following grounds and on no other:

- (a) If the commission acts without or in excess of its powers;
- (b) If the order was procured by fraud or is contrary to law;
- (c) If the facts found by the commission do not support the order; and
- (d) If the order is not supported by a preponderance of the competent evidence on the record considered as a whole.

Source: Laws 1987, LB 661, § 19; Laws 1991, LB 732, § 152; Laws 1992, LB 360, § 38; Laws 2011, LB397, § 32.

The Commission of Industrial Relations, as an administrative body, has only that authority specifically conferred upon it by statute or by construction necessary to achieve the purpose of the relevant act. *Jolly v. State*, 252 Neb. 289, 562 N.W.2d 61 (1997).

Under the Industrial Relations Act, section 48-801 et seq., and the State Employees Collective Bargaining Act, section 81-1369

et seq., the Commission of Industrial Relations does not have the statutory authority to entertain or grant motions for summary judgment. *Jolly v. State*, 252 Neb. 289, 562 N.W.2d 61 (1997).

81-1388 Commission; adopt rules and regulations.

The commission shall adopt and promulgate rules and regulations necessary to carry out the State Employees Collective Bargaining Act.

Source: Laws 1987, LB 661, § 20.

81-1389 Repealed. Laws 2011, LB 397, § 36.**81-1390 Repealed. Laws 2011, LB 397, § 36.**

(d) STATE EMPLOYEES

81-1391 Certified disaster service volunteer of American Red Cross; leave authorized.

Any state employee who is a certified disaster service volunteer of the American Red Cross may, with the authorization of his or her supervisor, be

granted a leave not to exceed fifteen working days in each year to participate in specialized disaster relief services in Nebraska for the American Red Cross, upon the request of the American Red Cross, without loss of pay, vacation time, sick leave, or earned overtime accumulation.

For purposes of this section, state employee means any employee of the state or of any state agency, specifically including all administrative, professional, academic, and other personnel of the University of Nebraska, the state colleges, and the State Department of Education, but excluding any employee or officer of the state whose salary is set by the Constitution of Nebraska or by statute. An employee of any local government or entity, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act, shall not be considered a state employee for purposes of this section.

Source: Laws 1993, LB 697, § 7; Laws 1997, LB 314, § 23; Laws 1999, LB 87, § 97.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

81-1392 Approved youth mentoring program; participation; request; Director of Personnel; powers; state agency; denial; grounds.

(1) An agency head, or other management personnel designated by the agency head, may adjust the work schedule of a state employee by up to one hour per week to permit such state employee to participate in an approved youth mentoring program. Any request for an adjusted work schedule for participation in an approved youth mentoring program shall be submitted and approved in accordance with applicable agency procedures, including approval by the supervisor of such state employee. Nothing in this section shall be construed to authorize paid leave for any state employee.

(2) For purposes of this section, state employee means any employee of the state or of any state agency, including all administrative, professional, academic, and other personnel of the University of Nebraska, the state colleges, and the State Department of Education, but excluding any employee or officer of the state whose salary is set by the Constitution of Nebraska or by statute. An employee of any local government or entity, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act, shall not be considered a state employee for purposes of this section.

(3)(a) The Director of Personnel may use an existing publicly accessible database of youth mentoring programs as a list of approved youth mentoring programs for purposes of this section.

(b) The director shall only use a database as the list of approved programs if programs are added to the database based on nationally recognized standards for quality youth mentoring programs that address elements of effective practice for mentoring, including, but not limited to:

- (i) Recruiting prospective mentors and mentees;
- (ii) Screening prospective mentors and mentees;
- (iii) Training prospective mentors, prospective mentees, and the parents or guardians of prospective mentees;
- (iv) Matching mentors with mentees and initiating formal mentoring relationships;

- (v) Monitoring and supporting mentoring relationships; and
- (vi) Bringing mentoring relationships to closure.

(c) The director shall only use a database as the list of approved programs if such database is limited to programs that conduct criminal background checks on prospective adult mentors, including, but not limited to, searches of the central registry maintained by the sex offender registration and community notification division of the Nebraska State Patrol pursuant to section 29-4004.

(d) Each state agency is responsible for verifying that the youth mentoring program for which a state employee is requesting an adjusted work schedule is on the list of approved youth mentoring programs.

(e) If no publicly accessible database can be found that meets the criteria in this section after a reasonable search, the director shall not have any further obligation under this section.

(4) An agency may deny a request to adjust a work schedule pursuant to this section if:

(a) The activity for which the adjustment is requested is not part of an approved youth mentoring program;

(b) The request was not submitted in accordance with agency procedures;

(c) The most recent performance review for the state employee making the request is unsatisfactory;

(d) After considering reasonable alternatives and options, it is determined that the absence of the employee will interfere with agency operations or services; or

(e) For any other reason the agency deems that the absence of the state employee would not be in the best interests of the agency.

(5) The director may adopt and promulgate such rules and regulations as necessary to administer this section.

Source: Laws 2019, LB511, § 1.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

81-1393 Repealed. Laws 2005, LB 54, § 38.

81-1394 Participation in employee discount program; authorized.

Notwithstanding any other provision of law, any state employee may participate in an employee discount program administered by the personnel division of the Department of Administrative Services. Any such program shall be made available to all state employees.

Source: Laws 2009, LB167, § 1.

(e) SEXUAL HARASSMENT

81-1395 Report of sexual harassment to Department of Administrative Services; duties; confidentiality; prohibited actions.

(1) A state employee may make a report of sexual harassment to the Department of Administrative Services. The department shall investigate the report or ensure that an investigation is conducted by the agency which employs the reporting employee.

(2) The department and the agency which employs the reporting employee shall maintain the confidentiality of the reporting employee and any other person making a report of sexual harassment or participating in an investigation or internal agency proceeding under this section except:

(a) When disclosure is authorized in writing by such employee or other person;

(b) The identity of such employee or other person may be disclosed to the individual alleged to have committed the sexual harassment; and

(c) When necessary for conducting the investigation or imposing discipline.

(3) The agency employing the reporting employee shall not retaliate or discriminate against the reporting employee or any other person for:

(a) Initiating or participating in the making of a report of sexual harassment; or

(b) Testifying, assisting, or participating in an investigation, proceeding, or action concerning the sexual harassment.

Source: Laws 2018, LB791, § 5.

(f) CRIMINAL HISTORY RECORD CHECKS

81-1396 Employee with access and use of protected tax information; criminal history record checks; required, when; procedure.

(1) Any employee of a state agency whom the agency determines may directly access and use protected federal or state tax information as part of the employee’s authorized duties shall be fingerprinted and undergo state and national criminal history record checks.

(2) The Nebraska State Patrol is authorized to submit the fingerprints of such employees to the Federal Bureau of Investigation and to issue a report to the employing state agency that includes the criminal history record information concerning the employee.

(3) The employing state agency shall use the information obtained from fingerprinting and an employee’s criminal history only for purposes of verifying the employee’s identification and determining the employee’s suitability to perform the duties which are the basis for requiring that the employee submit to fingerprinting and state and national criminal history record checks.

(4) The cost of fingerprinting and state and national criminal history record information checks shall be paid by the employing state agency.

(5) For purposes of this section, state agency means the Department of Banking and Finance, the Department of Economic Development, the Department of Health and Human Services, the Department of Labor, and the Department of Revenue.

Source: Laws 2022, LB769, § 1.

ARTICLE 14

LAW ENFORCEMENT

Cross References

Nebraska Commission on Law Enforcement and Criminal Justice, continuing legal education for county attorneys and deputy county attorneys, duties, see section 23-1218 et seq.

Nebraska State Patrol, see Chapter 81, article 20.

Pursuit of vehicles, see sections 29-211 and 81-8,215.01.

LAW ENFORCEMENT

(a) LAW ENFORCEMENT TRAINING

- Section
- 81-1401. Terms, defined.
 - 81-1402. Nebraska Law Enforcement Training Center; created; purposes.
 - 81-1402.01. Individual training academies authorized.
 - 81-1403. Council; duties; law enforcement agency; duties; administrative fine.
 - 81-1404. Director of Nebraska Law Enforcement Training Center; duties.
 - 81-1405. Employees; eligible for other state or political subdivision employment.
 - 81-1406. Nebraska Police Standards Advisory Council; created; purpose and duties; meetings.
 - 81-1407. Nebraska Police Standards Advisory Council; members; qualifications; terms; appointment; removal; hearing.
 - 81-1408. Membership on council; other public office or employment.
 - 81-1409. Council; members; compensation; expenses.
 - 81-1410. Training academies; admission; criteria.
 - 81-1410.01. Training academies; de-escalation training.
 - 81-1411. Training center; admission; requirements; waive; when.
 - 81-1412. Law enforcement officer; handgun proficiency; records.
 - 81-1412.01. Handgun qualification test.
 - 81-1412.02. Handgun qualification register; requirements; fine.
 - 81-1413. Training center; tuition, fees, and expenses; how paid.
 - 81-1413.01. Nebraska Law Enforcement Training Center Cash Fund; created; purpose; investment.
 - 81-1414. Law enforcement officers; certificate or diploma; when required; noncertified conditional officer; appointment; field training officers.
 - 81-1414.01. Repealed. Laws 2012, LB817, § 21.
 - 81-1414.02. Repealed. Laws 2012, LB817, § 21.
 - 81-1414.03. Nebraska Law Enforcement Training Center; cost of planning and construction; limitations.
 - 81-1414.04. Nebraska Law Enforcement Training Center Fund; created; deposits; investment.
 - 81-1414.05. Nebraska Law Enforcement Training Center Fund; proceeds; how expended.
 - 81-1414.06. Nebraska Law Enforcement Training Center; appropriations.
 - 81-1414.07. Continuing education requirements; course offerings.
 - 81-1414.08. Continuing education requirements; certified reports; central registry.
 - 81-1414.09. Continuing education requirements; failure to complete; effect; fine.
 - 81-1414.10. Continuing education requirements; suspended while on active duty with armed forces.
 - 81-1414.11. Employment of law enforcement officer; waiver to prospective employer; contents; form; former employer; duties.
 - 81-1414.12. Law enforcement officer; psychological evaluation; when required.
 - 81-1414.13. Law enforcement officer; reciprocity program; approval; application; council; powers and duties.
 - 81-1414.14. Law enforcement officer misconduct; complaints; policy required; investigations; agency powers and duties.
 - 81-1414.15. Employment of law enforcement officer; submit personnel change in status form; record; contents; report of termination or resignation in lieu of termination.
 - 81-1414.16. Law enforcement officer; chokehold prohibited; carotid restraint control hold prohibited; exceptions; report required.
 - 81-1414.17. Use of excessive force; policy of intervention required; commission; duties.
 - 81-1414.18. Law enforcement agencies; accreditation required; Nebraska Police Improvement and Professionalism Fund; created; use; investment; grant program for accreditation costs.
 - 81-1414.19. Law enforcement officers; list on website, when; challenge; procedure.
- (b) NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE
- 81-1415. Commission, defined.
 - 81-1416. Nebraska Commission on Law Enforcement and Criminal Justice; created; purpose.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
81-1417. Commission; members; qualifications; appointment; terms; special committee.
81-1418. Commission; members; terms; vacancy.
81-1419. Commission; chairperson; designated by Governor.
81-1420. Commission; membership; no disqualification to other public office or employment or forfeiture thereof.
81-1421. Commission; members; compensation; expenses.
81-1422. Commission; members; quorum.
81-1423. Commission; powers; duties.
81-1424. Commission; executive director; appointment; qualifications; compensation; removal; hearing.
81-1425. Executive director; powers; duties.
81-1426. Public officers and agencies; information, records, reports; furnish to commission; violation; penalty.
81-1426.01. County Justice Reinvestment Grant Program; created; grant recipient; duties; report.
81-1427. Director of Juvenile Diversion Programs; appointment; duties.
81-1428. Law Enforcement Improvement Fund; created; use; investment.
81-1429. Law Enforcement Improvement Fund; how funded.
81-1429.01. Crimes Against Children Fund; created; use; investment; termination.
81-1429.02. Human Trafficking Victim Assistance Fund; created; use; investment.
81-1429.03. Sexual assaults; forensic medical examination; payment; forensic DNA testing; requirements; Sexual Assault Payment Program; administrator; duties; Sexual Assault Payment Program Cash Fund; created; use; investment.

(c) HUMAN TRAFFICKING

- 81-1430. Task force; established; members; terms; duties; quorum; report; Department of Labor; posters.
81-1431. Training regarding issues in human trafficking; task force; duties.
81-1432. Repealed. Laws 1972, LB 1114, § 5.
81-1433. Repealed. Laws 1980, LB 684, § 22.
81-1434. Repealed. Laws 1980, LB 684, § 22.
81-1435. Repealed. Laws 1980, LB 684, § 22.
81-1436. Repealed. Laws 1980, LB 684, § 22.
81-1437. Repealed. Laws 1980, LB 684, § 22.

(d) LAW ENFORCEMENT RESERVE FORCES

- 81-1438. Law enforcement reserve force; members; appointment; prohibited acts; functions allowed.
81-1439. Law enforcement reserve force; commission; duties; delegation of responsibilities; continuing education requirements; reserve force manual; contents.
81-1440. Law enforcement reserve officers; serve as peace officers; when; restrictions.
81-1441. Law enforcement reserve officer; monetary assistance; hospital and medical benefits.
81-1442. Law enforcement reserve officer; not eligible for participation in certain pension funds or retirement systems.
81-1443. Law enforcement reserve officers; rights and duties when activated; weapon, when carried; subordinate to regular force officers.
81-1444. Law enforcement reserve officer; bond.
81-1445. Reserve officers; supplementary capacity; not to reduce or assume duties of peace officers.
81-1446. Reserve peace officers; procedure for appointment.

(e) OFFICE OF VIOLENCE PREVENTION

- 81-1447. Office of Violence Prevention; established; director; advisory council; members; terms; vacancy.
81-1448. Membership on advisory council; no effect on other office or position.
81-1449. Advisory council members; expenses.

Section	
81-1450.	Office of Violence Prevention; director; administration and supervision; responsibilities; report; advisory council; meetings; duties.
81-1451.	Violence Prevention Cash Fund; created; administration; investment.
	(f) BODY-WORN CAMERAS
81-1452.	Body-worn cameras; terms, defined.
81-1453.	Body-worn cameras; model policy; development and distribution; contents; law enforcement agency; duties.
81-1454.	Body-worn camera policy; contents.
	(g) EYEWITNESS SUSPECT IDENTIFICATION
81-1455.	Eyewitness suspect identification; written policy; contents; Nebraska Commission on Law Enforcement and Criminal Justice; duties.
	(h) EMPLOYMENT RECORDS
81-1456.	Transferred to section 81-1414.15.
81-1457.	Transferred to section 81-1414.11.
	(i) LAW ENFORCEMENT ATTRACTION AND RETENTION ACT
81-1458.	Act, how cited.
81-1459.	Legislative findings; purpose of act.
81-1460.	Terms, defined.
81-1461.	Incentive payments; application; eligibility; tiers.
81-1462.	Grants for law enforcement agencies; eligibility; application.
81-1463.	Rules and regulations.
81-1464.	Legislative intent.
81-1465.	Act; termination.

(a) LAW ENFORCEMENT TRAINING

81-1401 Terms, defined.

For purposes of sections 81-1401 to 81-1414.19, unless the context otherwise requires:

- (1) Class I railroad means a rail carrier classified as Class I pursuant to 49 C.F.R. part 1201 1-1;
- (2) Commission means the Nebraska Commission on Law Enforcement and Criminal Justice;
- (3) Council means the Nebraska Police Standards Advisory Council;
- (4) Director means the director of the Nebraska Law Enforcement Training Center;
- (5) Felony means a crime punishable by imprisonment for a term of more than one year or a crime committed outside of Nebraska which would be punishable by imprisonment for a term of more than one year if committed in Nebraska;
- (6) Handgun means any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand;
- (7) Law enforcement agency means the police department or the town marshal in incorporated municipalities, the office of sheriff in unincorporated areas, the Nebraska State Patrol, and Class I railroad police departments;
- (8)(a) Law enforcement officer means any person who has successfully completed an entry-level law enforcement certification from a training academy and who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of the state or any political

subdivision of the state for more than one hundred hours per year and is authorized by law to make arrests and includes, but is not limited to:

- (i) A full-time or part-time member of the Nebraska State Patrol;
 - (ii) A county sheriff;
 - (iii) A full-time or part-time employee of a county sheriff's office;
 - (iv) A full-time or part-time employee of a municipal or village police agency;
 - (v) A full-time or part-time Game and Parks Commission conservation officer;
 - (vi) A full-time or part-time deputy state sheriff;
 - (vii) A full-time employee of an organized and paid fire department of any city of the metropolitan class who is an authorized arson investigator and whose duties consist of determining the cause, origin, and circumstances of fires or explosions while on duty in the course of an investigation;
 - (viii) A member of a law enforcement reserve force appointed in accordance with section 81-1438; or
 - (ix) A full-time Class I railroad police officer;
- (b) Law enforcement officer includes a noncertified conditional officer;
- (c) Law enforcement officer does not include employees of the Department of Correctional Services, probation officers under the Nebraska Probation System, parole officers appointed by the Director of Supervision and Services of the Division of Parole Supervision, or employees of the Department of Revenue under section 77-366; and
- (d) Except for a noncertified conditional officer, a law enforcement officer shall possess a valid law enforcement officer certificate or diploma, as established by the council, in order to be vested with the authority of this section;
- (9) Misdemeanor crime of domestic violence has the same meaning as in section 28-1206;
- (10) Noncertified conditional officer means a person appointed pursuant to subsection (6) of section 81-1414;
- (11) Serious misconduct means improper or illegal actions taken by a law enforcement officer that have a rational connection with the person's fitness or capacity to serve as a law enforcement officer and includes, but is not limited to:
- (a) Conviction of a felony or misdemeanor crime of domestic violence;
 - (b) Fabrication of evidence;
 - (c) Repeated substantiated allegations of the use of excessive force;
 - (d) Acceptance of a bribe;
 - (e) Commission of fraud or perjury; or
 - (f) Sexual assault;
- (12) Training academy means:
- (a) The training center; or
 - (b) Another council-approved law enforcement training facility which:
 - (i) Offers certification training that meets or exceeds the certification training curriculum of the training center; and
 - (ii) Is operated and maintained by a law enforcement agency or by multiple law enforcement agencies pursuant to the Interlocal Cooperation Act;

(13) Training center means the Nebraska Law Enforcement Training Center; and

(14) Training school means a public or private institution of higher education, including the University of Nebraska, the Nebraska state colleges, and the community colleges of this state, that offers training in a council-approved pre-certification course.

Source: Laws 1969, c. 773, § 1, p. 2925; Laws 1971, LB 929, § 1; Laws 1979, LB 565, § 1; Laws 1980, LB 834, § 63; Laws 1981, LB 205, § 3; Laws 1986, LB 529, § 53; Laws 1996, LB 1055, § 11; Laws 1999, LB 36, § 38; Laws 1999, LB 205, § 1; Laws 2000, LB 994, § 2; Laws 2007, LB334, § 105; Laws 2012, LB817, § 5; Laws 2013, LB538, § 1; Laws 2018, LB841, § 14; Laws 2021, LB51, § 4; Laws 2022, LB1241, § 1.

Cross References

Interlocal Cooperation Act, see section 13-801.

81-1402 Nebraska Law Enforcement Training Center; created; purposes.

There is hereby created the Nebraska Law Enforcement Training Center under the supervision and control of the council. The purposes of the training center shall be to (1) test all law enforcement candidates on behalf of the council to ensure that they meet pre-certification and certification requirements, (2) oversee and monitor other training schools and training academies to ensure that pre-certification and certification requirements as set by the council are being met, and (3) conduct pre-certification programs, certification programs, and advanced law enforcement training programs as directed by the council.

Source: Laws 1969, c. 773, § 2, p. 2926; Laws 1971, LB 929, § 2; Laws 2000, LB 994, § 3.

81-1402.01 Individual training academies authorized.

The Nebraska Commission on Law Enforcement and Criminal Justice and the Nebraska State Patrol are authorized to maintain the independent and distinct operation of their individual training academies notwithstanding any provision of law, rule, or regulation.

Source: Laws 2000, LB 994, § 1.

81-1403 Council; duties; law enforcement agency; duties; administrative fine.

Subject to review and approval by the commission, the council shall:

(1) Adopt and promulgate rules and regulations for law enforcement pre-certification, certification, continuing education, and training requirements. Such rules and regulations may include the authority to impose a fine on any individual, political subdivision, or agency who or which violates sections 81-1401 to 81-1414.19 or any rules and regulations adopted and promulgated thereunder. The fine for each separate violation of such sections or of any such rule or regulation shall not exceed either (a) a one-time maximum fine of five hundred dollars or (b) a maximum fine of one hundred dollars per day until the individual, political subdivision, or agency complies with such rules or regulations;

(2) Adopt and promulgate rules and regulations for the operation of the training center;

(3) Recommend to the executive director of the commission the names of persons to be appointed to the position of director of the training center;

(4) Establish requirements for satisfactory completion of pre-certification programs, certification programs, and advanced training programs;

(5) Issue certificates or diplomas attesting satisfactory completion of pre-certification programs, certification programs, and advanced training programs;

(6) Revoke or suspend such certificates or diplomas according to rules and regulations adopted and promulgated by the council pursuant to sections 81-1401 to 81-1414.19 for reasons which shall include, but not be limited to:

(a) Final conviction of or pleading guilty or nolo contendere to a:

(i) Felony violation of state or federal law;

(ii) Misdemeanor crime of domestic violence; or

(iii) Misdemeanor violation of state or federal law, if the violation has a rational connection with the officer's fitness or capacity to serve as a law enforcement officer;

(b) Serious misconduct; or

(c) A violation of the officer's oath of office, code of ethics, or statutory duties;

(7) The council shall adopt and promulgate rules and regulations that:

(a) Provide for the revocation of a certificate or diploma without a hearing upon the certificate or diploma holder's final conviction of or pleading guilty or nolo contendere to a felony or misdemeanor described in subdivision (6) of this section; and

(b) Include a procedure for hearing appeals of any person who feels that the revocation or suspension of his or her certificate or diploma was in error;

(8) Set the tuition and fees for the training center and all officers of other training academies not employed by that training academy's agency. The tuition and fees set for the training center pursuant to this subdivision shall be adjusted annually pursuant to the training center budget approved by the Legislature. All other tuition and fees shall be set in order to cover the costs of administering sections 81-1401 to 81-1414.19. All tuition and fees shall be remitted to the State Treasurer for credit to the Nebraska Law Enforcement Training Center Cash Fund;

(9) Annually certify any training academies providing a basic course of law enforcement training which complies with the qualifications and standards promulgated by the council and offering training that meets or exceeds training that is offered by the training center. The council shall set the maximum and minimum applicant enrollment figures for training academies training non-agency officers;

(10) Extend the programs of the training center throughout the state on a regional basis;

(11) Establish the qualifications, standards, and continuing education requirements and provide the training required by section 81-1439; and

(12) Do all things necessary to carry out the purpose of the training center, except that functional authority for budget and personnel matters shall remain with the commission.

Any administrative fine imposed under this section shall constitute a debt to the State of Nebraska which may be collected by lien foreclosure or sued for and recovered in any proper form of action by the office of the Attorney General in the name of the State of Nebraska in the district court of the county where the final agency action was taken. All fines imposed by the council shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1969, c. 773, § 3, p. 2926; Laws 1971, LB 929, § 3; Laws 1984, LB 673, § 1; Laws 1988, LB 666, § 1; Laws 1994, LB 971, § 3; Laws 2000, LB 994, § 4; Laws 2005, LB 115, § 1; Laws 2011, LB390, § 16; Laws 2012, LB817, § 6; Laws 2013, LB538, § 2; Laws 2021, LB51, § 5.

The statutory authority to suspend or revoke law enforcement officers' certificates or diplomas upon a finding of serious misconduct was one factor in finding that complaints about officer misconduct filed with the Nebraska Commission on Law Enforcement and Criminal Justice are absolutely privileged. *Elbert v. Young*, 312 Neb. 58, 977 N.W.2d 892 (2022).

A State Patrol trooper cannot continually engage in pattern of assaultive behavior toward his or her spouse and not be in violation of subsection (5) of this section. *Hauser v. Nebraska Police Stds. Adv. Council*, 269 Neb. 541, 694 N.W.2d 171 (2005).

A State Patrol trooper is not relieved of compliance with subsection (5) simply because he or she is "off duty." *Hauser v. Nebraska Police Stds. Adv. Council*, 269 Neb. 541, 694 N.W.2d 171 (2005).

Evidence of a State Patrol trooper's neglect of duty is enough to justify the revocation of his or her law enforcement certifi-

cate. *Hauser v. Nebraska Police Stds. Adv. Council*, 269 Neb. 541, 694 N.W.2d 171 (2005).

It is not necessary to prove both neglect of duty and emotional incapacity in order to revoke a law enforcement certificate. *Hauser v. Nebraska Police Stds. Adv. Council*, 269 Neb. 541, 694 N.W.2d 171 (2005).

The Nebraska State Patrol's code of conduct, code of ethics, and oath of office may be used as guidelines for evaluating and making determinations as to the duties and conduct expected of a State Patrol trooper and in deciding whether a law enforcement certificate should be revoked pursuant to subsection (5) of this section. *Hauser v. Nebraska Police Stds. Adv. Council*, 269 Neb. 541, 694 N.W.2d 171 (2005).

It is the Nebraska Commission on Law Enforcement and Criminal Justice, not the Nebraska Police Standards Advisory Council, which is charged with the promulgation, adoption, and filing with the Secretary of State of rules and regulations. *Hauser v. Nebraska Police Stds. Adv. Council*, 264 Neb. 605, 650 N.W.2d 760 (2002).

81-1404 Director of Nebraska Law Enforcement Training Center; duties.

The director of the Nebraska Law Enforcement Training Center shall devote full time to the duties of the office and shall not engage in any other business or profession or hold any other state public office. The director shall be responsible to the executive director of the commission for the operation of the training center and the conducting of training programs. The director of the training center shall:

- (1) Appoint and remove for cause such employees as may be necessary for the operation of the training center and delegate appropriate powers and duties to them;
- (2) Conduct research for the purpose of evaluating and improving the effectiveness of law enforcement training programs;
- (3) Consult with the council on all matters pertaining to training schools, training academies, and continuing education;
- (4) Supervise the administration of the pre-certification competency test;
- (5) Ensure that all council rules and regulations with respect to law enforcement pre-certification, certification, continuing education, and training requirements are implemented and complied with and, in that capacity, act as the director of standards for the council;

(6) Advise the council concerning the operation of the training center, the requirements, as set by the council, for all training schools and training academies, and the formulation of training policies and regulations;

(7) Issue diplomas to students who successfully complete the prescribed basic course of study; and

(8) Maintain continuing education records in a central registry.

Source: Laws 1969, c. 773, § 4, p. 2927; Laws 1971, LB 929, § 4; Laws 1994, LB 971, § 4; Laws 2000, LB 994, § 5; Laws 2011, LB390, § 17; Laws 2012, LB817, § 7.

81-1405 Employees; eligible for other state or political subdivision employment.

Notwithstanding any other provision of law to the contrary, employees of the training center other than the director shall be eligible to be employed by any other state agency or department or by any political subdivision of the state.

Source: Laws 1969, c. 773, § 5, p. 2927.

81-1406 Nebraska Police Standards Advisory Council; created; purpose and duties; meetings.

There is hereby created the Nebraska Police Standards Advisory Council. The council shall be a special standing committee of the commission with the express purpose of overseeing all training schools and training academies and the operation of the training center and ensuring that all rules, regulations, and policies with respect to pre-certification, certification, continuing education, and training requirements are implemented and complied with. The council shall act for the commission in all matters relating to law enforcement training, the training center, and continuing education but shall not have any other powers and duties with respect to the commission or any of its duties. The council shall conduct regular meetings in order to carry out its statutory duties.

Source: Laws 1969, c. 773, § 6, p. 2927; Laws 1994, LB 971, § 5; Laws 2000, LB 994, § 6; Laws 2012, LB817, § 8.

It is the Nebraska Commission on Law Enforcement and Criminal Justice, not the Nebraska Police Standards Advisory Council, which is charged with the promulgation, adoption, and filing with the Secretary of State of rules and regulations. *Hauser v. Nebraska Police Stds. Adv. Council*, 264 Neb. 605, 650 N.W.2d 760 (2002).

81-1407 Nebraska Police Standards Advisory Council; members; qualifications; terms; appointment; removal; hearing.

(1)(a) The Nebraska Police Standards Advisory Council shall consist of nine members appointed by the Governor.

(b) Eight of the members shall be full-time officers or employees of a law enforcement agency. Such members shall include:

(i) A representative chief of police or his or her designee from a city of the metropolitan class;

(ii) A representative chief of police or his or her designee from a city of the primary class;

(iii) A representative chief of police or his or her designee from a city of the first class;

(iv) A representative chief of police or his or her designee from a city of the second class or village;

(v) A county sheriff or his or her designee from a county having a population of forty thousand or more;

(vi) A county sheriff or his or her designee from a county having a population of forty thousand or less;

(vii) A member of the Nebraska State Patrol; and

(viii) A sworn law enforcement officer holding the rank of sergeant or below.

(c) The ninth member shall be a member of the Jail Standards Board or a person from the public at large.

(2) Except as otherwise provided in this subsection, the members of the council shall serve for terms of four years each. Within ninety days after August 28, 2021, the Governor shall appoint the new members added by Laws 2021, LB51. Of such members one shall serve a term of three years and one shall serve a term of four years. Each succeeding member shall be appointed for a term of four years. A member may be reappointed at the expiration of his or her term. Any vacancy occurring otherwise than by expiration of a term shall be filled, for the remainder of the unexpired term, in the same manner as the original appointment. The council shall select one of its members as chairperson.

(3) No member of the council shall serve beyond the time when he or she holds the office or employment by reason of which he or she was initially eligible for appointment. A member may be removed from the council for cause upon notice and an opportunity to be heard at a public hearing before the Governor. After the hearing, the Governor shall file in the office of the Secretary of State a complete statement of the charges, his or her findings and disposition, together with a complete record of the proceedings.

Source: Laws 1969, c. 773, § 7, p. 2927; Laws 1994, LB 971, § 6; Laws 2021, LB51, § 6.

81-1408 Membership on council; other public office or employment.

Notwithstanding any provision of law, ordinance, or charter provision to the contrary, membership on the council shall not disqualify any member from holding any other public office or employment, or cause the forfeiture thereof.

Source: Laws 1969, c. 773, § 8, p. 2928.

81-1409 Council; members; compensation; expenses.

The members of the council shall serve without compensation, but they shall be entitled to receive reimbursement for expenses incurred incident to such service as provided in sections 81-1174 to 81-1177.

Source: Laws 1969, c. 773, § 9, p. 2928; Laws 1981, LB 204, § 193; Laws 2020, LB381, § 115.

81-1410 Training academies; admission; criteria.

(1) The council shall adopt and promulgate rules and regulations governing the minimum admission requirements for all training academies. Until the rules and regulations become effective, the admission requirements existing on July 13, 2000, pertaining to the training center shall be applicable to all training academies, except the Nebraska State Patrol. The rules and regulations shall establish admission criteria which shall include, but not be limited to, (a)

physical, mental, and emotional fitness and (b) disclosure of any criminal history. The council may also adopt a priority system for admission to the training center and the other training academies conducting certification training for officers not employed by that training academy's agency.

(2) The council may admit an applicant to any training academy for entry-level law enforcement certification when the applicant meets the following minimum criteria:

(a) The applicant is or will be a citizen of the United States prior to the completion of certification;

(b) The applicant will reach the age of twenty-one years prior to the completion of the training;

(c) The applicant has been fingerprinted and a search has been made of local, state, and national fingerprint files for disclosure of any criminal record and the results furnished to the training center;

(d) The applicant has a valid motor vehicle operator's or chauffeur's license;

(e) The applicant has vision correctable to 20/30 and has no evidence of an irreversible disease which will affect the person's sight;

(f) The applicant has been pardoned or has never been convicted by any state or the United States of a crime punishable by imprisonment in a penitentiary for a term of one year or more or by any foreign government of a crime which would be punishable by imprisonment for a term of one year or more if committed in Nebraska or has had a conviction for such an offense overturned or reversed by a court of competent jurisdiction;

(g) The applicant possesses good character as determined by a thorough background investigation;

(h) The applicant (i)(A) is a high school graduate or (B) possesses a general educational development certificate and (ii) is able to read, write, and understand the English language at the eleventh grade level;

(i) The applicant has not been convicted of driving while intoxicated in the two years immediately preceding admission; and

(j) The applicant has been examined by a licensed physician one year or less prior to admission and has been certified by the physician to have met the physical requirements, as determined by the council, necessary to fulfill the responsibilities of a law enforcement officer and successfully complete the requirements for training.

(3) In all cases in which it is necessary to acquire documents or other information to determine whether or not an applicant meets any of the requirements of subsection (2) of this section, such copies or other information shall be supplied by the applicant at his or her own expense.

Source: Laws 1969, c. 773, § 10, p. 2928; Laws 1988, LB 362, § 1; Laws 1994, LB 971, § 7; Laws 2000, LB 994, § 7.

81-1410.01 Training academies; de-escalation training.

As part of entry-level law enforcement certification, each training academy shall require completion of de-escalation training. The de-escalation training shall include training related to mental health behaviors, substance abuse, anti-bias, implicit bias, and communicating with a person in a crisis.

Source: Laws 2021, LB51, § 7.

81-1411 Training center; admission; requirements; waive; when.

Upon the request of any sheriff, chief of police, or any other person having an equivalent title who is appointed or employed by the state or a subdivision thereof to exercise supervisory authority over law enforcement officers, the council may waive requirements for admission to the training center.

Source: Laws 1969, c. 773, § 11, p. 2929; Laws 1971, LB 929, § 5; Laws 1994, LB 971, § 8.

81-1412 Law enforcement officer; handgun proficiency; records.

(1) In order to maintain proficiency in handgun operation, a law enforcement officer shall qualify at least once every calendar year with a handgun of the same make and model as the handgun which is the primary handgun to be carried by the law enforcement officer while on duty. Such qualification shall take place on a handgun shooting course submitted by the director and approved by the council.

(2) Qualification on a handgun shooting course shall be conducted by a qualified firearm instructor pursuant to rules and regulations adopted and promulgated by the council. Law enforcement agencies that do not have a qualified firearm instructor may share qualification with other law enforcement agencies that have a qualified firearm instructor or may utilize the Nebraska Association of Law Enforcement Firearm Instructors which may, at no cost, assist such law enforcement agencies by supplying a qualified firearm instructor for a handgun shooting course. The council shall adopt and promulgate rules and regulations for requalification for the case in which a law enforcement officer fails to qualify. The council shall adopt and promulgate rules and regulations that address the status of a law enforcement officer and his or her limitations, if any, if the law enforcement officer fails the handgun qualification. The council shall adopt and promulgate rules and regulations whereby the council may grant a waiver of the handgun qualification and determine the status and, if any, limitations of, a law enforcement officer in cases in which the law enforcement officer demonstrates an extreme hardship.

(3) Each law enforcement agency shall maintain its own records as to the handgun qualifications of its law enforcement officers.

Source: Laws 1996, LB 1055, § 13; Laws 1999, LB 205, § 2.

81-1412.01 Handgun qualification test.

The minimum handgun qualification test shall consist of a handgun shooting course requiring the firing of fifty rounds of ammunition for completion of the course and the handgun shooting course prescribed target shall be the Federal Bureau of Investigation's "Q" target. The target shall be fired upon at a distance or at distances prescribed by the council. The method of scoring on the handgun shooting course shall be "pass/fail". "Pass" means a score of seventy percent or higher. A law enforcement officer participating in the minimum handgun qualification test shall use a handgun of the same make and model as the handgun which he or she will be authorized to use while on duty. The council shall adopt and promulgate rules and regulations governing the handguns to be used in the handgun qualification when a law enforcement officer is not authorized to use a handgun on duty.

Source: Laws 1996, LB 1055, § 14; Laws 1999, LB 205, § 3.

81-1412.02 Handgun qualification register; requirements; fine.

The person in charge of any agency employing law enforcement officers shall submit to the council a register of full-time, part-time, and reserve law enforcement officers employed by his or her agency and whether each law enforcement officer passed or failed the handgun qualification. The council shall adopt and promulgate rules and regulations governing the submission of agency registers. The register shall include the name of each law enforcement officer, whether the law enforcement officer passed or failed the handgun qualification, the name of the instructor who administered the course, the date of handgun qualification, and the type of handgun used in handgun qualification. An agency that fails to submit a handgun qualification register pursuant to this section shall be subject to a fine of one hundred dollars for each day of noncompliance. All fines collected under this section shall be remitted to the State Treasurer for credit to the Law Enforcement Improvement Fund.

Source: Laws 1996, LB 1055, § 15; Laws 1999, LB 205, § 4; Laws 2012, LB817, § 9.

81-1413 Training center; tuition, fees, and expenses; how paid.

Tuition, fees, and such other expenses incurred in the pre-certification and certification training of applicants shall be the responsibility of the person or his or her employing agency. Such expenses also may be financed by the training center through other appropriated funds as determined by the council.

Source: Laws 1969, c. 773, § 13, p. 2930; Laws 1994, LB 971, § 9; Laws 2000, LB 994, § 8; Laws 2004, LB 1162, § 3; Laws 2006, LB 746, § 7; Laws 2010, LB844, § 1.

81-1413.01 Nebraska Law Enforcement Training Center Cash Fund; created; purpose; investment.

There is hereby created the Nebraska Law Enforcement Training Center Cash Fund. All receipts for tuition and fees paid to the Nebraska Law Enforcement Training Center shall be paid into the state treasury and by the State Treasurer credited to the Nebraska Law Enforcement Training Center Cash Fund. Such fund shall be used to defray the expenses of the training center, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Law Enforcement Training Center 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 1971, LB 223, § 1; Laws 2009, First Spec. Sess., LB3, § 75.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1414 Law enforcement officers; certificate or diploma; when required; noncertified conditional officer; appointment; field training officers.

(1) On and after January 1, 1972, law enforcement officers already serving under permanent appointment shall not be required to meet any requirement of subsection (2) of this section as a condition of tenure or continued employment.

(2) Except as provided in subsection (6) of this section, on and after January 1, 1972, no person shall receive appointment as a law enforcement officer unless such person:

(a) Has been awarded a certificate or diploma by the commission attesting to satisfactory completion of the minimum curriculum of the training center as established by the council;

(b) Has been awarded a certificate or diploma attesting to satisfactory completion of a training program approved by the council as equivalent to the curriculum in subdivision (2)(a) of this section; or

(c) Is certified as a law enforcement officer in another state and has successfully completed the requirements of a reciprocity program and been approved as provided in section 81-1414.13.

(3) The council shall deem the successful completion of the federal Bureau of Indian Affairs basic police training program as administered by the Federal Law Enforcement Training Center to constitute equivalent training under subdivision (2)(b) of this section, and officers certified by virtue of such equivalent training may exercise full law enforcement authority exclusively on tribal lands.

(4) Law enforcement officers who are promoted in rank shall satisfactorily complete such council-approved training within one year of such promotion.

(5) At the direction of the council, the director shall issue a certificate or diploma attesting to a compliance with the requirements of subsection (2), (3), or (4) of this section to any applicant who presents evidence of satisfactory completion of a council-approved training program.

(6)(a) A person who has not been awarded such a certificate or diploma may receive an appointment as a noncertified conditional officer subject to the provisions and requirements of this subsection.

(b) A noncertified conditional officer shall meet all requirements for admission to the training center and shall immediately apply for admission to the training center and enroll in the next available basic training class.

(c) A noncertified conditional officer may interact with the public and carry a firearm only after completion of the following training:

(i) Twenty-four hours of use of force training, including defensive tactics, arrest control, handcuffing, pat down, and complete searches;

(ii) Sixteen hours of firearms training and passing the minimum requirements for the handgun qualification course as provided in section 81-1412.01;

(iii) Twelve hours of arrest and search and seizure training with Fourth Amendment and Fifth Amendment training;

(iv) Eight hours of de-escalation training;

(v) Eight hours of mental health crisis training;

(vi) Eight hours of anti-bias and implicit bias training; and

(vii) Four hours of substance abuse training.

(d) The head of the law enforcement agency employing a noncertified conditional officer shall validate the completion of the training required under subdivision (6)(c) of this section to the council and the director of the training center.

(e) A noncertified conditional officer shall not interact with the public unless such officer is under the direct supervision of a field training officer approved by the law enforcement agency employing such noncertified conditional officer.

(f) A noncertified conditional officer shall not, without direct guidance and authorization from an approved field training officer:

- (i) Ride in a marked police cruiser;
- (ii) Make arrests;
- (iii) Interview suspects, victims, or witnesses; or
- (iv) Carry out any other law enforcement function.

(g) A noncertified conditional officer may be employed for a period not to exceed sixteen consecutive weeks. The council may extend such period as follows:

(i) Upon application by a noncertified conditional officer, the council may grant an extension not to exceed two consecutive weeks for good cause shown; and

(ii) The council shall grant an extension not to exceed sixteen consecutive weeks upon finding:

(A) That the noncertified conditional officer immediately applied for admission to the training center upon appointment under this subsection;

(B) That the training center denied the officer's enrollment in the next basic training class due to class size limitations or another reason that was not the fault of the officer;

(C) That the officer is enrolled in the next available basic training class; and

(D) That such extension would not be contrary to the requirements, limitations, or intent of this subsection.

(h) Failure to follow the requirements and restrictions of this subsection shall be considered a violation of the law and neglect of duty.

(i) The council may adopt and promulgate rules and regulations as necessary to carry out this subsection, including, but not limited to, rules and regulations permitting the virtual or online completion of required training and minimum standards and qualifications for field training officers. Prior to the expiration of ninety days after any such rules and regulations adopted become effective, any certified law enforcement officer with not less than three years of experience may serve as a field training officer.

Source: Laws 1969, c. 773, § 14, p. 2930; Laws 1971, LB 929, § 7; Laws 1994, LB 971, § 10; Laws 1996, LB 1055, § 12; Laws 1997, LB 161, § 1; Laws 2000, LB 994, § 9; Laws 2012, LB817, § 10; Laws 2021, LB51, § 8; Laws 2022, LB1241, § 2.

Under the facts of this case, a certificate for satisfactory completion of a training program relative to this section is not a condition precedent to a police officer's execution of official duties as a law enforcement officer. State v. Harney, 237 Neb. 512, 466 N.W.2d 540 (1991).

81-1414.01 Repealed. Laws 2012, LB817, § 21.

81-1414.02 Repealed. Laws 2012, LB817, § 21.

81-1414.03 Nebraska Law Enforcement Training Center; cost of planning and construction; limitations.

The cost of planning and construction of the Nebraska Law Enforcement Training Center, excluding interest on indebtedness of such building and

facilities, shall not exceed three million six hundred seventy-five thousand dollars plus the amount of investment income received by the Nebraska Law Enforcement Training Center Fund and by any of the bond or reserve funds established in connection with the city of Grand Island bond issue used to finance such building and facilities.

Source: Laws 1978, LB 877, § 3.

81-1414.04 Nebraska Law Enforcement Training Center Fund; created; deposits; investment.

There is hereby created, for the use of the commission, a fund to be known as the Nebraska Law Enforcement Training Center Fund, to consist of such money as appropriated to such fund by the Legislature. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1978, LB 877, § 4; Laws 1995, LB 7, § 126; Laws 2012, LB817, § 11.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1414.05 Nebraska Law Enforcement Training Center Fund; proceeds; how expended.

The proceeds of the Nebraska Law Enforcement Training Center Fund shall be expended by the commission, as and when appropriated by the Legislature, to be used for the costs and payments to be made by the State of Nebraska to the city of Grand Island for the use by the state of such building or facility or portion thereof and equipping the same.

Source: Laws 1978, LB 877, § 5; Laws 2012, LB817, § 12.

81-1414.06 Nebraska Law Enforcement Training Center; appropriations.

It is the intent of the Legislature of Nebraska to appropriate to the Nebraska Law Enforcement Training Center Fund an amount sufficient for the costs and payments to be made by the State of Nebraska to the city of Grand Island for the lease by the state of the Nebraska Law Enforcement Training Center including an amount sufficient for operation and maintenance and lease payments sufficient to pay the principal and interest on the bonds issued by the city of Grand Island to finance such building and to maintain any required amounts in any bond and bond reserve funds.

Source: Laws 1978, LB 877, § 6; Laws 1979, LB 593, § 16; Laws 1986, LB 258, § 40.

81-1414.07 Continuing education requirements; course offerings.

(1)(a) In order to maintain his or her professional status and serve the law enforcement profession, the community, and the residents of Nebraska, each law enforcement officer, other than a noncertified conditional officer, shall attend continuing education courses for the number of hours required in subdivision (1)(b) of this section in the areas of criminal justice and law enforcement during each calendar year beginning on January 1 and ending on

December 31. A law enforcement officer is not required to meet the continuing education requirements in the year in which he or she first becomes fully certified. A law enforcement officer may retire from service in good standing without meeting the continuing education requirements in the calendar year of the officer's retirement.

(b) The number of continuing education hours required under this subsection shall be:

(i) Until January 1, 2022, twenty hours;

(ii) Beginning January 1, 2022, and until January 1, 2023, twenty-eight hours; and

(iii) Beginning January 1, 2023, thirty-two hours.

(2) The annual continuing education required by this section shall include:

(a) Refresher courses on de-escalation, mental health, and substance abuse issues;

(b) A minimum of two hours of anti-bias and implicit bias training;

(c) Firearms;

(d) Officer wellness;

(e) Legal updates, including, but not limited to, legislative changes and First Amendment and Fourth Amendment issues;

(f) Vehicular pursuit policy review; and

(g) Any other training as determined by a law enforcement agency.

(3) Continuing education courses may be offered in the form of seminars, advanced education which may include college or university classes, conferences, instruction conducted within the law enforcement officer's law enforcement agency, or instruction conducted over the Internet. Continuing education shall be of a type which has application to and seeks to maintain and improve the skills of the law enforcement officer in carrying out his or her duties and responsibilities.

Source: Laws 2012, LB817, § 13; Laws 2020, LB924, § 3; Laws 2021, LB51, § 12; Laws 2022, LB1241, § 3.

81-1414.08 Continuing education requirements; certified reports; central registry.

Every law enforcement agency of the state or any of its political subdivisions shall send the director certified reports, on a form designed by the director, of the completion of the continuing education requirements by its law enforcement officers at such time and in such manner and detail as the director may prescribe. The director shall maintain a record of the reports in a central registry.

Source: Laws 2012, LB817, § 14.

81-1414.09 Continuing education requirements; failure to complete; effect; fine.

(1) Failure to complete the continuing education requirements of sections 81-1414.07 and 81-1414.08 shall result in the suspension of a law enforcement officer's certificate or diploma from the Nebraska Law Enforcement Training Center and a fine under section 81-1403 until the continuing education is

completed unless the officer is able to show good cause for not completing the continuing education requirements or unless a waiver has been granted.

(2) Any law enforcement officer who fails to fulfill his or her continuing education requirements for two consecutive reporting periods may have his or her certificate or diploma from the Nebraska Law Enforcement Training Center revoked and a fine incurred under section 81-1403 unless the officer is able to show good cause for not completing the continuing education requirements or unless a waiver has been granted.

Source: Laws 2012, LB817, § 15.

81-1414.10 Continuing education requirements; suspended while on active duty with armed forces.

The continuing education requirements of sections 81-1414.07 to 81-1414.09 shall be suspended for any law enforcement officer while he or she is on active duty with the armed forces of the United States.

Source: Laws 2012, LB817, § 16.

81-1414.11 Employment of law enforcement officer; waiver to prospective employer; contents; form; former employer; duties.

(1) A person who seeks employment as a law enforcement officer in this state shall provide a signed waiver to the prospective employer upon a conditional offer of employment. The waiver must expressly allow the prospective employer to contact the person's former employer or employers and obtain from each copies of any records created under subsections (2) and (3) of section 81-1414.15 or under comparable laws in another jurisdiction. The prospective employer is responsible for providing the waiver to each former employer.

(2) The waiver required by this section shall be executed on a form provided by the commission to all agencies in this state that employ or administer oaths of office to law enforcement officers certified by the commission.

(3) Within ten calendar days after receipt of the waiver, a former employer shall provide the prospective employer, along with other information required or allowed to be provided by law, copies of any records created under subsections (2) and (3) of section 81-1414.15. The names and any identifying information in any records created under subsections (2) and (3) of this section of any individual, witness, or law enforcement officer or officers other than the person who signed the waiver shall be confidential and not disclosed to the prospective employer.

(4) A prospective employer shall not hire as a law enforcement officer a person to whom subsection (1) of this section applies unless the prospective employer receives, from each of the person's former employers whether located in Nebraska or in another jurisdiction, copies of any records created under subsections (2) and (3) of section 81-1414.15 or such other jurisdiction's comparable laws.

(5) A prospective employer shall not hire as a law enforcement officer a person to whom subsection (1) of this section applies if such person's former employer has provided notice to the commission that the person's separation from the former employer occurred under circumstances that may justify revocation of the person's certification unless the commission has reviewed the

notification and issued a determination that the person shall retain such certification.

(6) For purposes of this section:

(a) Former employer means the law enforcement agency or other agency that currently employs or previously employed the person as a law enforcement officer, whether located in Nebraska or in another jurisdiction; and

(b) Prospective employer means the law enforcement agency or other agency that is considering hiring the person as a law enforcement officer.

Source: Laws 2018, LB791, § 2; R.S.Supp.,2020, § 81-1457; Laws 2021, LB51, § 9.

81-1414.12 Law enforcement officer; psychological evaluation; when required.

(1) Prior to hiring a person as a law enforcement officer, a law enforcement agency shall, if such person has not previously worked as a law enforcement officer in Nebraska, cause such person to undergo a psychological evaluation to determine fitness for duty. The cost of such evaluation shall be the responsibility of the agency.

(2) The council may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2021, LB51, § 10.

81-1414.13 Law enforcement officer; reciprocity program; approval; application; council; powers and duties.

(1) A person seeking certification under subdivision (2)(c) of section 81-1414 shall, in addition to any other applicable requirements of the commission or of sections 81-1401 to 81-1414.19, submit an application to the council and complete the requirements for a reciprocity program as provided in this section. The application shall be made under oath and made on a form provided by the council.

(2) The applicant shall attest to the following:

(a) That the applicant's certification as a law enforcement officer has not been revoked or suspended in another jurisdiction;

(b) That the applicant has not been convicted of or pleaded guilty or nolo contendere to a:

(i) Felony violation of state or federal law;

(ii) Misdemeanor crime of domestic violence; or

(iii) Misdemeanor violation of state or federal law, if the violation has a rational connection with the officer's fitness or capacity to serve as a law enforcement officer;

(c) That the applicant has not been separated from employment or disciplined for serious misconduct or a violation of the officer's oath of office, code of ethics, or statutory duties; and

(d) Any other information deemed necessary by the council.

(3) The applicant shall:

(a) Provide proof that the applicant meets the requirements listed in section 81-1410;

- (b) Pass a physical fitness test;
 - (c) Provide proof that the applicant was awarded a certificate or diploma attesting to satisfactory completion of a training program determined by the council to be equivalent to the curriculum in subdivision (2)(a) of section 81-1414; and
 - (d) Pass a reciprocity test approved by the council.
- (4) The council shall deny certification to an applicant under this section if the council finds that the applicant does not meet the requirements of this section, has omitted information required by this section, or has provided false or misleading information in the application. The council shall take action on an application within forty-five days after an applicant has completed all requirements under this section.
- (5) No law enforcement agency or other state or local agency shall hire as a law enforcement officer a person whose certification is denied under this section.
- (6) A person seeking certification under the reciprocity process provided in this section shall not exercise law enforcement authority until all certification process requirements have been met and the applicant has been certified, except that such person may serve as a noncertified conditional officer.
- (7) The reciprocity test shall be offered at least once per month if an applicant has requested and is qualified to take the test. The reciprocity test shall be offered at sites with independent proctors as approved by the council. The council may authorize satellite testing locations throughout Nebraska or in other states. The council shall develop a study guide for the test by July 1, 2022. The council shall provide such study guide to applicants.
- (8) The council may adopt and promulgate rules and regulations as necessary to carry out this section.

Source: Laws 2021, LB51, § 11; Laws 2022, LB1241, § 4.

81-1414.14 Law enforcement officer misconduct; complaints; policy required; investigations; agency powers and duties.

- (1) Each law enforcement agency or agency employing a law enforcement officer shall have a policy in its standard operating procedures regarding accepting and investigating complaints of law enforcement officer misconduct.
- (2) If an agency receives a complaint of law enforcement misconduct which could constitute grounds for revocation or suspension under subdivision (6) of section 81-1403:
- (a) The agency shall investigate the matter;
 - (b) The investigation shall be carried out by a law enforcement officer who has experience investigating allegations of misconduct by law enforcement officers; and
 - (c) The agency shall complete the investigation within one hundred days after the complaint. If criminal charges against the officer are being considered, the one-hundred-day deadline shall be tolled until a charging decision has been made and the prosecuting attorney has filed charges or declined to file charges. Upon completion of any investigation under this subsection, the agency shall report the results of the investigation to the executive director of the commission.

(3) If a law enforcement agency determines that a complaint investigated under subsection (2) of this section may be grounds for revocation of a law enforcement officer's certification, the agency shall forward the matter to the commission and the commission shall investigate such complaint. Any investigation by the commission shall be completed within one hundred eighty days after receipt of the complaint. If such investigation is not completed within one hundred eighty days, the investigation shall be deemed closed and the officer shall be notified. The commission may begin a new investigation if new information not available during the previous investigation is received and an investigation is warranted.

Source: Laws 2021, LB51, § 13.

The statutory duty to adopt policies regarding complaints of officer misconduct and to investigate misconduct that could constitute grounds for revocation or suspension was one factor

in finding that complaints about officer misconduct filed with internal affairs are absolutely privileged. *Elbert v. Young*, 312 Neb. 58, 977 N.W.2d 892 (2022).

81-1414.15 Employment of law enforcement officer; submit personnel change in status form; record; contents; report of termination or resignation in lieu of termination.

(1) The chief of police, sheriff, Superintendent of Law Enforcement and Public Safety, or the head administrator of a law enforcement agency or an agency employing a law enforcement officer shall submit a personnel change in status form as approved by the council to the director of the training center within seven calendar days after the date a law enforcement officer is hired by the agency or leaves employment with the agency.

(2) Each law enforcement agency or agency employing a law enforcement officer shall maintain a record regarding the reason or reasons for, and circumstances surrounding, a separation of service for each law enforcement officer employed by that agency. Such record shall be retained for five years following a law enforcement officer's separation from the agency.

(3) Each law enforcement agency or agency employing a law enforcement officer shall maintain any and all records of officer conduct which could constitute grounds for revocation or suspension of a law enforcement certification by the commission. Such record shall include any and all records of conduct which could constitute grounds for revocation or suspension under subdivision (6) of section 81-1403. Such record shall be retained for the duration of the law enforcement officer's employment with the agency and for ten years following his or her separation from the agency.

(4) The chief of police, sheriff, Superintendent of Law Enforcement and Public Safety, or the head administrator of a law enforcement agency or an agency employing a law enforcement officer shall make a report to the commission of any law enforcement officer who is terminated from employment or allowed to resign in lieu of termination for conduct described in subdivision (6) of section 81-1403. The report shall include, but not be limited to, a summary of the allegations pertaining to the officer and identification of any witnesses relevant to the allegations, and shall be filed with the commission within thirty calendar days of the termination or resignation in lieu of termination.

(5) Failure to comply with this section shall constitute neglect of duty.

Source: Laws 2018, LB791, § 1; R.S.Supp.,2020, § 81-1456; Laws 2021, LB51, § 14.

81-1414.16 Law enforcement officer; chokehold prohibited; carotid restraint control hold prohibited; exceptions; report required.

(1) Except when the use of deadly force is authorized, a law enforcement officer shall not intentionally use a chokehold on any person.

(2) A law enforcement officer shall not intentionally use a carotid restraint control hold on any person unless:

(a) Either:

(i) The officer reasonably believes that the person will otherwise cause death or serious bodily injury to any person, including a law enforcement officer or noncertified conditional officer;

(ii) The person is actively resisting arrest in a manner that poses a risk of bodily injury to the officer or any other person; or

(iii) Deadly force is otherwise authorized; and

(b) The officer has been trained on the use of such hold.

(3) Following use of a carotid restraint control hold, a law enforcement officer shall create a report of the incident that articulates in detail the events leading to and following the use of such hold.

(4) For purposes of this section:

(a) Bodily injury has the same meaning as in section 28-109;

(b) Carotid restraint control hold means utilizing bilateral pressure to the sides of a person's neck, restricting the flow of oxygenated blood to the brain;

(c) Chokehold means intentionally applying pressure to the front of the throat and cutting off air flow for a sustained amount of time; and

(d) Serious bodily injury has the same meaning as in section 28-109.

Source: Laws 2021, LB51, § 15.

81-1414.17 Use of excessive force; policy of intervention required; commission; duties.

On or before January 1, 2022:

(1) Each law enforcement agency shall adopt and provide to the commission for approval a policy requiring each law enforcement officer of such agency to intervene when such officer reasonably believes that another law enforcement officer is engaged in a use of excessive force; and

(2) The commission shall develop and distribute a suggested model written policy for use by law enforcement agencies, but the commission shall not mandate the adoption of the model policy except for any particular law enforcement agency which fails to timely create and provide to the commission a policy for the agency as required by this section or when the commission does not approve an agency's policy.

Source: Laws 2021, LB51, § 16.

81-1414.18 Law enforcement agencies; accreditation required; Nebraska Police Improvement and Professionalism Fund; created; use; investment; grant program for accreditation costs.

(1)(a) On or before January 1, 2023, each law enforcement agency shall be accredited in a manner approved by the commission. A law enforcement agency shall not be accredited unless it has adopted written policies as

determined by the commission and met other requirements as determined by the commission.

(b) Beginning January 1, 2023, the commission shall post on its website a list of all law enforcement agencies that are not accredited as required by this subsection. The commission shall update the list at least annually, and more frequently as the commission deems necessary.

(c) A law enforcement agency that is not accredited as required by this subsection shall be ineligible to receive loans, grants, funds, or donations administered by the commission until the commission determines that such agency has been properly accredited.

(2) The commission shall develop accreditation requirements. The commission may provide its own accreditation program and may approve accreditations provided by third-party providers.

(3) The Nebraska Police Improvement and Professionalism Fund is created. The fund shall be used to provide grants as provided in subsection (4) of this section. The State Treasurer shall credit to the fund any funds transferred or appropriated to the fund by the Legislature and funds received as gifts or grants or other private or public funds obtained for the purposes set forth in this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4) The commission shall develop a grant program to award grants to law enforcement agencies to pay for costs of accreditation incurred pursuant to this section. In awarding such grants, the commission shall prioritize smaller law enforcement agencies.

(5) The commission may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2021, LB51, § 17.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1414.19 Law enforcement officers; list on website, when; challenge; procedure.

(1) On or before July 1, 2022, the commission shall post on its public website a list of all law enforcement officers who have, on or after January 1, 2021:

(a) Voluntarily surrendered their certifications or had their certifications revoked;

(b) Been convicted of or pleaded guilty or nolo contendere to a felony or a Class I misdemeanor; or

(c) Upon adjudication by the council, been found to have engaged in serious misconduct.

(2) The list provided for in this section shall be accompanied on the commission's public website by a letter that includes, for each law enforcement officer on such list:

(a) The officer's name, rank, and the law enforcement agency for which such officer works or most recently worked;

(b) A statement indicating the reason such officer's name is on the list;

(c) A description of any discipline imposed; and

(d) An affirmation, signed by the chief of police, sheriff, or the head administrator of the officer's law enforcement agency or the Superintendent of Law Enforcement and Public Safety affirming the truth and accuracy of the matters stated in the letter.

(3) Beginning July 1, 2022, any time a law enforcement officer voluntarily surrenders such officer's certification, has such certification revoked, or is adjudicated by the council to have engaged in serious misconduct, the council shall notify the commission within thirty days after such surrender, revocation, or adjudication.

(4) By July 1, 2022, the council shall establish a procedure, including an opportunity for a hearing, by which a law enforcement officer may challenge the inclusion of such officer's name on the list.

Source: Laws 2021, LB51, § 18.

(b) NEBRASKA COMMISSION ON LAW ENFORCEMENT
AND CRIMINAL JUSTICE

81-1415 Commission, defined.

As used in sections 81-1415 to 81-1426.01 and 81-1429.03, unless the context otherwise requires: Commission means the Nebraska Commission on Law Enforcement and Criminal Justice.

Source: Laws 1969, c. 774, § 1, p. 2932; Laws 2015, LB605, § 84; Laws 2016, LB843, § 3.

81-1416 Nebraska Commission on Law Enforcement and Criminal Justice; created; purpose.

There is hereby created the Nebraska Commission on Law Enforcement and Criminal Justice. The commission shall educate the community at large to the problems encountered by law enforcement authorities, promote respect for law and encourage community involvement in the administration of criminal justice. The commission shall be an agency of the state, and the exercise by the commission of the powers conferred by the provisions of sections 81-1415 to 81-1426.01 and 81-1429.03 shall be deemed to be an essential governmental function of the state.

Source: Laws 1969, c. 774, § 2, p. 2932; Laws 2015, LB605, § 85; Laws 2016, LB843, § 4.

81-1417 Commission; members; qualifications; appointment; terms; special committee.

(1) The Nebraska Commission on Law Enforcement and Criminal Justice shall consist of nineteen members. The membership shall include the Governor, the Attorney General, the Superintendent of Law Enforcement and Public Safety, the Director of Correctional Services, the chief of police or director of public safety of a city of more than two hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the chief of police or director of public safety of a city of two hundred thousand inhabitants or less as determined by the most recent federal decennial census or the most

recent revised certified count by the United States Bureau of the Census, a county sheriff, a county attorney, a county commissioner, a mayor or city manager, a person involved with the control or prevention of juvenile delinquency, the chairperson of the Nebraska Police Standards Advisory Council, the chairperson of the Nebraska Coalition for Juvenile Justice, and six 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; Laws 2017, LB113, § 57.

The portion of this section which mandates that the Governor appoint a district court judge as a member of the Nebraska Commission on Law Enforcement and Criminal Justice violates the distribution of powers clause and therefore is void and

unenforceable. The remainder of the section remains independently enforceable. State ex rel. Stenberg v. Murphy, 247 Neb. 358, 527 N.W.2d 185 (1995).

81-1418 Commission; members; terms; vacancy.

(1) The members of the commission appointed by the Governor, except for the members of the Nebraska Police Standards Advisory Council, shall serve for terms of six years each. Of the members first appointed, four shall serve for terms of two years, four shall serve for terms of four years, and five shall serve for terms of six years from January 1 next succeeding their appointments. 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.

(2) 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 commission appointed by the Governor may be removed from the commission 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 commission during any six-month period when the member has failed to advise the commission in advance of such meeting that he or she will be absent and stating a reason therefor.

Source: Laws 1969, c. 774, § 4, p. 2933; Laws 1994, LB 971, § 12.

81-1419 Commission; chairperson; designated by Governor.

The chairperson of the commission shall be designated by the Governor to serve at the pleasure of the Governor. The chairperson shall be the chief executive officer of the commission but may delegate such of his or her duties to the executive director as may be authorized by the commission.

Source: Laws 1969, c. 774, § 5, p. 2933; Laws 1994, LB 971, § 13.

81-1420 Commission; membership; no disqualification to other public office or employment or forfeiture thereof.

Notwithstanding any provision of law, ordinance, or charter provision to the contrary, membership on the commission shall not disqualify any member from holding any other public office or employment, or cause the forfeiture thereof.

Source: Laws 1969, c. 774, § 6, p. 2933.

81-1421 Commission; members; compensation; expenses.

The members of the commission shall serve without compensation, but they shall be entitled to receive reimbursement for expenses incurred incident to such service as provided in sections 81-1174 to 81-1177.

Source: Laws 1969, c. 774, § 7, p. 2933; Laws 1981, LB 204, § 194; Laws 2020, LB381, § 116.

81-1422 Commission; members; quorum.

Ten members of the commission shall constitute a quorum for the transaction of any business or the exercise of any power of the commission. The commission shall have the power to act by a majority of the members present at any meeting at which a quorum is in attendance.

Source: Laws 1969, c. 774, § 8, p. 2934; Laws 1994, LB 971, § 14.

81-1423 Commission; powers; duties.

The commission shall have authority to:

(1) Adopt and promulgate rules and regulations for its organization and internal management and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under sections 81-1415 to 81-1426.01 and 81-1429.03;

(2) Delegate to one or more of its members such powers and duties as it may deem proper;

(3) Coordinate and jointly pursue its activities with the Governor's Policy Research Office;

(4) Appoint and abolish such advisory committees as may be necessary for the performance of its functions and delegate appropriate powers and duties to them;

(5) Plan improvements in the administration of criminal justice and promote their implementation;

(6) Make or encourage studies of any aspect of the administration of criminal justice;

(7) Conduct research and stimulate research by public and private agencies which shall be designed to improve the administration of criminal justice;

(8) Coordinate activities relating to the administration of criminal justice among agencies of state and local government;

(9) Cooperate with the federal and other state authorities concerning the administration of criminal justice;

(10) Accept and administer loans, grants, and donations from the United States, its agencies, the State of Nebraska, its agencies, and other sources, public and private, for carrying out any of its functions, except that no communications equipment shall be acquired and no approval for acquisition of communications equipment shall be granted without receiving the written approval of the Director of Communications of the office of Chief Information Officer;

(11) Enter into contracts, leases, and agreements necessary, convenient, or desirable for carrying out its purposes and the powers granted under sections 81-1415 to 81-1426.01 and 81-1429.03 with agencies of state or local government, corporations, or persons;

(12) Acquire, hold, and dispose of personal property in the exercise of its powers;

(13) Conduct random annual audits of criminal justice agencies to verify the accuracy and completeness of criminal history record information maintained by such agencies and to determine compliance with laws and regulations dealing with the dissemination, security, and privacy of criminal history information;

(14) Do all things necessary to carry out its purposes and for the exercise of the powers granted in sections 81-1415 to 81-1426.01 and 81-1429.03, except that no activities or transfers or expenditures of funds available to the commission shall be inconsistent with legislative policy as reflected in substantive legislation, legislative intent legislation, or appropriations legislation;

(15) Exercise budgetary and administrative control over the Crime Victim's Reparations Committee and the Jail Standards Board; and

(16) Do all things necessary to carry out sections 81-1843 to 81-1851.

Source: Laws 1969, c. 774, § 9, p. 2934; Laws 1971, LB 225, § 1; Laws 1975, LB 427, § 20; Laws 1978, LB 713, § 27; Laws 1979, LB 412, § 11; Laws 1979, LB 322, § 57; Laws 1981, LB 477, § 7; Laws 1981, LB 545, § 36; Laws 1981, LB 328, § 1; Laws 1986, LB 540, § 1; Laws 1994, LB 971, § 15; Laws 2003, LB 46, § 16; Laws 2004, LB 270, § 4; Laws 2005, LB 538, § 21; Laws 2006, LB 921, § 10; Laws 2011, LB390, § 18; Laws 2015, LB605, § 86; Laws 2016, LB843, § 5.

Cross References

Crime victim's reparations, see Chapter 81, article 18.
Jail Standards Board, see sections 83-4,124 to 83-4,134.

81-1424 Commission; executive director; appointment; qualifications; compensation; removal; hearing.

The Governor shall appoint and set the salary of the executive director consistent with any compensation and pay plan established by the personnel division of the Department of Administrative Services. The executive director shall be qualified for the position by appropriate training and experience in the

field of criminal law and justice. The executive director may be removed only for cause by the Governor after a hearing, if requested.

Source: Laws 1969, c. 774, § 10, p. 2935; Laws 1992, Third Spec. Sess., LB 14, § 29.

81-1425 Executive director; powers; duties.

The executive director of the commission shall:

- (1) Supervise and be responsible for the administration of the policies established by the commission;
- (2) Establish a Jail Standards subdivision and a Community Corrections Division within the commission and establish, consolidate, or abolish any administrative subdivision within the commission and appoint and remove for cause the heads thereof, and delegate appropriate powers and duties to them;
- (3) Establish and administer projects and programs for the operation of the commission;
- (4) Appoint and remove employees of the commission and delegate appropriate powers and duties to them;
- (5) Make rules and regulations for the management and the administration of policies of the commission and the conduct of employees under his or her jurisdiction;
- (6) Collect, develop, maintain, and analyze statistical information, records, and reports as the commission may determine relevant to its functions, including, but not limited to, the statistical information set forth in section 47-627;
- (7) Transmit monthly to the commission a report of the operations of the commission for the preceding calendar month;
- (8) Execute and carry out the provisions of all contracts, leases, and agreements authorized by the commission with agencies of federal, state, or local government, corporations, or persons;
- (9) Perform such additional duties as may be assigned to him or her by the commission, by the chairperson of the commission, or by law;
- (10) Appoint and remove for cause the director of the Nebraska Law Enforcement Training Center;
- (11) Appoint and remove for cause the director of the Office of Violence Prevention;
- (12) Subpoena witnesses and documents, files, internal investigation materials, administrative files, records, memoranda, reports, personnel records, disciplinary histories, or any materials the executive director determines to be relevant, relating to law enforcement officer certification revocation, from the Nebraska State Patrol; and
- (13) Exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.

Source: Laws 1969, c. 774, § 11, p. 2935; Laws 1981, LB 328, § 2; Laws 2000, LB 1008, § 3; Laws 2003, LB 46, § 17; Laws 2005, LB 538, § 22; Laws 2011, LB390, § 19; Laws 2018, LB791, § 4.

81-1426 Public officers and agencies; information, records, reports; furnish to commission; violation; penalty.

(1) The commission shall adopt and promulgate rules and regulations for the standardized collection, development, and maintenance of statistical information, records, and reports, including, but not limited to, the Uniform Crime Report, and shall develop the prescribed form for the collection of data.

(2) The commission shall obtain from all public officers or agencies, the functions of which include the control, apprehension, trial, or correction of criminal offenders in this state, such information, records, and reports, including, but not limited to, the Uniform Crime Report, as the commission determines relevant to its functions.

(3) It shall be the duty of all public officers and agencies, the functions of which include the control, apprehension, trial, or correction of criminal offenders in the state, to provide such information, records, and reports, including, but not limited to, the Uniform Crime Report, as the commission determines relevant to its functions.

(4) Willful or repeated failure by any public officers and agencies, the functions of which include the control, apprehension, trial, or correction of criminal offenders in this state, to submit the prescribed information, records, or reports, including the Uniform Crime Report, prescribed in this section shall subject the agency or the administrator of the agency to a civil penalty of up to one hundred dollars per day for each day of violation. Such penalty shall be recoverable by way of a civil suit brought against such agency or individually against the administrator.

Source: Laws 1969, c. 774, § 12, p. 2936; Laws 1989, LB 722, § 1.

81-1426.01 County Justice Reinvestment Grant Program; created; grant recipient; duties; report.

(1) There is created a separate and distinct budgetary program within the commission to be known as the County Justice Reinvestment Grant Program. Funding shall be used to provide grants to counties to help offset jail costs.

(2) The annual General Fund appropriation to the County Justice Reinvestment Grant Program shall be apportioned to the counties as grants in accordance with a formula established in rules and regulations adopted and promulgated by the commission. The formula shall be based on the total number per county of individuals incarcerated in jails and the total capacity of jails.

(3) Funds provided to counties under the County Justice Reinvestment Grant Program shall be used exclusively to assist counties in the event that their average daily jail population increases after August 30, 2015. In distributing funds provided under the County Justice Reinvestment Grant Program, counties shall demonstrate to the commission that their average daily jail population increased, using data to pinpoint the contributing factors, as a result of the implementation of Laws 2015, LB605. The commission shall grant funds to counties which have an increase in population compared to the average daily jail population of the preceding three fiscal years. In calculating the average daily jail population, counties shall only include post-adjudication inmates who are serving sentences or inmates serving custodial sanctions due to probation violations. Counties may apply for grants one year after August 30, 2015.

(4) No funds appropriated or distributed under the County Justice Reinvestment Grant Program shall be used for the construction of secure detention facilities, secure treatment facilities, secure confinement facilities, or county

jails. Grants received under this section shall not be used for capital construction or the lease or acquisition of facilities. Any funds appropriated to the County Justice Reinvestment Grant Program to be distributed to counties under this section shall be retained by the commission to be distributed in the form of grants in the following fiscal year.

(5) In distributing funds provided under the County Justice Reinvestment Grant Program, recipients shall prioritize use of the funds for programs, services, and approaches that reduce jail populations and costs. The funds may be used to supplement existing programs, services, and approaches to reduce jail populations and costs.

(6) Any aid not distributed to counties shall be retained by the commission to be distributed on a competitive basis to counties demonstrating additional need in the funding areas identified in this section.

(7) Any county receiving grants under the County Justice Reinvestment Grant Program shall submit annual information electronically to the commission as required by rules and regulations adopted and promulgated by the commission. The information shall include, but not be limited to, the objective sought for the grant and estimated savings and reduction in jail inmates.

(8) The commission shall report annually to the Governor and the Legislature on the distribution and use of funds for grants appropriated under the County Justice Reinvestment Grant Program. The report shall include, but not be limited to, the information listed under subsection (7) of this section. The report submitted to the Legislature shall be submitted electronically.

(9) The commission shall adopt and promulgate rules and regulations to implement this section.

Source: Laws 2015, LB605, § 87; Laws 2019, LB298, § 18.

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 based on evidence-based practices, principles, programs, and 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; Laws 2014, LB464, § 36.

81-1428 Law Enforcement Improvement Fund; created; use; investment.

The Law Enforcement Improvement Fund is created and shall be maintained by the State Treasurer as a cash fund. The fund shall consist of revenue credited pursuant to section 81-1429 and investment income. The fund shall be used for payment of administrative and operations expenses of the Nebraska Law Enforcement Training Center and such other expenses as budgeted by the Legislature for the improvement of law enforcement, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. The Law Enforcement Improvement Fund shall be administered by the director. 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 1971, LB 929, § 9; Laws 1972, LB 1485, § 1; Laws 2000, LB 994, § 10; Laws 2006, LB 746, § 8; Laws 2009, First Spec. Sess., LB3, § 76.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1429 Law Enforcement Improvement Fund; how funded.

A Law Enforcement Improvement Fund fee of two dollars shall be taxed as costs in each criminal proceeding, including traffic infractions and misdemeanors, filed in all courts of this state for violations of state law or city or village ordinances. No such fee shall be collected in any juvenile court proceeding or when waived under section 29-2709. Such fee shall be remitted to the State Treasurer on forms prescribed by the State Treasurer within ten days after the

close of each calendar quarter. The State Treasurer shall credit the money to the Law Enforcement Improvement Fund.

Source: Laws 1971, LB 929, § 10; Laws 1972, LB 1485, § 2; Laws 1981, LB 45, § 1; Laws 1982, LB 717, § 1; Laws 1989, LB 233, § 10; Laws 2000, LB 994, § 11; Laws 2006, LB 746, § 9; Laws 2009, LB35, § 31.

The independent act considered herein is not unconstitutional for failure to mention in the incidental provision for payment or exemption from payment of costs, nor for failure to refer to and repeal certain other statutes. State ex rel. Douglas v. Gradwohl, 194 Neb. 745, 235 N.W.2d 854 (1975).

81-1429.01 Crimes Against Children Fund; created; use; investment; termination.

There is hereby created the Crimes Against Children Fund. The fund shall be appropriated by the Legislature and administered by the Nebraska Commission on Law Enforcement and Criminal Justice for the purpose of reducing the expenses incurred by county attorneys in consulting with and retaining expert witnesses and other costs in the investigation and prosecution of crimes against 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. The fund terminates on July 19, 2018, and the State Treasurer shall transfer any money in the fund on such date to the General Fund.

Source: Laws 1990, LB 1246, § 8; Laws 1994, LB 1066, § 111; Laws 2018, LB198, § 1.

Cross References

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

81-1429.02 Human Trafficking Victim Assistance Fund; created; use; investment.

The Human Trafficking Victim Assistance Fund is created. The fund shall contain money donated as gifts, bequests, or other contributions from public or private entities. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by such department or agency. The fund shall be administered by the Nebraska Commission on Law Enforcement and Criminal Justice. All money credited to such fund shall be used to support care, treatment, and other services for victims of human trafficking and commercial sexual exploitation of a child. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2015, LB294, § 20.

Cross References

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

81-1429.03 Sexual assaults; forensic medical examination; payment; forensic DNA testing; requirements; Sexual Assault Payment Program; administrator; duties; Sexual Assault Payment Program Cash Fund; created; use; investment.

(1) The full out-of-pocket cost or expense that may be charged to a sexual assault victim in connection with a forensic medical examination shall be paid from the Sexual Assault Payment Program Cash Fund. A report of a forensic medical examination shall not be remitted to the patient or his or her insurance for payment.

(2) Except as provided under section 81-2010, all forensic DNA tests shall be performed by a laboratory which is accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board or by any other national accrediting body or public agency which has requirements that are substantially equivalent to or more comprehensive than those of the society.

(3) The full out-of-pocket cost or expense to be paid from the Sexual Assault Payment Program Cash Fund for a forensic medical examination described in subsection (1) of this section shall include:

- (a) An examiner's fee for:
 - (i) Examination of physical trauma;
 - (ii) Determination of penetration or force;
 - (iii) Patient interview; and
 - (iv) Collection and evaluation of evidence;
- (b) An examination facility fee for the:
 - (i) Emergency room, clinic room, office room, or child advocacy center; and
 - (ii) Pelvic tray and other medically required supplies; and
- (c) The laboratory fees for collection and processing of specimens for criminal evidence, the determination of the presence of any sexually transmitted disease, and pregnancy testing.

(4) There is established within the Department of Justice, under the direction of the Attorney General, the position of administrator for the Sexual Assault Payment Program. The purpose of the program and the responsibilities of the administrator shall be to coordinate the distribution of forensic medical examination kits to health care providers at no cost to the providers, oversee forensic medical examination training throughout the state, and coordinate payments from the Sexual Assault Payment Program Cash Fund.

(5) The Sexual Assault Payment Program Cash Fund is created. The fund shall be administered by the commission. The fund shall consist of any money appropriated to it by the Legislature and any money received by the commission for the program, including federal and other public and private funds. The fund shall be used for the payment of the full out-of-pocket costs or expenses for forensic medical examinations pursuant to subsection (3) of this section, for the purpose set forth in subsection (4) of this section, and for the purchase of forensic medical examination kits. The fund shall be used to pay only those charges determined by the commission to be reasonable and fair. The fund shall be used to pay up to two hundred dollars for the examiner's fee and up to three hundred dollars for the examination facility fee. The examiner and facility shall provide additional documentation as determined by the commission for payment of charges in excess of such amounts. The fund may also be used to facilitate programs that reduce or prevent the crimes of domestic violence, dating violence, sexual assault, stalking, child abuse, child sexual assault, human trafficking, labor trafficking, or sex trafficking or that enhance the safety of victims of such crimes. 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 1996, LB 1213, § 2; Laws 2001, LB 432, § 13; R.S.1943, (2014), § 81-2010.03; Laws 2016, LB843, § 2.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(c) HUMAN TRAFFICKING

81-1430 Task force; established; members; terms; duties; quorum; report; Department of Labor; posters.

(1) A task force is hereby established within the Nebraska Commission on Law Enforcement and Criminal Justice for the purposes of investigating and studying human trafficking, the methods for advertising human trafficking services, and the victimization of individuals coerced to participate in human trafficking.

(2) The task force shall examine the extent to which human trafficking is prevalent in this state, the scope of efforts being taken to prevent human trafficking from occurring, and the services available to victims of human trafficking in this state. The task force shall utilize information and research available from the Innocence Lost National Initiative. The task force shall research and recommend a model of rehabilitative services for victims of human trafficking that includes input from the areas of law enforcement, social services, the legal profession, the judiciary, mental health, and immigration. The task force shall also investigate the limitations upon victims who wish to come forward and seek medical attention; investigate the potential to stop human trafficking; and investigate the potential to promote recovery, to protect families and children who may be profoundly impacted by such abuse, and to save lives.

(3)(a) The Department of Labor shall work with the task force to develop or select informational posters for placement around the state. The posters shall be in English, Spanish, and any other language deemed appropriate by the task force. The posters shall include a toll-free telephone number a person may call for assistance, preferably the National Human Trafficking Resource Center Hotline (888)373-7888.

(b) Posters shall be placed in rest stops, strip clubs, and casinos. The task force shall work with local businesses and nonprofit entities associated with the prevention of human trafficking to voluntarily place additional signs in high schools, postsecondary educational institutions, gas stations, hotels, hospitals, health care clinics, urgent care centers, airports, train stations, bus stations, and other locations around the state deemed appropriate by the task force.

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

- (a) The Attorney General or his or her designee;
- (b) The executive director of the Nebraska Commission on Law Enforcement and Criminal Justice;
- (c) The Superintendent of Law Enforcement and Public Safety or his or her designee;
- (d) The Director of Correctional Services or his or her designee;

(e) The chief of police or director of public safety of a city of two hundred thousand inhabitants or more as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census;

(f) The chief of police or director of public safety of a city of less than two hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census;

(g) A county sheriff;

(h) A county attorney;

(i) A county commissioner;

(j) A mayor or city manager;

(k) A person involved with the control or prevention of juvenile delinquency;

(l) A person involved with the control or prevention of child abuse;

(m) The Commissioner of Education or his or her designee;

(n) The director of the Commission on Latino-Americans or his or her designee; and

(o) Six members, at least three of whom shall be women, from the public at large.

(5) The Governor shall appoint the members of the task force listed in subdivisions (4)(e) through (l) and (o) of this section for terms as provided in subsection (6) of this section. The membership of the task force shall represent varying geographic areas and large and small political subdivisions. One member from the public at large shall be a professional representing child welfare, and one member of the public at large shall represent juvenile pretrial diversion programs.

(6) The members of the task force appointed by the Governor shall serve six-year terms, except that of the members first appointed, four shall serve initial two-year terms, four shall serve initial four-year terms, and six shall serve initial six-year terms from January 1 next succeeding their appointments. Thereafter, all members shall serve six-year terms. A member may be reappointed at the expiration of his or her term. Any vacancy occurring otherwise than by expiration of a term shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(7) No member shall serve beyond the time when he or she holds the office, employment, or status by reason of which he or she was initially eligible for appointment. Any member of the task force appointed by the Governor may be removed from the task force for cause upon notice and an opportunity to be heard at a public hearing. One of the causes for removal shall be absence from three regularly scheduled meetings of the task force during any six-month period when the member has failed to advise the task force in advance of such meeting that he or she will be absent and stating a reason therefor.

(8) The chairperson of the task force shall be designated by the Governor to serve at the pleasure of the Governor. The chairperson shall be the chief executive officer of the task force but may delegate such of his or her duties to other members of the task force as may be authorized by the task force.

(9) Notwithstanding any provision of law, ordinance, or charter provision to the contrary, membership on the task force shall not disqualify any member

from holding any other public office or employment or cause the forfeiture thereof.

(10) The members of the task force shall serve on the task force without compensation, but they shall be entitled to receive reimbursement for expenses incurred incident to such service as provided in sections 81-1174 to 81-1177.

(11) Eleven members of the task force shall constitute a quorum for the transaction of any business or the exercise of any power of the task force. The task force shall have the power to act by a majority of the members present at any meeting at which a quorum is in attendance.

(12) Every July 1 and December 1, the task force shall report electronically to the Clerk of the Legislature the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the report with the clerk.

Source: Laws 2012, LB1145, § 2; Laws 2013, LB222, § 37; Laws 2013, LB255, § 12; Laws 2017, LB113, § 58; Laws 2020, LB381, § 117; Laws 2021, LB461, § 1.

81-1431 Training regarding issues in human trafficking; task force; duties.

(1) It is the intent of the Legislature that law enforcement agencies, prosecutors, public defenders, judges, juvenile detention center staff, and others involved in the juvenile justice system and the criminal justice system and other relevant officials be provided mandatory training regarding issues in human trafficking. The task force established in section 81-1430 shall work with such agencies, persons, and staff to develop a proper curriculum for the training and to determine how the training should be provided. The determination and accompanying legislative recommendations shall be made by December 1, 2012. Such training shall focus on:

- (a) State and federal law regarding human trafficking;
- (b) Methods used in identifying victims of human trafficking who are United States citizens and foreign nationals, including preliminary interview techniques and appropriate questioning methods;
- (c) Methods for prosecuting human traffickers;
- (d) Methods of increasing effective collaboration with nongovernmental organizations and other relevant social service organizations in the course of investigating and prosecuting a human trafficking case;
- (e) Methods for protecting the rights of victims of human trafficking, taking into account the need to consider human rights and the special needs of women and minor victims;
- (f) The necessity of treating victims of human trafficking as crime victims rather than as criminals; and
- (g) Methods for promoting the safety and well-being of all victims of human trafficking.

(2) The task force shall also seek the input and participation of appropriate nongovernmental organizations and other relevant organizations regarding the provision, preparation, and presentation of the training called for in this section.

Source: Laws 2012, LB1145, § 3.

81-1432 Repealed. Laws 1972, LB 1114, § 5.

81-1433 Repealed. Laws 1980, LB 684, § 22.

81-1434 Repealed. Laws 1980, LB 684, § 22.

81-1435 Repealed. Laws 1980, LB 684, § 22.

81-1436 Repealed. Laws 1980, LB 684, § 22.

81-1437 Repealed. Laws 1980, LB 684, § 22.

(d) LAW ENFORCEMENT RESERVE FORCES

81-1438 Law enforcement reserve force; members; appointment; prohibited acts; functions allowed.

(1) The governing body of any county or city of this state, other than (a) a county containing a city of the metropolitan or primary class or (b) a city of the metropolitan or primary class, may establish a law enforcement reserve force. Members of such force shall be appointed at the discretion of the governing body. The governing body may limit the size of such reserve force.

(2)(a) A member of a law enforcement reserve force appointed under this section cannot make arrests, issue citations, detain members of the public, or seize evidence without being under the direct supervision of a physically present certified law enforcement officer.

(b) A reserve officer may perform functions at the direction of the county sheriff or chief of police when under the direct supervision of the county sheriff or chief of police. Such functions shall not include making arrests, issuing citations, detaining members of the public, or seizing evidence.

(c) A reserve officer is not limited with respect to the amount of hours worked annually.

Source: Laws 1976, LB 782, § 1; Laws 2004, LB 1162, § 4; Laws 2021, LB51, § 19.

81-1439 Law enforcement reserve force; commission; duties; delegation of responsibilities; continuing education requirements; reserve force manual; contents.

(1) The Nebraska Commission on Law Enforcement and Criminal Justice shall establish minimum physical, mental, educational, and moral qualifications for all members of any law enforcement reserve force. The commission shall also establish training and continuing education standards and be responsible for providing such training for all members. The commission shall delegate its responsibilities pursuant to this section to the Nebraska Police Standards Advisory Council.

(2) Individuals appointed to a law enforcement reserve force shall receive training through or under the supervision of the Nebraska Law Enforcement Training Center and shall achieve the minimum training standards within one year after the date of appointment. Such training may be provided by the training center through regional workshops, training sessions, or similar means of instruction anywhere in the state.

(3) Members of the law enforcement reserve force shall be subject to the same continuing education requirements as law enforcement officers pursuant to sections 81-1401 to 81-1414.19.

(4) The governing body establishing a law enforcement reserve force shall adopt and publish a reserve force manual setting forth the minimum qualifications, training standards, standard operating procedures, and continuing education requirements for such force and such higher qualifications, standards, and operating procedures as may actually be used.

Source: Laws 1976, LB 782, § 2; Laws 1994, LB 971, § 16; Laws 2012, LB817, § 17; Laws 2021, LB51, § 20.

81-1440 Law enforcement reserve officers; serve as peace officers; when; restrictions.

Subject to the restrictions set forth in subsection (2) of section 81-1438, law enforcement reserve officers shall serve as peace officers on the orders and at the discretion of the sheriff, the mayor, or the chief of police.

Source: Laws 1976, LB 782, § 3; Laws 2021, LB51, § 21.

81-1441 Law enforcement reserve officer; monetary assistance; hospital and medical benefits.

(1) Each law enforcement reserve officer shall be paid at a minimum rate of one dollar per year. The governing body of a county or city may provide additional monetary assistance for the purchase and maintenance of uniforms and equipment used by such officers.

(2) Hospital and medical assistance shall be provided by the governing body to members of the law enforcement reserve force who sustain injury in the course of performing official duties. Such benefits shall be provided in the same manner as those benefits provided for a full-time deputy sheriff or police officer.

Source: Laws 1976, LB 782, § 4.

81-1442 Law enforcement reserve officer; not eligible for participation in certain pension funds or retirement systems.

Nothing in sections 81-1438 to 81-1446 shall be construed to authorize or permit a law enforcement reserve officer to become eligible for participation in any pension fund or retirement system created by the laws of this state to which regular deputy sheriffs or police officers may become members.

Source: Laws 1976, LB 782, § 5.

81-1443 Law enforcement reserve officers; rights and duties when activated; weapon, when carried; subordinate to regular force officers.

(1) Subject to the restrictions set forth in subsection (2) of section 81-1438, law enforcement reserve officers, upon being activated by the sheriff, the mayor, or the chief of police, and while on assigned duty, shall be vested with the same rights, privileges, obligations, and duties of any other peace officer of this state.

(2) No person appointed to the reserve force may carry a weapon or otherwise act as a peace officer until such person has been approved by the

governing body. After approval, such person may carry a weapon only when authorized by the sheriff or chief of police and when discharging official duties as a duly constituted peace officer.

(3) Law enforcement reserve officers shall be subordinate to regular force officers, shall not serve as a peace officer unless under the direction of regular officers, and when serving with regular force officers shall wear no insignia of rank. Each department for which a reserve force is established shall appoint a regular force officer as the reserve force coordinating and supervising officer. Such regular officer shall report directly to the sheriff or the chief of police.

Source: Laws 1976, LB 782, § 6; Laws 2021, LB51, § 22.

81-1444 Law enforcement reserve officer; bond.

No appointment of a law enforcement reserve officer shall be valid until a bond in the amount of two thousand dollars, payable to the county or city, has been filed with the clerk of the county or city by the individual appointed or a blanket surety bond arranged and paid for by the governing body and bonding all such officers of the governing body has been filed. Such bonds shall be subject to the provisions of Chapter 11, article 1.

Source: Laws 1976, LB 782, § 7; Laws 1986, LB 771, § 1.

81-1445 Reserve officers; supplementary capacity; not to reduce or assume duties of peace officers.

(1) The governing body shall not reduce the authorized size of a law enforcement department because of the establishment or utilization of reserve officers.

(2) Reserve officers shall act only in a supplementary capacity to the regular force and shall in no case assume the full-time duties of peace officers without first complying with all requirements for such regular peace officers.

Source: Laws 1976, LB 782, § 8.

81-1446 Reserve peace officers; procedure for appointment.

Sections 81-1438 to 81-1446 shall constitute the only procedure for the appointment of reserve peace officers. Any power granted by other provisions of law to local governing bodies or public officials for the appointment of special deputies, special officers, or special police is of no effect and is hereby repealed.

Source: Laws 1976, LB 782, § 9.

(e) OFFICE OF VIOLENCE PREVENTION

81-1447 Office of Violence Prevention; established; director; advisory council; members; terms; vacancy.

(1) There is established within the Nebraska Commission on Law Enforcement and Criminal Justice the Office of Violence Prevention. The office shall consist of a director, appointed by the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice, and other necessary support staff. There also is established an advisory council to the Office of Violence Prevention. The members of the advisory council shall be appointed

by the Governor and serve at his or her discretion. The advisory council shall consist of six members and, of those members, each congressional district, as such districts existed on May 28, 2009, shall have at least one member on the council. The Governor shall consider appointing members representing the following areas, if practicable: Two members representing local government; two members representing law enforcement; one member representing community advocacy; and one member representing education with some expertise in law enforcement and juvenile crime.

(2) Members of the advisory council shall serve for terms of four years. A member may be reappointed at the expiration of his or her term. Any vacancy occurring other than by expiration of a term shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

Source: Laws 2009, LB63, § 37; Laws 2011, LB390, § 20.

81-1448 Membership on advisory council; no effect on other office or position.

Notwithstanding any other provision of law, membership on the advisory council to the Office of Violence Prevention shall not disqualify any member from holding his or her office or position or cause the forfeiture thereof.

Source: Laws 2009, LB63, § 38.

81-1449 Advisory council members; expenses.

Members of the advisory council to the Office of Violence Prevention shall serve without compensation but may be reimbursed for expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

Source: Laws 2009, LB63, § 39; Laws 2020, LB381, § 118.

81-1450 Office of Violence Prevention; director; administration and supervision; responsibilities; report; advisory council; meetings; duties.

(1) The Office of Violence Prevention and its director shall be administered and supervised, respectively, by the Nebraska Commission on Law Enforcement and Criminal Justice. Among its responsibilities, the Office of Violence Prevention and its director shall be responsible for developing, fostering, promoting, and assessing violence prevention programs. To accomplish this mission, the duties of the director shall include, but not be limited to, program fundraising, program evaluation, coordination of programs, and assistance with the administration and distribution of funds to violence prevention programs. The office shall file with the Clerk of the Legislature an annual report on or before November 1 of each year regarding its activities to develop, foster, promote, and assess violence prevention programs, the status of program fundraising, evaluation, and coordination, and the administration and distribution of funds to programs. The report shall be submitted electronically.

(2) The advisory council to the Office of Violence Prevention shall meet at least quarterly. Among its responsibilities, the advisory council shall recommend to the commission rules and regulations regarding program fundraising, program evaluation, coordination of programs, and the criteria used to assess and award funds to violence prevention programs. Priority for funding shall be given to communities and organizations seeking to implement violence prevention programs which appear to have the greatest benefit to the state and which

have, as goals, the reduction of street and gang violence, the reduction of homicides and injuries caused by firearms, and the creation of youth employment opportunities in high-crime areas. The duties of the advisory council shall include, but not be limited to, receiving applications for violence prevention funds, evaluating such applications, and making recommendations to the commission regarding the merits of each application and the amount of any funds that should be awarded. If any funds are awarded to a violence prevention program, the advisory council shall continuously monitor how such funds are being used by the program, conduct periodic evaluations of such programs, assess the progress and success regarding the stated goals of each program awarded funds, and recommend to the commission any modification, continuation, or discontinuation of funding.

Source: Laws 2009, LB63, § 40; Laws 2015, LB167, § 1.

81-1451 Violence Prevention Cash Fund; created; administration; investment.

The Violence Prevention Cash Fund is created. The fund shall be administered by the Nebraska Commission on Law Enforcement and Criminal Justice. The State Treasurer shall credit to the fund such money as is transferred to the fund by the Legislature, donated as gifts, bequests, or other contributions to such fund from public or private entities, and made available by any department or agency of the United States if so directed by such department or agency. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2009, LB63, § 41.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(f) BODY-WORN CAMERAS

81-1452 Body-worn cameras; terms, defined.

For purposes of sections 81-1452 to 81-1454, unless the context otherwise requires:

(1) **Body-worn camera** means a device worn by a peace officer in uniform which has the capability to record both audio and video of an interaction between a peace officer and a member of the public but does not include any device used by a plain clothes officer;

(2) **Commission** means the Nebraska Commission on Law Enforcement and Criminal Justice;

(3) **Law enforcement agency** means an agency or department of this state or of any political subdivision of this state which is responsible for the prevention and detection of crime, the enforcement of the penal, traffic, or highway laws of this state or any political subdivision of this state, and the enforcement of arrest warrants. Law enforcement agency includes a police department, an office of a town marshal, an office of a county sheriff, the Nebraska State Patrol, and any department to which a deputy state sheriff is assigned as provided in section 84-106; and

(4) Peace officer means any officer or employee of a law enforcement agency authorized by law to make arrests.

Source: Laws 2016, LB1000, § 1.

81-1453 Body-worn cameras; model policy; development and distribution; contents; law enforcement agency; duties.

(1) On or before December 1, 2016, the commission shall develop and distribute a model body-worn camera policy that includes the procedures and provisions required by section 81-1454. Any law enforcement agency required to adopt a policy under this section that does not develop and adopt its own policy shall adopt the model body-worn camera policy developed by the commission.

(2)(a) Any law enforcement agency which uses body-worn cameras as of July 21, 2016, shall, on or before January 1, 2017, adopt a written body-worn camera policy. Such policy shall include procedures and provisions in conformance with the minimum standards set forth in the model body-worn camera policy developed by the commission and may include any other procedures and provisions the law enforcement agency deems appropriate.

(b) Beginning January 1, 2017, any law enforcement agency which uses body-worn cameras shall, prior to commencing such use, adopt a written body-worn camera policy. Such policy shall include procedures and provisions in conformance with the minimum standards set forth in the model body-worn camera policy developed by the commission and may include any other procedures and provisions the law enforcement agency deems appropriate.

(3) The head of a law enforcement agency required to adopt a policy under this section shall provide a copy of such policy to the commission within three months of such policy's adoption.

(4) On or before January 1, 2018, and each January 1 thereafter, when any law enforcement agency required to adopt a policy under this section has made any change to its policy in the preceding year, the head of such agency shall provide an updated copy of such policy to the commission.

Source: Laws 2016, LB1000, § 2.

81-1454 Body-worn camera policy; contents.

A body-worn camera policy required by section 81-1453 shall include provisions which govern the use of body-worn cameras by peace officers and the retention and disposition of recordings created with such cameras by law enforcement agencies. Such body-worn camera policy shall include, but not be limited to:

(1) A requirement that training be provided to any peace officer who will use a body-worn camera and to any other employee who will come into contact with video or audio data recorded by a body-worn camera;

(2) A requirement that recordings created by body-worn cameras shall be retained for a minimum period of ninety days from the date of recording. Such recordings shall be retained for more than ninety days if required by the following circumstances:

(a) Upon notice to the law enforcement agency of a criminal or civil court proceeding in which the recording may have evidentiary value or in which the

recording is otherwise involved, the recording shall be retained until final judgment has been entered in the proceeding;

(b) Upon notice to the law enforcement agency of a disciplinary proceeding against an employee of the agency in which the recording may have evidentiary value or in which the recording is otherwise involved, the recording shall be retained until a final determination has been made in such proceeding; and

(c) If the recording is part of a criminal investigation that has not resulted in an arrest or prosecution, the recording shall be retained until the investigation is officially closed or suspended; and

(3) A procedure governing the destruction of recordings after the retention period described in subdivision (2) of this section has elapsed.

Source: Laws 2016, LB1000, § 3.

(g) EYEWITNESS SUSPECT IDENTIFICATION

81-1455 Eyewitness suspect identification; written policy; contents; Nebraska Commission on Law Enforcement and Criminal Justice; duties.

(1) On or before January 1, 2017, the Nebraska State Patrol, each county sheriff, each city or village police department, and any other law enforcement agency in this state which conducts eyewitness suspect identifications shall adopt a written policy on eyewitness suspect identifications and provide a copy of such policy to the Nebraska Commission on Law Enforcement and Criminal Justice. The policy shall include the minimum standards developed by the commission relating to the following: (a) Standards which describe the administration of a lineup, (b) procedures governing the instructions given by a peace officer to an eyewitness, and (c) procedures for documentation of the eyewitness's level of certainty of an identification.

(2) The Nebraska Commission on Law Enforcement and Criminal Justice shall distribute a standard model written policy on suspect identification by eyewitnesses. Any law enforcement agency described in subsection (1) of this section which fails to adopt its own policy as required by this section shall adopt the commission's standard model written policy.

Source: Laws 2016, LB1000, § 4.

(h) EMPLOYMENT RECORDS

81-1456 Transferred to section 81-1414.15.

81-1457 Transferred to section 81-1414.11.

(i) LAW ENFORCEMENT ATTRACTION AND RETENTION ACT

81-1458 Act, how cited.

Sections 81-1458 to 81-1465 shall be known and may be cited as the Law Enforcement Attraction and Retention Act.

Source: Laws 2022, LB1241, § 5.
Termination date June 30, 2028.

81-1459 Legislative findings; purpose of act.

- (1) The Legislature finds that:
- (a) The State of Nebraska and cities and counties in this state have experienced a dramatic decrease in applications for law enforcement officer positions;
 - (b) Law enforcement officers in Nebraska are leaving the law enforcement profession;
 - (c) Law enforcement agencies are not retaining law enforcement officers at a rate sufficient to ensure public safety;
 - (d) Law enforcement officers are the critical element of public safety in Nebraska communities; and
 - (e) Maintaining a robust law enforcement workforce is in the best interests of all Nebraskans.
- (2) The purpose of the Law Enforcement Attraction and Retention Act is to provide financial incentives to attract and retain law enforcement officers.

Source: Laws 2022, LB1241, § 6.
Termination date June 30, 2028.

81-1460 Terms, defined.

For purposes of the Law Enforcement Attraction and Retention Act:

- (1) Council means the Nebraska Police Standards Advisory Council; and
- (2) Law enforcement officer has the same meaning as in section 81-1401.

Source: Laws 2022, LB1241, § 7.
Termination date June 30, 2028.

81-1461 Incentive payments; application; eligibility; tiers.

- (1) The council shall accept applications for retention incentive payments from individual law enforcement officers in Nebraska.
- (2) To be eligible for a tier 1 retention incentive payment, a law enforcement officer must complete twelve months of full-time employment as a law enforcement officer after July 1, 2022. No law enforcement officer shall receive more than one tier 1 retention incentive payment.
- (3) To be eligible for a tier 2 retention incentive payment, a law enforcement officer must complete three years of full-time employment as a law enforcement officer after July 1, 2022. No law enforcement officer shall receive more than one tier 2 retention incentive payment.
- (4) To be eligible for a tier 3 retention incentive payment, a law enforcement officer must complete five years of full-time employment as a law enforcement officer after July 1, 2022. No law enforcement officer shall receive more than one tier 3 retention incentive payment.
- (5) Full-time law enforcement officers employed by a law enforcement agency that employs more than seventy-five full-time law enforcement officers shall only be eligible for a tier 1 retention incentive payment, and such payment shall be seven hundred fifty dollars.
- (6) For full-time law enforcement officers employed by a law enforcement agency that employs seventy-five or fewer full-time law enforcement officers:
- (a) The tier 1 retention incentive payment shall be one thousand five hundred dollars;

(b) The tier 2 retention incentive payment shall be two thousand five hundred dollars; and

(c) The tier 3 retention incentive payment shall be three thousand dollars.

(7) A law enforcement officer shall not be eligible for a tier 1, tier 2, or tier 3 retention incentive payment under this section if:

(a) Such law enforcement officer's certification has ever been revoked;

(b) Such law enforcement officer has ever been convicted of a felony or Class I misdemeanor. This subdivision shall not apply if the law enforcement officer received a pardon or set aside for such conviction;

(c) Such law enforcement officer has ever been adjudicated by the council to have engaged in serious misconduct, as such term is defined in section 81-1401; or

(d) Such law enforcement officer was allowed to resign instead of being terminated from employment. This subdivision shall only apply if the law enforcement officer's certification would have been revoked had he or she not resigned.

Source: Laws 2022, LB1241, § 8.
Termination date June 30, 2028.

81-1462 Grants for law enforcement agencies; eligibility; application.

(1) The council shall accept applications for grants from law enforcement agencies in Nebraska. The grants shall be used to provide hiring bonuses to newly hired full-time law enforcement officers.

(2) A law enforcement agency shall be eligible for a grant under this section if:

(a) The law enforcement agency employs fewer than one hundred fifty full-time law enforcement officers; and

(b) The law enforcement agency is not at the recommended level of staffing under standards set by the council.

Source: Laws 2022, LB1241, § 9.
Termination date June 30, 2028.

81-1463 Rules and regulations.

The council may adopt and promulgate rules and regulations to carry out the Law Enforcement Attraction and Retention Act.

Source: Laws 2022, LB1241, § 10.
Termination date June 30, 2028.

81-1464 Legislative intent.

It is the intent of the Legislature to appropriate five million dollars each fiscal year to the Nebraska Commission on Law Enforcement and Criminal Justice for purposes of carrying out the Law Enforcement Attraction and Retention Act.

Source: Laws 2022, LB1241, § 11.
Termination date June 30, 2028.

81-1465 Act; termination.

The Law Enforcement Attraction and Retention Act terminates on June 30, 2028.

Source: Laws 2022, LB1241, § 12.
Termination date June 30, 2028.

ARTICLE 15 ENVIRONMENT AND ENERGY

Cross References

Cans with disposable tab or grip, sale prohibited, see section 28-1479.
Environmental audits, see sections 25-21,254 to 25-21,264.
Garbage and solid waste disposal facilities, construction and operation, see sections 14-102, 15-268.01 et seq., 19-2101 to 19-2111, and 23-379 to 23-381.
Integrated Solid Waste Management Act, see section 13-2001.
Livestock Waste Management Act, see section 54-2416.
Natural resources districts, powers, see Chapter 2, article 32.
Nebraska Ground Water Management and Protection Act, see section 46-701.
Pesticide Act, see section 2-2622.
Petroleum Release Remedial Action Act, see section 66-1501.
Radiation Control Act, see section 71-3519.
Solid waste disposal areas and facilities, siting approval from city, village, or county, see sections 13-1701 to 13-1714.

(a) ENVIRONMENTAL PROTECTION ACT

Section	
81-1501.	Department; declaration of legislative purpose.
81-1502.	Terms, defined.
81-1503.	Environmental Quality Council; membership; appointment; compensation; expenses; Director of Environment and Energy; appointment; oath; duties.
81-1504.	Department; powers; duties.
81-1504.01.	Department; reports required; contents.
81-1504.02.	Department; establish telephone line.
81-1504.03.	Grants or loans; restrictions.
81-1505.	Council; rules and regulations; standards of air, land, and water quality.
81-1505.01.	Environmental Cash Fund; created; use; investment.
81-1505.02.	Mineral exploration holes; rules and regulations.
81-1505.03.	Small Business Compliance Advisory Panel; created; members; duties; expenses.
81-1505.04.	Annual emission fee; payment; amount; adjustment; allocation of costs; department; duties; report.
81-1505.05.	Clean Air Title V Cash Fund; created; use; investment.
81-1505.06.	Air quality construction permit; fees; Air Quality Permit Cash Fund; created; use; investment.
81-1506.	Unlawful acts.
81-1507.	Director; violations; hearings; orders.
81-1508.	Violations of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act; civil penalties; injunctions.
81-1508.01.	Violations of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act; criminal penalties.
81-1508.02.	Unlawful acts; civil penalty.
81-1509.	Appeal; procedure.
81-1510.	Director; voluntary compliance; records.
81-1511.	Department; inspections; search warrants.
81-1512.	Department; emergency powers.
81-1513.	Variations from rules or regulations; notice; conditions for granting; appeal.
81-1514.	Land resources; public policy.
81-1515.	Dredge and Fill Cash Fund; created; use; investment.
81-1516.	Refuse, garbage, and rubbish; disposal; conditions.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
81-1517. Political subdivision; permits; department; powers; evaluation and determination of terms and conditions; factors.
81-1518. Environmental Infrastructure Sustainability Fund; created; use; investment.
81-1519. Political subdivision; evaluation; application fee; costs; refund.
81-1520. Political subdivision; evaluation; fee schedule.
81-1521. Repealed. Laws 1974, LB 1029, § 10.
81-1521.01. Transferred to section 81-1521.15.
81-1521.02. Transferred to section 81-1521.17.
81-1521.03. Transferred to section 81-1521.20.
81-1521.04. Transferred to section 81-1521.21.
81-1521.05. Transferred to section 81-1521.22.
81-1521.06. Transferred to section 81-1521.23.
81-1521.07. Repealed. Laws 1987, LB 152, § 12.
81-1521.08. Hazardous waste; terms, defined.
81-1521.09. Hazardous waste; commercial hazardous waste management facility; notice of intent to apply for permit; fee; site review committee; director; appoint designee.
81-1521.10. Hazardous waste; site review committee; membership.
81-1521.11. Hazardous waste; site review committee; meetings; officers; professional facilitator.
81-1521.12. Hazardous waste; department; provide staff; applicant; pay expenses.
81-1521.13. Hazardous waste; site review committee; consider factors; enumerated.
81-1521.14. Hazardous waste; site review committee; issue report; contents.
81-1521.15. Commercial hazardous waste management facility; application for permit.
81-1521.16. Commercial hazardous waste management facility; application; hearing by local governing body.
81-1521.17. Commercial hazardous waste management facility; notice of hearing; decision by local governing body.
81-1521.18. Commercial hazardous waste management facility; appeal of decision.
81-1521.19. Commercial hazardous waste management facility; approval; director; duties.
81-1521.20. Commercial hazardous waste management facility; publication of notice; additional hearing; permit; issuance; conditions.
81-1521.21. Commercial hazardous waste management facility; permittee; financial responsibility and insurance.
81-1521.22. Commercial hazardous waste management facility permit; expiration; renewal.
81-1521.23. Commercial hazardous waste management facility permit; revocation; when.
81-1522. Repealed. Laws 1992, LB 1257, § 105.
81-1523. Accumulation of junk; unlawful.
81-1524. Accumulation of junk; investigation; removal; notice.
81-1525. Accumulation of junk; failure to remove; violation; penalty.
81-1526. Rules and regulations; provisions applicable; exceptions.
81-1527. Records and information; confidential use.
81-1528. Act; political subdivision exempt; when; council; rules and regulations.
81-1528.01. Repealed. Laws 1986, LB 491, § 40.
81-1529. Act, how construed.
81-1530. Repealed. Laws 1987, LB 152, § 12.
81-1531. Repealed. Laws 1974, LB 1029, § 10.
81-1531.01. Act, how construed.
81-1531.02. Uranium mining; department; regulatory duties; prohibited methods; enforcement.
81-1532. Act, how cited.
81-1533. Repealed. Laws 2000, LB 1234, § 24.
(b) NEBRASKA LITTER REDUCTION AND RECYCLING ACT
81-1534. Act, how cited.
81-1535. Legislative declaration; litter and recycling program.

ENVIRONMENT AND ENERGY

Section	
81-1536.	Definitions, where found.
81-1537.	Department, defined.
81-1538.	Council, defined.
81-1539.	Fund, defined.
81-1540.	Director, defined.
81-1541.	Litter, defined.
81-1542.	Manufacturer, defined.
81-1543.	Person, defined.
81-1544.	Public place, defined.
81-1545.	Recycling, defined.
81-1546.	Recycling center, defined.
81-1547.	Resource recovery, defined.
81-1548.	Source separation, defined.
81-1548.01.	Wholesaler, defined.
81-1548.02.	Retailer, defined.
81-1548.03.	Tangible personal property, defined.
81-1548.04.	Gross proceeds, defined.
81-1549.	Council; adopt rules and regulations.
81-1550.	Litter prone activities and areas; litter receptacles; required.
81-1551.	Litter receptacles; owner or operator provide and maintain; penalty.
81-1552.	Litter receptacle; abuse; misuse; prohibited; violation; penalty.
81-1553.	Repealed. Laws 2007, LB 79, § 3.
81-1553.01.	Litter problem; surveys; department; grant funds; progress report.
81-1554.	Department; jobs for unemployed; design programs; grant funds.
81-1555.	Department; encourage effective local littering laws.
81-1556.	Act; enforcement; personnel.
81-1557.	Department; littering laws; appropriate provisions posted.
81-1558.	Nebraska Litter Reduction and Recycling Fund; created; use; investment.
81-1559.	Annual litter fee; manufacturer; wholesaler; rate; collection and administration; license; revocation; violation; penalty.
81-1560.	Litter fee; manufacturer; wholesaler; products subject to; enumerated.
81-1560.01.	Annual litter fee; retailer; rate; collection and administration; license; revocation; violation; penalty.
81-1560.02.	Litter fee; retailer; products subject to fee.
81-1560.03.	Litter fee; payment; nonduplication.
81-1560.04.	Litter fee; taxable and nontaxable sales; calculation.
81-1561.	Litter Fee Collection Fund; created; Nebraska Litter Reduction and Recycling Fund; distribution; procedure; purposes.
81-1562.	Annual grants; separate application.
81-1563.	Grant recipients; periodic reports.
81-1564.	Repealed. Laws 1981, LB 253, § 26.
81-1565.	Funds; department; adopt eligibility guidelines for recipients.
81-1566.	Act; termination; extension; considerations.
81-1566.01.	Repealed. Laws 1999, LB 59, § 4.

(c) HAZARDOUS MATERIALS

81-1567.	Terms, defined.
81-1568.	Volunteer; limitation on liability.
81-1569.	Limitation on liability; exceptions.
81-1570.	Liability; when.

(d) LANDFILL AND WASTE DISPOSAL

81-1571.	Repealed. Laws 1992, LB 1257, § 105.
81-1572.	Transferred to section 13-2026.
81-1573.	Transferred to section 13-2027.
81-1574.	Transferred to section 13-2028.

(e) STORAGE OF HAZARDOUS SUBSTANCES

81-1575.	Repealed. Laws 2016, LB712, § 4.
81-1576.	Repealed. Laws 2016, LB712, § 4.
81-1577.	Repealed. Laws 2016, LB712, § 4.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
- 81-1577.01. Motor vehicle fuel storage tanks; aboveground tanks authorized.
(f) LOW-LEVEL RADIOACTIVE WASTE DISPOSAL ACT
- 81-1578. Act, how cited.
- 81-1579. Legislative policy.
- 81-1579.01. Offices of commission; legislative intent.
- 81-1580. Act; purpose.
- 81-1581. Definitions, where found.
- 81-1582. Byproduct material, defined.
- 81-1583. Closure or site closure and stabilization, defined.
- 81-1584. Council, defined.
- 81-1584.01. Custodial care, defined.
- 81-1585. Decommissioning, defined.
- 81-1586. Department, defined.
- 81-1586.01. Developer, defined.
- 81-1587. Director, defined.
- 81-1588. Disposal, defined.
- 81-1589. High-level radioactive waste, defined.
- 81-1590. Facility, defined.
- 81-1590.01. Licensed facility operator, defined.
- 81-1591. Low-level radioactive waste, defined.
- 81-1591.01. Operational life of the facility, defined.
- 81-1592. Person, defined.
- 81-1593. Radioactive material, defined.
- 81-1594. Source material, defined.
- 81-1595. Special nuclear material, defined.
- 81-1596. Spent nuclear fuel, defined.
- 81-1597. Transuranic waste, defined.
- 81-1598. Department; designated agency.
- 81-1599. Department; powers and duties.
- 81-1599.01. Acceptance of applications for licensure; limitation.
- 81-1599.02. Nebraska representatives to commission; appointment.
- 81-15,100. Council; disposal of low-level radioactive waste; adopt rules and regulations; considerations.
- 81-15,101. License application; contents; transfer; limitation; review, when; department; duties.
- 81-15,101.01. Selection of site; local monitoring committee; establishment; members; powers and duties; technical assistance; immunity from liability; Local Site Selection Cash Fund; Local Monitoring Committee Cash Fund; created; use; investment.
- 81-15,101.02. Applicant; design and planning requirements.
- 81-15,101.03. Decommissioned nuclear reactor; waste; storage or disposal; waste from outside region; acceptance.
- 81-15,101.04. Class C low-level radioactive waste; storage; disposal; requirements.
- 81-15,101.05. Mixed waste; requirements.
- 81-15,102. Disposal site; acquisition or acceptance; construction contracts; conditions; use; notice required; contract for management; management; remedial cleanup costs.
- 81-15,102.01. Property near facility; loss of value; compensation authorized; procedure.
- 81-15,102.02. Department; testing of water and agricultural products.
- 81-15,102.03. Developer; provide emergency training and equipment.
- 81-15,103. Council; financial requirements; adopt rules and regulations; remedial cleanup costs; Radiation Site Closure and Reclamation Fund; Radiation Custodial Care Fund; created; use; investment; agreement with Department of Health and Human Services.
- 81-15,104. Fees or surcharges for services; special assessment; failure to pay; effect; Low-Level Radioactive Waste Cash Fund; created; investment.
- 81-15,104.01. Council; designated as rate-review agency.
- 81-15,105. Inconsistent ordinances, resolutions, or regulations; superseded.
- 81-15,105.01. Acceptance of waste by facility; when.
- 81-15,106. License; term; review; revocation; denial; hearing; closure of facility.

ENVIRONMENT AND ENERGY

- Section
- 81-15,107. License application; notice; hearing; environmental impact analysis required; appeal.
- 81-15,108. Emergency order; hearing.
- 81-15,109. Violations of act; action to enjoin.
- 81-15,110. Disposal of low-level radioactive waste; license required.
- 81-15,111. Violation; criminal penalty.
- 81-15,112. Violation; civil penalty; procedure; appeal.
- 81-15,112.01. Strict liability in tort; when.
- 81-15,112.02. Repealed. Laws 1995, LB 15, § 6.
- 81-15,113. Contribution to Central Interstate Low-Level Radioactive Waste Compact Commission's budget; how paid.
- 81-15,113.01. Community Improvements Cash Fund; created; surcharge; distribution; allocation; investment; legislative study.
- 81-15,113.02. Generator; failure to fulfill responsibilities; effect.
- 81-15,114. Violation of Central Interstate Low-Level Radioactive Waste Compact; civil penalty.
- 81-15,115. Violation of Central Interstate Low-Level Radioactive Waste Compact; action to enjoin; performance compelled.
- 81-15,116. Violation of Central Interstate Low-Level Radioactive Waste Compact; Attorney General; duties.
- (g) PETROLEUM PRODUCTS AND HAZARDOUS SUBSTANCES STORAGE AND HANDLING
- 81-15,117. Act, how cited.
- 81-15,118. Legislative findings.
- 81-15,119. Terms, defined.
- 81-15,120. Farm or residential tank; heating oil storage tank; registration; when required; fee; Petroleum Products and Hazardous Substances Storage and Handling Fund; created; use; investment.
- 81-15,121. Tanks; permit; when required; fees; application; Underground Storage Tank Fund; created; investment.
- 81-15,122. Denial of permit; procedures; appeal.
- 81-15,123. State Fire Marshal; rules and regulations; considerations; requirements.
- 81-15,124. Release of regulated substance; Department of Environment and Energy; State Fire Marshal; powers and duties; remedial action plan.
- 81-15,124.01. Environmental Quality Council; rules and regulations.
- 81-15,124.02. Access to property.
- 81-15,124.03. Remedial action plan; considerations.
- 81-15,124.04. Risk-based corrective action; department provide briefing.
- 81-15,124.05. Remedial action plan; certificate of completion; form; effect.
- 81-15,124.06. Remedial action plan; certificate of completion; immunity.
- 81-15,124.07. Remedial action plan; participation; effect.
- 81-15,125. Violation; penalty.
- 81-15,126. Violation; action to enjoin.
- 81-15,127. Notice of registration requirements; duty to provide.
- (h) WASTEWATER TREATMENT OPERATOR CERTIFICATION ACT
- 81-15,128. Act, how cited.
- 81-15,129. Terms, defined.
- 81-15,130. Council; adopt rules and regulations; contents.
- 81-15,131. Director; powers and duties.
- 81-15,132. Operator certification without examination; recommended by governing body or owner.
- 81-15,133. Operator certification without examination; holder of certificate of competency.
- 81-15,134. Wastewater treatment facilities; supervision required; exceptions.
- 81-15,135. Temporary certificate.
- 81-15,136. Certificate; revoke, suspend, or refuse; grounds.
- 81-15,137. Hearings; procedures applicable.
- 81-15,138. Certificate; term; renewal.
- 81-15,139. Certification required; when.

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-15,140. Reciprocal certification agreements; director; duties.
- 81-15,141. Violation; penalty.
- 81-15,142. Appeal.
- 81-15,143. Wastewater Treatment Operator Certification Cash Fund; created; use; investment.

(i) MOTOR VEHICLE EXHAUST EMISSIONS

- 81-15,144. Repealed. Laws 1993, LB 3, § 74.
- 81-15,145. Repealed. Laws 1993, LB 3, § 74.

(j) SOLID WASTE DISPOSAL SITES

- 81-15,146. Repealed. Laws 1993, LB 3, § 74.

(k) WASTEWATER TREATMENT FACILITIES CONSTRUCTION ASSISTANCE ACT

- 81-15,147. Act, how cited.
- 81-15,148. Legislative findings.
- 81-15,149. Terms, defined.
- 81-15,150. Federal grants; director; powers.
- 81-15,151. Wastewater Treatment Facilities Construction Loan Fund; transfers authorized; Construction Administration Fund; created; use; investment.
 - 81-15,151.01. Obligation to repay loan; effect.
 - 81-15,151.02. Pledge of fund or assets; effect.
 - 81-15,151.03. Linked deposit program; eligible financial institution; duties; linked deposit program loans; use.
- 81-15,152. Council; powers and duties.
- 81-15,153. Department; powers and duties.
- 81-15,154. Categories of loan eligibility; eligible items.
- 81-15,155. Loans to municipalities or counties; conditions.
- 81-15,156. Loan terms.
- 81-15,157. Loans; procedures for granting.
- 81-15,158. Repealed. Laws 2011, LB 383, § 9.

(l) WASTE REDUCTION AND RECYCLING

- 81-15,158.01. Act, how cited.
- 81-15,159. Legislative findings and intent; state purchases; preference requirements.
- 81-15,159.01. Department of Environment and Energy; conduct study; establish advisory committee; members; department powers; report.
- 81-15,159.02. Terms, defined.
- 81-15,160. Waste Reduction and Recycling Incentive Fund; created; use; investment; grants; restrictions.
- 81-15,161. Waste Reduction and Recycling Incentive Fund; grants; application; contents; director and council; duties; rules and regulations.
 - 81-15,161.01. Repealed. Laws 2003, LB 143, § 15.
 - 81-15,162. Fees on tires; collection; disbursement.
 - 81-15,162.01. Repealed. Laws 2003, LB 143, § 15.
 - 81-15,162.02. Repealed. Laws 2003, LB 143, § 15.
 - 81-15,162.03. Repealed. Laws 1997, LB 495, § 16.
 - 81-15,162.04. Repealed. Laws 1997, LB 495, § 16.
 - 81-15,162.05. Repealed. Laws 1997, LB 495, § 16.
 - 81-15,162.06. Repealed. Laws 1997, LB 495, § 16.
 - 81-15,162.07. Grant recipients; reports required.
 - 81-15,162.08. Repealed. Laws 2003, LB 143, § 15.
 - 81-15,163. Annual waste reduction and recycling fee; amount; collection.
 - 81-15,164. Collection of fees; manner.
 - 81-15,165. Tax Commissioner; collection fee; Waste Reduction and Recycling Incentive Fees Collection Fund; created; investment.

(m) SOLID WASTE MANAGEMENT PLAN

- 81-15,166. Comprehensive plan; department; duties; legislative intent; Environmental Quality Council; duties.

ENVIRONMENT AND ENERGY

Section

(n) NEBRASKA ENVIRONMENTAL TRUST ACT

- 81-15,167. Act, how cited.
- 81-15,168. Legislative intent.
- 81-15,169. Terms, defined.
- 81-15,170. Nebraska Environmental Trust Board; created; membership; qualifications; executive director.
- 81-15,170.01. Board members; conflict of interest; treatment.
- 81-15,171. Board members; terms; vacancy; expenses.
- 81-15,172. Board; officers; meetings.
- 81-15,173. Board; powers and duties.
- 81-15,174. Nebraska Environmental Trust Fund; created; use; investment.
- 81-15,174.01. Nebraska Environmental Endowment Fund; created; use; investment.
- 81-15,175. Fund allocations; board; powers and duties; grant award to Water Resources Cash Fund; payments; legislative intent; additional grant; additional reporting.
- 81-15,176. Environmental categories of projects; board; establish grant criteria.

(o) SOLID WASTE LANDFILL CLOSURE ASSISTANCE FUND

- 81-15,177. Solid Waste Landfill Closure Assistance Fund; established; use; investment; council; grants; duties.
- 81-15,177.01. Solid Waste Landfill Closure Assistance Fund; applicant, defined.
- 81-15,178. Funding from Solid Waste Landfill Closure Assistance Fund; applicant; requirements.
- 81-15,179. Application for funds; department; powers and duties.

(p) SUPERFUND COST SHARE CASH FUND

- 81-15,180. Superfund Cost Share Cash Fund; created; use; investment.

(q) REMEDIAL ACTION PLAN MONITORING ACT

- 81-15,181. Act, how cited.
- 81-15,182. Terms, defined.
- 81-15,183. Remedial Action Plan Monitoring Fund; created; use; investment.
- 81-15,184. Remedial action plan; application for monitoring; requirements; fees; department; duties.
- 81-15,185. Department of Environment and Energy; remedial action plan; approval or disapproval; notification.
- 81-15,185.01. Remedial action plan; notice; hearing.
- 81-15,185.02. Remedial action plan; termination; notification.
- 81-15,185.03. Remedial action plan; completion; duties; enforceability.
- 81-15,186. Department of Environment and Energy; issuance of letter; contents.
- 81-15,186.01. Rules and regulations.
- 81-15,187. Act, how construed; indemnification.
- 81-15,188. Act; supplemental to other laws; how construed.

(r) TECHNICAL ADVISORY COMMITTEE

- 81-15,189. Repealed. Laws 2009, LB 154, § 27.
- 81-15,190. Repealed. Laws 2009, LB 154, § 27.

(s) NEBRASKA EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT

- 81-15,191. Act, how cited.
- 81-15,192. Legislative intent.
- 81-15,193. Definitions, where found.
- 81-15,194. Administrator, defined.
- 81-15,195. Commission, defined.
- 81-15,196. Director, defined.
- 81-15,197. Environment, defined.
- 81-15,198. Extremely hazardous substance, defined.
- 81-15,199. Facility, defined.
- 81-15,200. Governing body, defined.
- 81-15,201. Hazardous chemical, defined.

STATE ADMINISTRATIVE DEPARTMENTS

Section	
81-15,202.	Hazardous substance, defined.
81-15,203.	Inventory form, defined.
81-15,204.	List of chemicals, defined.
81-15,205.	Material safety data sheet, defined.
81-15,206.	Release, defined.
81-15,207.	State Administrator, defined.
81-15,208.	Title III, defined.
81-15,209.	Toxic chemical, defined.
81-15,210.	State Administrator; State Emergency Response Commission; created; members; terms.
81-15,211.	Chairperson; meetings; expenses.
81-15,212.	Commission; duties; emergency planning districts.
81-15,213.	Nebraska Emergency Management Agency; Department of Environment and Energy; duties.
81-15,214.	Nebraska Emergency Planning and Community Right to Know Cash Fund; created; use; investment.
81-15,215.	Local emergency planning committee; members; terms.
81-15,216.	Local emergency planning committee; chairperson; meetings.
81-15,217.	Local emergency planning committee; powers and duties.
81-15,218.	Facility; notifications required.
81-15,219.	Facility emergency coordinator.
81-15,220.	Emergency plan; contents.
81-15,221.	Emergency plan review.
81-15,222.	Release notification.
81-15,223.	Material safety data sheet.
81-15,224.	Tier II inventory form.
81-15,225.	Toxic chemical release form.
81-15,226.	Owner or operator; information to health professionals; confidentiality.
81-15,227.	Exemption for transportation.
81-15,228.	Local law; applicability.
81-15,229.	Inspection of information; publication of notice.
81-15,230.	Violations; civil actions.
81-15,231.	Civil action; jurisdiction.
81-15,232.	Civil action; restriction.
81-15,233.	Court award costs of litigation; attorney's fees.
81-15,234.	Intervention.
81-15,235.	Rules and regulations.

(t) PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM CONTRACTORS CERTIFICATION AND SYSTEM REGISTRATION ACT

81-15,236.	Act, how cited.
81-15,237.	Purposes of act.
81-15,238.	Definitions, where found.
81-15,239.	Advisory committee, defined.
81-15,240.	Certified professional, defined.
81-15,241.	Council, defined.
81-15,242.	Department, defined.
81-15,243.	Director, defined.
81-15,244.	Private onsite wastewater treatment system, defined.
81-15,245.	Private Onsite Wastewater Treatment System Advisory Committee; created; members; expenses.
81-15,246.	Advisory committee; duties.
81-15,247.	Rules and regulations.
81-15,248.	Private onsite wastewater treatment system; professional required; when; registration; inspection and registration; director; powers; waiver of fees authorized.
81-15,248.01.	Fee schedule.
81-15,249.	Certificate; grounds for discipline.
81-15,250.	Private Onsite Wastewater Treatment System Permit and Approval Cash Fund; created; investment.

ENVIRONMENT AND ENERGY

Section

- 81-15,250.01. Private Onsite Wastewater Treatment System Certification and Registration Cash Fund; created; investment.
 - 81-15,251. Certified professionals; additional requirements.
 - 81-15,252. Act; applicability.
 - 81-15,253. Violation; penalty.
- (u) MERGER OF STATE ENERGY OFFICE AND DEPARTMENT OF ENVIRONMENTAL QUALITY
- 81-15,254. Department of Environment and Energy; Director of Environment and Energy; employees of State Energy Office; transfer; how treated.
 - 81-15,255. Appropriation and salary limit of State Energy Office; how treated.
 - 81-15,256. References to State Energy Office or Department of Environmental Quality in contracts or other documents; how construed; contracts and property; how treated.
 - 81-15,257. Actions and proceedings; how treated.
 - 81-15,258. Provisions of law; how construed.
 - 81-15,259. Property of State Energy Office; transfer to Department of Environment and Energy.
- (v) VOLKSWAGEN SETTLEMENT CASH FUND
- 81-15,260. Volkswagen Settlement Cash Fund; created; use; investment.
- (w) ENVIRONMENTAL SAFETY ACT
- 81-15,261. Environmental Safety Act, how cited.
 - 81-15,262. Legislative findings.
 - 81-15,263. Environmental Safety Act; terms, defined.
 - 81-15,264. Swimming pool, defined.
 - 81-15,265. Swimming pools; sanitary and safety requirements.
 - 81-15,266. Swimming pools; construction; permit; issuance; when.
 - 81-15,267. Swimming pools; permit to operate; application; requirements.
 - 81-15,268. Swimming pools; inspection; records; classification; plans and specifications; fees; disposition; exception; existing rules, regulations, licenses, permits, forms of approval, suits, other proceedings; how treated.
 - 81-15,269. Swimming pools; inspection; violation of sections; effect.
 - 81-15,270. Swimming pools; violation; public nuisance; abatement.
 - 81-15,271. Recreation camps; terms, defined.
 - 81-15,272. Recreation camps; permit; application; issuance; fees; disposition.
 - 81-15,273. Recreation camps; annual inspection; duty of department.
 - 81-15,274. Recreation camps; permit; suspension; revocation; grounds.
 - 81-15,275. Recreation camps; rules and regulations; existing rules, regulations, permits, forms of approval, suits, other proceedings; how treated.
 - 81-15,276. Recreation camps; plans; submit to department.
 - 81-15,277. Recreation camps; violations; penalty.
 - 81-15,278. Uniform Standard Code for Mobile Home Parks, how cited.
 - 81-15,279. Mobile home parks; terms, defined.
 - 81-15,280. Mobile home parks; license required; term; existing licenses, forms of approval, rules, regulations, suits, other proceedings; how treated.
 - 81-15,281. Mobile home parks; license; application.
 - 81-15,282. Mobile home parks; license; application; fees; disposition; inspection.
 - 81-15,283. Mobile home parks; sanitary facilities; permit; exception; application; issuance.
 - 81-15,284. Mobile home parks; sanitary facilities permit; denial; procedures; appeal.
 - 81-15,285. Mobile home parks; permit or license approved; records.
 - 81-15,286. Mobile home parks; utility systems and sanitary conditions; standards.
 - 81-15,287. Uniform Standard Code for Mobile Home Parks; applicability; certificate of exemption; procedure.
 - 81-15,288. Mobile home parks; licenses; issuance; denial, refusal of renewal, suspension, or revocation; civil penalty; grounds; notice; hearing; appeal.
 - 81-15,289. Mobile home parks; violations; nuisance; penalty; removal.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
81-15,290. Mobile home parks; operation without license; action by department; burden of proof.
81-15,291. Mobile home parks; fire safety inspection; fee.
81-15,292. Private water supply; private sewage disposal facilities; inspection; fees; existing rules and regulations; how treated.
- (x) TRANSFER OF POWERS, DUTIES, AND FUNCTIONS
UNDER ENVIRONMENTAL SAFETY ACT
- 81-15,293. Employees of Department of Health and Human Services; transfer to Department of Environment and Energy; how treated.
81-15,294. Appropriation and salary limit; financial obligations; how treated.
81-15,295. References to Department of Health and Human Services in contracts and other documents; how construed; contracts and property; how treated.
81-15,296. Actions and proceedings; how treated.
81-15,297. Provisions of law; how construed.
81-15,298. Property of Department of Health and Human Services; transfer to Department of Environment and Energy.
- (y) ENVIRONMENTAL SAFETY CASH FUND
- 81-15,299. Environmental Safety Cash Fund; created; use; investment.
- (z) ENGINEERING PLAN REVIEW CASH FUND
- 81-15,300. Engineering Plan Review Cash Fund; created; use; investment.
- (aa) NEBRASKA ENVIRONMENTAL RESPONSE ACT
- 81-15,301. Act, how cited.
81-15,302. Terms, defined.
81-15,303. Nebraska Environmental Response Cash Fund; created; use; investment.
81-15,304. Director; powers.
81-15,305. Rules and regulations.
81-15,306. Authorized representative; access to property; obstruction; prohibited.
81-15,307. Release of pollutant; cleanup; responsibility; liability; administrative penalty; director; powers and duties.
81-15,308. Voluntary remediation.
81-15,309. Cleanup costs; environmental lien.
81-15,310. Violations; enforcement; procedure; appeal.
81-15,311. Act, how construed.
- (bb) REAL-TIME NITRATE SENSORS
- 81-15,312. Real-time nitrate sensors; legislative intent to appropriate.

(a) ENVIRONMENTAL PROTECTION ACT

81-1501 Department; declaration of legislative purpose.

Whereas the water, land, and air of this state are among its most precious resources and the pollution thereof becomes a menace to the health and welfare of each person, and the public in general, in this state and whereas pollution of these resources in this state is likewise a concern in adjoining states, the public policy of this state is hereby declared to be:

(1) To conserve the water in this state and to protect and improve the quality of water for human consumption, wildlife, fish and other aquatic life, industry, recreation, and other productive, beneficial uses;

(2) To achieve and maintain such a reasonable degree of purity of the natural atmosphere of this state that human beings and all other animals and plants which are indigenous to this state will flourish in approximately the same balance as they have in recent history and to adopt and promulgate laws, rules, and regulations and enforce uniformly the same in such a manner as to give

meaningful recognition to the protection of each element of the environment, air, water, and land;

(3) To cooperate with other states and the federal government to accomplish the objectives set forth in the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act; and

(4) To protect human health through environmental enforcement.

Source: Laws 1971, LB 939, § 1; Laws 1987, LB 152, § 1; Laws 1992, LB 1257, § 75; Laws 1994, LB 570, § 4; Laws 1998, LB 1209, § 17.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

The Environmental Protection Act does not preempt the field of pollution control such that municipalities cannot enact ordinances on the subject of pollution control. *State ex rel. Alma v. Furnas Cty. Farms*, 266 Neb. 558, 667 N.W.2d 512 (2003).

Environmental Protection Act does not divest district courts of subject matter jurisdiction to enjoin proposed solid waste disposal operations alleged to be in violation of county ordinances.

Omaha Fish and Wildlife Club, Inc. v. Community Refuse, Inc., 208 Neb. 110, 302 N.W.2d 379 (1981).

Even in an industrial or rural area, one cannot conduct a business in such a manner as to materially prejudice a neighbor, but before enjoining it perpetually, a court of equity will usually allow the owner to correct or eliminate the cause of the grievance. *Botsch v. Leigh Land Co.*, 195 Neb. 509, 239 N.W.2d 481 (1976).

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 Environment and Energy, which department is hereby created;

(7) Director shall mean the Director of Environment and Energy, 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 contaminants, 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; Laws 2019, LB302, § 106.

81-1503 Environmental Quality Council; membership; appointment; compensation; expenses; Director of Environment and Energy; appointment; oath; duties.

(1) The Environmental Quality Council is hereby created. The council shall consist of seventeen members to be appointed by the Governor with the advice and consent of the Legislature as follows:

- (a) One representative of the food products manufacturing industry;
- (b) One representative of conservation;
- (c) One representative of the agricultural processing industry;
- (d) One representative of the automotive or petroleum industry;
- (e) One representative of the chemical industry;
- (f) One representative of heavy industry;
- (g) One representative of the power generating industry;
- (h) One representative of agriculture actively engaged in crop production;
- (i) One representative of labor;
- (j) One professional engineer experienced in control of air and water pollution and solid wastes;
- (k) One physician knowledgeable in the health aspects of air, water, and land pollution;
- (l) One representative from county government;
- (m) Two representatives from municipal government, one of whom shall represent cities other than those of the primary or metropolitan class;
- (n) One representative of the livestock industry;
- (o) One representative of minority populations; and
- (p) One biologist.

(2) Members shall serve for terms of four years. All appointments shall be subject to confirmation by the Legislature when initially made. As the term of an appointee to the council expires, the succeeding appointee shall be a representative of the same segment of the public as the previous appointee. In the case of appointees to vacancies occurring from unexpired terms, each successor 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. All members shall be citizens and residents of the State of Nebraska.

(3) Members may be removed by the Governor for inefficiency, neglect of duty, or misconduct in office but only after delivering to the member a copy of the charges and affording him or her an opportunity to be publicly heard in person or by counsel, in his or her own defense, upon not less than ten days' notice. Such hearing shall be held before the Governor. When a member is removed, the Governor shall file, in the office of the Secretary of State, a complete statement of all charges made against such member and the findings thereon, together with a complete record of the proceedings.

(4) The council shall elect from its members a chairperson and a vice-chairperson, who shall hold office at the pleasure of the council. The vice-chairperson shall serve as chairperson in case of the absence or disability of the chairperson. The director shall serve as secretary of the council and shall keep all records of meetings of and actions taken by the council. He or she shall be promptly advised as to such actions by the chairperson.

(5) The members of the council, while engaged in the performance of their official duties, shall receive a per diem of forty dollars while so serving, including travel time. In addition, members of the council shall receive reimbursement for expenses as provided in sections 81-1174 to 81-1177.

(6) The council shall hold at least two regular meetings each year, at a time and place fixed by the council and shall keep a record of its proceedings which shall be open to the public for inspection. Special meetings may be called by the chairperson. Such special meetings must be called by him or her upon receipt of a written request signed by two or more members of the council. Written notice of the time and place of all meetings shall be mailed in advance to the office of each member of the council by the secretary. A majority of the members of the council shall constitute a quorum.

(7) The council shall submit to the Governor a list of names from which he or she shall appoint the Director of Environment and Energy who shall be experienced in air, water, and land pollution control and who may be otherwise an employee of state government. The director shall be responsible for administration of the department and all standards, rules, and regulations adopted pursuant to Chapter 81, article 15, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act. All such standards, rules, and regulations shall be adopted by the council after consideration of the recommendations of the director. All grants to political subdivisions under the control of the department shall be made by the director in accordance with priorities established by the council, unless otherwise directed by statute. A majority of the members of the council shall constitute a quorum for the transaction of business. The affirmative vote of a majority of all members of the council shall be necessary for the adoption of standards, rules, and regulations.

(8) Before the director enters upon the duties of his or her office, he or she shall take and subscribe to the constitutional oath of office and shall, in

addition thereto, swear and affirm that he or she holds no other public office nor any position under any political committee or party, that he or she has not during the two years immediately prior to his or her appointment received a significant portion of his or her income directly or indirectly from permitholders or applicants for a permit under the Environmental Protection Act, and that he or she will not receive such income during his or her term as director, except that such requirements regarding income prior to the term of office shall not apply to employees of any agency of the State of Nebraska or any political subdivision which may be a permitholder under the Environmental Protection Act. Such oath and affirmation shall be filed with the Secretary of State.

Source: Laws 1971, LB 939, § 3; Laws 1972, LB 1435, § 2; Laws 1974, LB 1029, § 1; Laws 1979, LB 321, § 2; Laws 1981, LB 204, § 195; Laws 1983, LB 356, § 3; Laws 1992, LB 1257, § 77; Laws 1998, LB 1209, § 19; Laws 2005, LB 351, § 1; Laws 2012, LB760, § 1; Laws 2019, LB302, § 107; Laws 2020, LB381, § 119.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

For purposes of subsection (7) of this section, a statutorily required public hearing is the transaction of business. Johnson v. Nebraska Environmental Control Council, 2 Neb. App. 263, 509 N.W.2d 21 (1993).

81-1504 Department; powers; duties.

The department shall have and may exercise the following powers and duties:

(1) To exercise exclusive general supervision of the administration and enforcement of the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act, and all rules and regulations and orders adopted and promulgated under such acts;

(2) To develop comprehensive programs for the prevention, control, and abatement of new or existing pollution of the air, waters, and land of the state;

(3) To advise and consult, cooperate, and contract with other agencies of the state, the federal government, and other states, with interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of the acts;

(4) To act as the state water pollution, air pollution, and solid waste pollution control agency for all purposes of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., and any other federal legislation pertaining to loans or grants for environmental protection and from other sources, public or private, for carrying out any of its functions, which loans and grants shall not be expended for other than the purposes for which provided;

(5) To encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to air, land, and water pollution and causes and effects, prevention, control, and abatement of such pollution as it may deem advisable and necessary for the discharge of its duties under the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act, using its own staff or private research organizations under contract;

(6) To collect and disseminate information and conduct educational and training programs relating to air, water, and land pollution and the prevention, control, and abatement of such pollution;

(7) To issue, modify, or revoke orders: (a) Prohibiting or abating discharges of wastes into the air, waters, or land of the state; (b) requiring the construction of new disposal systems or any parts thereof or the modification, extension, or adoption of other remedial measures to prevent, control, or abate pollution; and (c) prohibiting or abating the discharge of dredged or fill material into waters of the United States;

(8) To administer state grants to political subdivisions for solid waste disposal facilities and for the construction of sewage treatment works and facilities to dispose of water treatment plant wastes;

(9) To (a) hold such hearings and give notice thereof, (b) issue such subpoenas requiring the attendance of such witnesses and the production of such evidence, (c) administer such oaths, and (d) take such testimony as the director deems necessary, and any of these powers may be exercised on behalf of the director by a hearing officer designated by the director;

(10) To require submission of plans, specifications, and other data relative to, and to inspect construction of, disposal systems or any part thereof prior to issuance of such permits or approvals as are required by the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act;

(11) To issue, continue in effect, revoke, modify, or deny permits, under such conditions as the director may prescribe and consistent with the standards, rules, and regulations adopted by the council, (a) to prevent, control, or abate pollution, (b) for the discharge of wastes into the air, land, or waters of the state, (c) for the installation, modification, or operation of disposal systems or any parts thereof, and (d) for the discharge of dredged and fill material into waters of the United States;

(12) To require proper maintenance and operation of disposal systems;

(13) To exercise all incidental powers necessary to carry out the purposes of the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act;

(14) To establish bureaus, divisions, or sections for the control of air pollution, water pollution, mining and land quality, and solid wastes which shall be administered by full-time salaried bureau, division, or section chiefs and to delegate and assign to each such bureau, division, or section and its officers and employees the duties and powers granted to the department for the enforcement of Chapter 81, article 15, the Integrated Solid Waste Management Act, the Livestock Waste Management Act, and the standards, rules, and regulations adopted pursuant thereto;

(15)(a) To require access to existing and available records relating to (i) emissions or discharges which cause or contribute to air, land, or water pollution or (ii) the monitoring of such emissions or discharges; and

(b) To require, for purposes of developing or assisting the development of any regulation or enforcing any of the provisions of the Environmental Protection Act which pertain to hazardous waste, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous waste, upon request of any officer, employee, or representative of the department, to

furnish information relating to such waste and any permit involved. Such person shall have access at all reasonable times to a copy of all results relating to such waste;

(16) To obtain such scientific, technical, administrative, and operational services including laboratory facilities, by contract or otherwise, as the director deems necessary;

(17) To encourage voluntary cooperation by persons and affected groups to achieve the purposes of the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act;

(18) To encourage local units of government to handle air, land, and water pollution problems within their respective jurisdictions and on a cooperative basis and to provide technical and consultative assistance therefor;

(19) To consult with any person proposing to construct, install, or otherwise acquire an air, land, or water contaminant source or a device or system for control of such source, upon request of such person, concerning the efficacy of such device or system or concerning the air, land, or water pollution problem which may be related to the source, device, or system. Nothing in any such consultation shall be construed to relieve any person from compliance with the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act, rules and regulations in force pursuant to the acts, or any other provision of law;

(20) To require all persons engaged or desiring to engage in operations which result or which may result in air, water, or land pollution to secure a permit prior to installation or operation or continued operation;

(21) To enter and inspect, during reasonable hours, any building or place, except a building designed for and used exclusively for a private residence;

(22)(a) To receive or initiate complaints of air, water, or land pollution, hold hearings in connection with air, water, or land pollution, and institute legal proceedings in the name of the state for the control or prevention of air, water, or land pollution, and for the recovery of penalties, in accordance with the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act; and

(b) To receive and initiate complaints of, hold hearings in connection with, and institute legal proceedings in the name of the state for the control, prevention, or abatement of the discharge of dredged and fill material into waters of the United States and for the recovery of penalties, in accordance with the Environmental Protection Act;

(23) To delegate, by contract with governmental subdivisions which have adopted local air, water, or land pollution control programs approved by the council, the enforcement of state-adopted air, water, or land pollution control regulations within a specified region surrounding the jurisdictional area of the governmental subdivisions. Prosecutions commenced under such contracts shall be conducted by the Attorney General or county attorneys as provided in the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act;

(24) To conduct tests and take samples of air, water, or land contaminants, fuel, process materials, or any other substance which affects or may affect discharges or emissions of air, water, or land contaminants from any source, giving the owner or operator a receipt for the sample obtained;

(25) To develop and enforce compliance schedules, under such conditions as the director may prescribe and consistent with the standards, rules, and regulations adopted by the council, to prevent, control, or abate pollution;

(26) To employ the Governor's Keep Nebraska Beautiful Committee for such special occasions and projects as the department may decide. Reimbursement of the committee shall be made from state and appropriate federal matching funds for each assignment of work by the department as provided in sections 81-1174 to 81-1177;

(27) To provide, to the extent determined by the council to be necessary and practicable, for areawide, selective, and periodic inspection and testing of motor vehicles to secure compliance with applicable exhaust emission standards for a fee not to exceed five dollars to offset the cost of inspection;

(28) To enforce, when it is not feasible to prescribe or enforce any emission standard for control of air pollutants, the use of a design, equipment, a work practice, an operational standard, or a combination thereof, adequate to protect the public health from such pollutant or pollutants with an ample margin of safety;

(29) To establish the position of public advocate to be located within the department to assist and educate the public on departmental programs and to carry out all duties of the ombudsman as provided in the Clean Air Act, as amended, 42 U.S.C. 7661f;

(30) Under such conditions as it may prescribe for the review, recommendations, and written approval of the director, to require the submission of such plans, specifications, and other information as it deems necessary to carry out the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act or to carry out the rules and regulations adopted pursuant to the acts. When deemed necessary by the director, the plans and specifications shall be prepared and submitted by a professional engineer licensed to practice in Nebraska;

(31) To carry out the provisions of the Petroleum Products and Hazardous Substances Storage and Handling Act;

(32) To consider the risk to human health and safety and to the environment in evaluating and approving plans for remedial action;

(33) To evaluate permits proposed to be issued to any political subdivision under the National Pollutant Discharge Elimination System created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., as provided in section 81-1517;

(34) To exercise such powers and duties as may be delegated by the federal government to administer an individual and general permit program for the discharge of dredged or fill material consistent with section 404 of the Clean Water Act, as amended, 33 U.S.C. 1344;

(35) To serve as or assist in developing and coordinating a central repository within state government for the collection of data on energy;

(36) To undertake a continuing assessment of the trends in the availability, consumption, and development of all forms of energy;

(37) To collect and analyze data relating to present and future demands and resources for all sources of energy and to specify energy needs for the state;

(38) To recommend to the Governor and the Legislature energy policies and conservation measures for the state and to carry out such measures as are adopted;

(39) To provide for public dissemination of appropriate information on energy, energy sources, and energy conservation;

(40) To accept, expend, or disburse funds, public or private, made available to it for research studies, demonstration projects, or other activities which are related either to energy conservation and efficiency or development;

(41) To study the impact and relationship of state energy policies to national and regional energy policies and engage in such activities as will reasonably insure that the State of Nebraska and its residents receive an equitable share of energy supplies, including the administration of any federally mandated or state-mandated energy allocation programs;

(42) To actively seek the advice of the residents of Nebraska regarding energy policies and programs;

(43) To prepare emergency allocation plans suggesting to the Governor actions to be taken in the event of serious shortages of energy;

(44) To design and maintain a state program for conservation of energy and energy efficiency;

(45) To provide technical assistance regarding energy to local subdivisions of government;

(46) To provide technical assistance to private persons desiring information on energy conservation and efficiency techniques and the use of renewable energy technologies;

(47) To develop a strategic state energy plan pursuant to section 81-1604;

(48) To develop and disseminate transparent and objective energy information and analysis while utilizing existing energy planning resources of relevant stakeholder entities;

(49) To actively seek to maximize federal and other nonstate funding and support to the state for energy planning;

(50) To monitor energy transmission capacity planning and policy affecting the state and the regulatory approval process for the development of energy infrastructure and make recommendations to the Governor and electronically to the Legislature as necessary to facilitate energy infrastructure planning and development;

(51) To implement rules and regulations adopted and promulgated by the director pursuant to the Administrative Procedure Act to carry out subdivisions (35) through (58) of this section;

(52) To make all contracts pursuant to subdivisions (35) through (58) of this section and do all things to cooperate with the federal government, and to qualify for, accept, expend, and dispense public or private funds intended for the implementation of subdivisions (35) through (58) of this section;

(53) To contract for services, if such work or services cannot be satisfactorily performed by employees of the department or by any other part of state government;

(54) To enter into such agreements as are necessary to carry out energy research and development with other states;

(55) To carry out the duties and responsibilities relating to energy as may be requested or required of the state by the federal government;

(56) To cooperate and participate with the approval of the Governor in the activities of organizations of states relating to the availability, conservation, development, and distribution of energy;

(57) To engage in such activities as will seek to insure that the State of Nebraska and its residents receive an equitable share of energy supplies at a fair price; and

(58) To form advisory committees of residents of Nebraska to advise the director on programs and policies relating to energy and to assist in implementing such programs. Such committees shall be of a temporary nature, and no member shall receive any compensation for serving on any such committee but, with the approval of the Governor, members shall receive reimbursement for expenses as provided in sections 81-1174 to 81-1177. The minutes of meetings of and actions taken by each committee shall be kept and a record shall be maintained of the name, address, and occupation or vocation of every individual serving on any committee. The department shall maintain such minutes and records and shall make them available for public inspection during regular office hours.

Source: Laws 1971, LB 939, § 4; Laws 1972, LB 1435, § 3; Laws 1973, LB 254, § 1; Laws 1974, LB 1029, § 2; Laws 1979, LB 342, § 1; Laws 1980, LB 853, § 2; Laws 1981, LB 204, § 196; Laws 1983, LB 356, § 4; Laws 1984, LB 1078, § 2; Laws 1986, LB 217, § 15; Laws 1992, LB 1257, § 78; Laws 1994, LB 570, § 6; Laws 1996, LB 1226, § 13; Laws 1997, LB 622, § 124; Laws 1998, LB 1209, § 20; Laws 2015, LB413, § 1; Laws 2019, LB302, § 108; Laws 2020, LB381, § 120; Laws 2022, LB809, § 4.

Cross References

Administrative Procedure Act, see section 84-920.

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.

81-1504.01 Department; reports required; contents.

The department shall provide the following information to the Governor and to the Clerk of the Legislature by December 1 of each year:

(1) A report by type of service or aid provided by the use and distribution of federal funds received by the department. The report shall also include user fees, permit fees, license fees, and application fees authorized by the federal Environmental Protection Agency as follows:

(a) Actual expenditure of each grant or authorized fees for the most recently completed state fiscal year, including state matching funds;

(b) Current budget and planned use and distribution of each grant and authorized fees for the current state fiscal year, including state matching funds;

(c) A summary of the projected funding level of each grant and authorized fees and the impact of federal mandates and regulations upon the future use of each grant and authorized fees; and

(d) Program summaries including statistical summaries when applicable for the most recently completed state fiscal year and program activity goals for the current state fiscal year;

(2) A summary of regulations of the federal Environmental Protection Agency which the department is required to implement and which do not include federal funding assistance and the possible financial impact to the state and political subdivisions;

(3) A report by type of service or aid provided by the use and distribution of state general and cash funds, including user fees, permit fees, license fees, and application fees, to carry out activities that are not funded by federal grants as follows:

(a) Actual expenditure of state funds, by agency sections, for the most recently completed state fiscal year, including a breakdown of expenditures by personal services, operations, travel, capital outlay, and consulting and contractual services;

(b) Current budget and planned use and distribution of state funds, by agency sections, for the current state fiscal year, including a breakdown of expenditures for personal services, operations, travel, capital outlay, and consulting and contractual services;

(c) A summary of projected program funding needs based upon the statutory requirements and public demand for services and the department's assessment of anticipated needs statewide; and

(d) Program summaries including statistical summaries when applicable for the most recently completed state fiscal year and program activity goals for the current state fiscal year;

(4) A report regarding staff turnover by job class and the department's assessment of its ability to hire and retain qualified staff considering the state's personnel pay plan;

(5) A report listing the method used by each new or existing licensee, permittee, or other person who is required by the department to establish proof of financial responsibility; and

(6) A report for the previous state fiscal year relating to the purpose of the Nebraska Litter Reduction and Recycling Act and of funds credited to the Nebraska Litter Reduction and Recycling Fund.

The reports and summaries submitted to the Clerk of the Legislature shall be submitted electronically.

Source: Laws 1991, LB 528, § 1; Laws 1993, LB 3, § 47; Laws 1993, LB 203, § 1; Laws 1994, LB 1034, § 2; Laws 2003, LB 143, § 9; Laws 2007, LB79, § 1; Laws 2012, LB782, § 201; Laws 2019, LB302, § 109.

Cross References

Nebraska Litter Reduction and Recycling Act, see section 81-1534.

81-1504.02 Department; establish telephone line.

The department shall establish a telephone line to provide information on the department's programs and requirements and to report complaints and suspected violations of the various environmental statutes and regulations which the department administers, as well as complaints regarding the department's regulation and enforcement activities. The department may charge a fee for the use of such a telephone line.

Source: Laws 1998, LB 1209, § 29.

81-1504.03 Grants or loans; restrictions.

No disbursements from grants or loans administered pursuant to the Environmental Protection Act shall be made for projects related to tire-derived fuel.

Source: Laws 2001, LB 461, § 9.

81-1505 Council; rules and regulations; standards of air, land, and water quality.

(1) In order to carry out the purposes of the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act, the council shall adopt and promulgate rules and regulations which shall set standards of air, water, and land quality to be applicable to the air, waters, and land of this state or portions thereof. Such standards of quality shall be such as to protect the public health and welfare. The council shall classify air, water, and land contaminant sources according to levels and types of discharges, emissions, and other characteristics which relate to air, water, and land pollution and may require reporting for any such class or classes. Such classifications and standards made pursuant to this section may be made for application to the state as a whole or to any designated area of the state and shall be made with special reference to effects on health, economic and social factors, and physical effects on property. Such standards and classifications may be amended as determined necessary by the council.

(2) In adopting the classifications of waters and water quality standards, the primary purpose for such classifications and standards shall be to protect the public health and welfare and the council shall give consideration to:

(a) The size, depth, surface area, or underground area covered, the volume, direction, and rate of flow, stream gradient, and temperature of the water;

(b) The character of the area affected by such classification or standards, its peculiar suitability for particular purposes, conserving the value of the area, and encouraging the most appropriate use of lands within such area for domestic, agricultural, industrial, recreational, and aquatic life purposes;

(c) The uses which have been made, are being made, or are likely to be made, of such waters for agricultural, transportation, domestic, and industrial consumption, for fishing and aquatic culture, for the disposal of sewage, industrial waste, and other wastes, or other uses within this state and, at the discretion of the council, any such uses in another state on interstate waters flowing through or originating in this state;

(d) The extent of present pollution or contamination of such waters which has already occurred or resulted from past discharges therein; and

(e) Procedures pursuant to section 401 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., for certification by the department of activities requiring a federal license or permit which may result in a discharge.

(3) In adopting effluent limitations or prohibitions, the council shall give consideration to the type, class, or category of discharges and the quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable or other waters of the state, including schedules of compliance, best practicable control technology, and best available control technology.

(4) In adopting standards of performance, the council shall give consideration to the discharge of pollutants which reflect the greatest degree of effluent

reduction which the council determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

(5) In adopting toxic pollutant standards and limitations, the council shall give consideration to the combinations of pollutants, the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms.

(6) In adopting pretreatment standards, the council shall give consideration to the prohibitions or limitations to noncompatible pollutants, prohibitions against the passage through a publicly owned treatment works of pollutants which would cause interference with or obstruction to the operation of publicly owned treatment works, damage to such works, and the prevention of the discharge of pollutants therefrom which are inadequately treated.

(7) In adopting treatment standards, the council shall give consideration to providing for processes to which wastewater shall be subjected in a publicly owned wastewater treatment works in order to make such wastewater suitable for subsequent use.

(8) In adopting regulations pertaining to the disposal of domestic and industrial liquid wastes, the council shall give consideration to the minimum amount of biochemical oxygen demand, suspended solids, or equivalent in the case of industrial wastewaters, which must be removed from the wastewaters and the degree of disinfection necessary to meet water quality standards with respect to construction, installation, change of, alterations in, or additions to any wastewater treatment works or disposal systems, including issuance of permits and proper abandonment, and requirements necessary for proper operation and maintenance thereof.

(9)(a) The council shall adopt and promulgate rules and regulations for controlling mineral exploration holes and mineral production and injection wells. The rules and regulations shall include standards for the construction, operation, and abandonment of such holes and wells. The standards shall protect the public health and welfare and air, land, water, and subsurface resources so as to control, minimize, and eliminate hazards to humans, animals, and the environment. Consideration shall be given to:

(i) Area conditions such as suitability of location, geologic formations, topography, industry, agriculture, population density, wildlife, fish and other aquatic life, sites of archaeological and historical importance, mineral, land, and water resources, and the existing economic activities of the area including, but not limited to, agriculture, recreation, tourism, and industry;

(ii) A site-specific evaluation of the geologic and hydrologic suitability of the site and the injection, disposal, and production zones;

(iii) The quality of the existing ground water, the effects of exemption of the aquifer from any existing water quality standards, and requirements for restoration of the aquifer;

(iv) Standards for design and use of production facilities, which shall include, but not be limited to, all wells, pumping equipment, surface structures, and associated land required for operation of injection or production wells; and

(v) Conditions required for closure, abandonment, or restoration of mineral exploration holes, injection and production wells, and production facilities in order to protect the public health and welfare and air, land, water, and subsurface resources.

(b) The council shall establish fees for regulated activities and facilities and for permits for such activities and facilities. The fees shall be sufficient but shall not exceed the amount necessary to pay the department for the direct and indirect costs of evaluating, processing, and monitoring during and after operation of regulated facilities or performance of regulated activities.

(c) With respect to mineral production wells, the council shall adopt and promulgate rules and regulations which require restoration of air, land, water, and subsurface resources and require mineral production well permit applications to include a restoration plan for the air, land, water, and subsurface resources affected. Such rules and regulations may provide for issuance of a research and development permit which authorizes construction and operation of a pilot plant by the permittee for the purpose of demonstrating the permittee's ability to inject and restore in a manner which meets the standards required by this subsection and the rules and regulations.

The rules and regulations adopted and promulgated may also provide for issuance of a commercial permit after a finding by the department that the injection and restoration procedures authorized by the research and development permit have been successful in demonstrating the applicant's ability to inject and restore in a manner which meets the standards required by this subsection and the rules and regulations.

(d) For the purpose of this subsection, unless the context otherwise requires, restoration shall mean the employment, during and after an activity, of procedures reasonably designed to control, minimize, and eliminate hazards to humans, animals, and the environment, to protect the public health and welfare and air, land, water, and subsurface resources, and to return each resource to a quality of use consistent with the uses for which the resource was suitable prior to the activity.

(10) In adopting livestock waste control regulations, the council shall consider the discharge of livestock wastes into the waters of the state or onto land not owned by the livestock operator, conditions under which permits for such operations may be issued, including design, location, and proper management of such facilities, protection of ground water from such operations, and revocation, modification, or suspension of such permits for cause and all requirements of the Livestock Waste Management Act.

(11) In adopting regulations for the issuance of permits under the National Pollutant Discharge Elimination System created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., the council shall consider when such permits shall be required and exemptions, application and filing requirements, terms and conditions affecting such permits, notice and public participation, duration and review of such permits, the evaluation provided for under section 81-1517, and monitoring, recording, and reporting under the system.

(12) The council shall adopt and promulgate rules and regulations for air pollution control which shall include:

(a) A construction permit program which requires the owner or operator of an air contaminant source to obtain a permit prior to construction. Application fees shall be according to section 81-1505.06;

(b) An operating permit program consistent with requirements of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and an operating permit program for minor sources of air pollution, which programs shall require permits for both new and existing sources;

(c) Provisions for operating permits to be issued after public notice, to be terminated, modified, or revoked for cause, and to be modified to incorporate new requirements;

(d) Provisions for applications to be on forms provided by the department and to contain information necessary to make a determination on the appropriateness of issuance or denial. The department shall make a completeness determination in a timely fashion and after such determination shall act on the application within time limits set by the council. Applications for operating permits shall include provisions for certification of compliance by the applicant;

(e) Requirements for operating permits which may include such conditions as necessary to protect public health and welfare, including, but not limited to (i) monitoring and reporting requirements on all sources subject to the permit, (ii) payment of annual fees sufficient to pay the reasonable direct and indirect costs of developing and administering the air quality permit program, (iii) retention of records, (iv) compliance with all air quality standards, (v) a permit term of no more than five years from date of issuance, (vi) any applicable schedule of compliance leading to compliance with air quality regulations, (vii) site access to the department for inspection of the facility and records, (viii) emission limits or control technology requirements, (ix) periodic compliance certification, and (x) other conditions necessary to carry out the purposes of the Environmental Protection Act. For purposes of this subsection, control technology shall mean a design, equipment, a work practice, an operational standard which may include a requirement for operator training or certification, or any combination thereof;

(f) Classification of air quality control regions;

(g) Standards for air quality that may be established based upon protection of public health and welfare, emission limitations established by the United States Environmental Protection Agency, and maximum achievable control technology standards for sources of toxic air pollutants. For purposes of this subdivision, maximum achievable control technology standards shall mean an emission limit or control technology standard which requires the maximum degree of emission reduction that the council, taking into consideration the cost of achieving such emission reduction, any health and environmental impacts not related to air quality, and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which the standard applies through application of measures, processes, methods, systems, or techniques, including, but not limited to, measures which accomplish one or a combination of the following:

(i) Reduce the volume of or eliminate emissions of the pollutants through process changes, substitution of materials, or other modifications;

(ii) Enclose systems or processes to eliminate emissions; or

(iii) Collect, capture, or treat the pollutants when released from a process, stack, storage, or fugitive emission point;

(h) Restrictions on open burning and fugitive emissions;

- (i) Provisions for issuance of general operating permits, after public notice, for sources with similar operating conditions and for revoking such general authority to specific permittees;
- (j) Provisions for implementation of any emissions trading programs as defined by the department. Such programs shall be consistent with the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and administered through the operating permit program;
- (k) A provision that operating permits will not be issued if the Environmental Protection Agency objects in a timely manner;
- (l) Provisions for periodic reporting of emissions;
- (m) Limitations on emissions from process operations, fuel-burning equipment, and incinerator emissions and such other restrictions on emissions as are necessary to protect the public health and welfare;
- (n) Time schedules for compliance;
- (o) Requirements for owner or operator testing and monitoring of emissions;
- (p) Control technology requirements when it is not feasible to prescribe or enforce an emission standard; and
- (q) Procedures and definitions necessary to carry out payment of the annual emission fee set in section 81-1505.04.

(13)(a) In adopting regulations for hazardous waste management, the council shall give consideration to generation of hazardous wastes, labeling practices, containers used, treatment, storage, collection, transportation including a manifest system, processing, resource recovery, and disposal of hazardous wastes. It shall consider the permitting, licensing, design and construction, and development and operational plans for hazardous waste treatment, storage, and disposal facilities, and conditions for licensing or permitting of hazardous waste treatment, storage, and disposal areas. It shall consider modification, suspension, or revocation of such licenses and permits, including requirements for waste analysis, site improvements, fire prevention, safety, security, restricted access, and covering and handling of hazardous liquids and materials. Licenses and permits for hazardous waste, treatment, storage, and disposal facilities shall not be issued until certification by the State Fire Marshal as to fire prevention and fire safety has been received by the department. The council shall further consider the need at treatment, storage, or disposal facilities for required equipment, communications and alarms, personnel training, and contingency plans for any emergencies that might arise and for a coordinator during such emergencies.

In addition the council shall give consideration to (i) ground water monitoring, (ii) use and management of containers and tanks, (iii) surface impoundments, (iv) waste piles, (v) land treatment, (vi) incinerators, (vii) chemical or biological treatment, (viii) landfills including the surveying thereof, and (ix) special requirements for ignitable, reactive, or incompatible wastes.

In considering closure and postclosure of hazardous waste treatment, storage, or disposal facilities, the council shall consider regulations that would result in the owner or operator closing his or her facility so as to minimize the need for future maintenance, and to control, minimize, or eliminate, to the extent necessary to protect humans, animals, and the environment, postclosure escape of hazardous waste, hazardous waste constituents, and leachate to the ground water or surface waters, and to control, minimize, or eliminate, to the

extent necessary to protect humans, animals, and the environment, waste decomposition to the atmosphere. In considering corrective action for hazardous waste treatment, storage, or disposal facilities, the council shall consider regulations that would require the owner or operator, or any previous owner or operator with actual knowledge of the presence of hazardous waste at the facility, to undertake corrective action or such other response measures necessary to protect human health or the environment for all releases of hazardous waste or hazardous constituents from any treatment, storage, or disposal facility or any solid waste management unit at such facility regardless of the time at which waste was placed in such unit.

Such regulations adopted pursuant to this subsection shall in all respects comply with the Environmental Protection Act and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

(b) In adopting regulations for hazardous waste management, the council shall consider, in addition to criteria in subdivision (a) of this subsection, establishing criteria for (i) identifying hazardous waste including extraction procedures, toxicity, persistence, and degradability in nature, potential for accumulation in tissue, flammability or ignitability, corrosiveness, reactivity, and generation of pressure through decomposition, heat, or other means, and other hazardous characteristics, (ii) listing all materials it deems hazardous and which should be subject to regulation, and (iii) locating treatment, storage, or disposal facilities for such wastes. In adopting criteria for flammability and ignitability of wastes pursuant to subdivision (b)(i) of this subsection, no regulation shall be adopted without the approval of the State Fire Marshal.

(c) In adopting regulations for hazardous waste management, the council shall establish a schedule of fees to be paid to the director by licensees or permittees operating hazardous waste processing facilities or disposal areas on the basis of a monetary value per cubic foot or per pound of the hazardous wastes, sufficient but not exceeding the amount necessary to reimburse the department for the costs of monitoring such facilities or areas during and after operation of such facilities or areas. The licensees may assess a cost against persons using the facilities or areas. The director shall remit any money collected from fees paid to him or her to the State Treasurer who shall credit the entire amount thereof to the General Fund.

(d) In adopting regulations for solid waste disposal, the council shall consider storage, collection, transportation, processing, resource recovery, and disposal of solid waste, developmental and operational plans for solid waste disposal areas, conditions for permitting of solid waste disposal areas, modification, suspension, or revocation of such permits, regulations of operations of disposal areas, including site improvements, fire prevention, ground water protection, safety and restricted access, handling of liquid and hazardous materials, insect and rodent control, salvage operations, and the methods of disposing of accumulations of junk outside of solid waste disposal areas. Such regulations shall in all respects comply with the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

(14) In adopting regulations governing discharges or emissions of oil and other hazardous materials into the waters, in the air, or upon the land of the state, the council shall consider the requirements of the Integrated Solid Waste Management Act, methods for prevention of such discharges or emissions, and

the responsibility of the discharger or emitter for cleanup, toxicity, degradability, and dispersal characteristics of the substance.

(15) In adopting regulations governing composting and composting sites, the council shall give consideration to:

(a) Approval of a proposed site by the local governing body, including the zoning authority, if any, prior to issuance of a permit by the department;

(b) Issuance of permits by the department for such composting operations, with conditions if necessary;

(c) Submission of construction and operational plans by the applicant for a permit to the department, with approval of such plans before issuance of such permit;

(d) A term of up to ten years for such permits;

(e) Renewal of permits if the operation has been in substantial compliance with composting regulations adopted pursuant to this subsection, permit conditions, and operational plans;

(f) Review by the department of materials to be composted, including chemical analysis when found by the department to be necessary;

(g) Inspections of such compost sites by the department. Operations out of compliance with composting regulations, permit conditions, or operational plans shall be given a reasonable time for voluntary compliance, and failure to do so within the specified time shall result in a hearing after notice is given, at which time the owner or operator shall appear and show cause why his or her permit should not be revoked;

(h) Special permits of the department for demonstration projects not to exceed six months;

(i) Exemptions from permits of the department; and

(j) The Integrated Solid Waste Management Act.

(16) Any person operating or responsible for the operation of air, water, or land contaminant sources of any class for which the rules and regulations of the council require reporting shall make reports containing information as may be required by the department concerning quality and quantity of discharges and emissions, location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of discharges and emissions, and such other information as is relevant to air, water, or land pollution and is available.

(17) Prior to adopting, amending, or repealing standards and classifications of air, water, and land quality and rules and regulations under the Integrated Solid Waste Management Act or the Livestock Waste Management Act, the council shall, after due notice, conduct public hearings thereon. Notice of public hearings shall specify the waters or the area of the state for which standards of air, water, or land are sought to be adopted, amended, or repealed and the time, date, and place of such hearing. Such hearing shall be held in the general area to be affected by such standards. Such notice shall be given in accordance with the Administrative Procedure Act.

(18) Standards of quality of the air, water, or land of the state and rules and regulations adopted under the Integrated Solid Waste Management Act or the Livestock Waste Management Act or any amendment or repeal of such standards or rules and regulations shall become effective upon adoption by the

council and filing in the office of the Secretary of State. In adopting standards of air, water, and land quality or making any amendment thereof, the council shall specify a reasonable time for persons discharging wastes into the air, water, or land of the state to comply with such standards and upon the expiration of any such period of time may revoke or modify any permit previously issued which authorizes the discharge of wastes into the air, water, or land of this state which results in reducing the quality of such air, water, or land below the standards established therefor by the council.

(19) All standards of quality of air, water, or land and all rules and regulations adopted pursuant to law by the council prior to May 29, 1981, and applicable to specified air, water, or land are hereby approved and adopted as standards of quality of and rules and regulations for such air, water, or land.

(20) In addition to such standards as are heretofore authorized, the council shall adopt and promulgate rules and regulations to set standards of performance, effluent standards, pretreatment standards, treatment standards, toxic pollutant standards and limitations, effluent limitations, effluent prohibitions, and quantitative limitations or concentrations which shall in all respects conform with and meet the requirements of the National Pollutant Discharge Elimination System in the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(21)(a) The council shall adopt and promulgate rules and regulations requiring all new or renewal permit or license applicants regulated under the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act to establish proof of financial responsibility by providing funds in the event of abandonment, default, or other inability of the permittee or licensee to meet the requirements of its permit or license or other conditions imposed by the department pursuant to the acts. The council may exempt classes of permittees or licensees from the requirements of this subdivision when a finding is made that such exemption will not result in a significant risk to the public health and welfare.

(b) Proof of financial responsibility shall include any of the following made payable to or held in trust for the benefit of the state and approved by the department:

(i) A surety bond executed by the applicant and a corporate surety licensed to do business in this state;

(ii) A deposit of cash, negotiable bonds of the United States or the state, negotiable certificates of deposit, or an irrevocable letter of credit of any bank or other savings institution organized or transacting business in the United States in an amount or which has a market value equal to or greater than the amount of the bonds required for the bonded area under the same terms and conditions upon which surety bonds are deposited;

(iii) An established escrow account; or

(iv) A bond of the applicant without separate surety upon a satisfactory demonstration to the director that such applicant has the financial means sufficient to self-bond pursuant to bonding requirements adopted by the council consistent with the purposes of this subdivision.

(c) The director shall determine the amount of the bond, deposit, or escrow account which shall be reasonable and sufficient so the department may, if the permittee or licensee is unable or unwilling to do so and in the event of forfeiture of the bond or other financial responsibility methods, arrange to

rectify any improper management technique committed during the term of the permit or license and assure the performance of duties and responsibilities required by the permit or license pursuant to law, rules, and regulations.

(d) In determining the amount of the bond or other method of financial responsibility, the director shall consider the requirements of the permit or license or any conditions specified by the department, the probable difficulty of completing the requirements of such permit, license, or conditions due to such factors as topography, geology of the site, and hydrology, and the prior history of environmental activities of the applicant.

This subsection shall apply to hazardous waste treatment, storage, or disposal facilities which have received interim status.

(22)(a) The council shall adopt and promulgate rules and regulations no more stringent than the provisions of section 1453 et seq. of the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300j-13 et seq., for public water system source water assessment programs.

(b) The council may adopt and promulgate rules and regulations to implement a source water petition program no more stringent than section 1454 et seq. of the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300j-14 et seq.

(23) The council may adopt and promulgate rules and regulations for the issuance of permits relating to the discharge of dredged or fill material into the waters of the United States under section 404 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., giving consideration to (a) when such permits are required and exemptions, application, and filing requirements, (b) terms and conditions affecting such permits, notice and public participation, and duration, (c) review of such permits, (d) monitoring, recording, and reporting requirements, (e) compensatory mitigation, and (f) such other requirements not inconsistent with the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(24) The council may establish fees for applications, determinations, permits, licenses, or similar authorizations for the discharge of dredged and fill material under section 404 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., to be collected by the department. The fees shall be sufficient to pay the department for the direct and indirect costs of administering a permitting program under section 404 of the Clean Water Act.

Source: Laws 1971, LB 939, § 5; Laws 1972, LB 1435, § 4; Laws 1973, LB 538, § 2; Laws 1974, LB 1029, § 3; Laws 1979, LB 342, § 2; Laws 1980, LB 853, § 3; Laws 1981, LB 216, § 3; Laws 1983, LB 356, § 5; Laws 1984, LB 1078, § 3; Laws 1986, LB 1008, § 2; Laws 1992, LB 1257, § 79; Laws 1993, LB 623, § 3; Laws 1994, LB 570, § 7; Laws 1994, LB 1031, § 1; Laws 1997, LB 517, § 25; Laws 1998, LB 1209, § 21; Laws 1999, LB 784, § 1; Laws 2001, LB 126, § 1; Laws 2001, LB 667, § 49; Laws 2004, LB 449, § 1; Laws 2006, LB 872, § 3; Laws 2011, LB30, § 1; Laws 2015, LB413, § 2; Laws 2019, LB302, § 110; Laws 2022, LB809, § 5.

Cross References

Administrative Procedure Act, see section 84-920.

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

A city ordinance with a mandatory bond requirement conflicts with subsection (21) of this section, which provides for certain exemptions from the requirement of showing financial responsi-

bility, and is impermissible. State ex rel. Alma v. Furnas Cty. Farms, 266 Neb. 558, 667 N.W.2d 512 (2003).

81-1505.01 Environmental Cash Fund; created; use; investment.

There is hereby created the Environmental Cash Fund which shall be used to pay the expenses of the department. The department shall remit all fees collected pursuant to subsection (9) of section 81-1505 and section 81-1521.09 to the State Treasurer for credit to the fund. Any fee collected pursuant to section 81-1521.09 shall be used to pay the expenses related to the notice of intent for which the fee was paid. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the Department of Environmental Quality Cash Fund to the Environmental Cash Fund on July 1, 2019.

Source: Laws 1983, LB 356, § 8; Laws 1987, LB 114, § 1; Laws 1992, LB 1257, § 80; Laws 1993, LB 3, § 48; Laws 1994, LB 1066, § 112; Laws 1995, LB 429, § 2; Laws 2019, LB302, § 111.

Cross References

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

81-1505.02 Mineral exploration holes; rules and regulations.

The council may adopt and promulgate rules and regulations governing mineral exploration holes prior to August 1, 1983, but such rules and regulations shall not be effective until such date.

The council shall adopt and promulgate rules and regulations authorized by the amendments made by Laws 1983, LB 356, to subsection (9) of section 81-1505 within one hundred twenty days of May 26, 1983. All requirements of the Environmental Protection Act shall apply to any permit application regardless of the date of submission, except that the department shall continue to diligently process any application submitted prior to May 26, 1983.

Source: Laws 1983, LB 356, § 9.

81-1505.03 Small Business Compliance Advisory Panel; created; members; duties; expenses.

(1) There is hereby created the Small Business Compliance Advisory Panel. The panel shall consist of the following:

(a) Two members who are not owners or representatives of owners of small business stationary sources of air emissions selected by the Governor to represent the general public;

(b) Four members selected by the Legislature who are owners or who represent owners of small business stationary sources of air emissions; and

(c) One member selected by the director.

(2) The panel shall be responsible for all requirements of the Clean Air Act, 42 U.S.C. 7401 et seq., as such act existed on January 1, 2004. Members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177. The panel shall conduct its meetings in accordance with the Open Meetings Act and

shall submit an annual report to the Governor no later than January 1 of each year. The panel shall receive necessary staff support from the department.

Source: Laws 1992, LB 1257, § 81; Laws 2004, LB 821, § 31; Laws 2020, LB381, § 121.

Cross References

Open Meetings Act, see section 84-1407.

81-1505.04 Annual emission fee; payment; amount; adjustment; allocation of costs; department; duties; report.

(1)(a) The department shall collect an annual emission fee from major sources of air pollution. Each major source shall pay the emission fee for regulated pollutants in the amount of twenty-five dollars per ton per pollutant or as adjusted pursuant to this section. The fee shall be based upon the amount of emissions of each regulated pollutant as reported or estimated by the source in the previous calendar year, but fees shall not be paid on amounts in excess of four thousand tons per year for any regulated pollutant.

(b) Beginning with calendar year 2001 emissions, fees shall not be paid for a mid-sized electric generation facility on amounts in excess of four hundred tons per year for any regulated pollutant.

(c) A mid-sized electric generation facility owned by a municipality shall continue to be considered a separate mid-sized electric generation facility for purposes of this section even if the facility is subsequently permitted with another general unit larger than one hundred fifteen megawatts under separate ownership. Each facility under separate ownership shall be considered a separate major source for purposes of this section.

(d) For purposes of this section, mid-sized electric generation facility means a facility that:

- (i) Uses coal as the primary source of fuel in the facility's largest generation unit;
- (ii) Has a name plate generating capacity of between seventy and one hundred fifteen megawatts in the facility's largest generation unit; and
- (iii) Is not operating in a political subdivision which has been delegated the authority to enforce the air quality permit program within its jurisdiction.

(2)(a) The emission fee may be increased or decreased annually by the department by the percentage difference between the Consumer Price Index for the most recent year ending before the beginning of such year and the Consumer Price Index for the year 1989 or as required to pay all reasonable direct and indirect costs of developing and administering the air quality permit program. For purposes of this section, Consumer Price Index means the change in the price of goods and services for all urban consumers published by the United States Department of Labor at the close of the twelve-month period ending on August 31 of each year.

(b) For purposes of this section, reasonable direct and indirect costs of developing and administering the air quality permit program, as required under the federal Clean Air Act, as the act existed on May 31, 2001, 42 U.S.C. 7661a through f, include:

- (i) Consideration of any associated overhead charges for personnel, equipment, buildings, and vehicles;

- (ii) Reviewing and acting on any application for a permit or permit revision;
- (iii) Implementing and enforcing the terms of any permit, not including any court costs or other costs associated with any formal enforcement action;
- (iv) Emissions and ambient monitoring, including adequate resources to audit and inspect source-operated monitoring programs;
- (v) Preparing generally applicable regulations or guidance;
- (vi) Modeling, analyses, or demonstrations;
- (vii) Preparing inventories and tracking emissions;
- (viii) Developing and implementing any emissions trading programs as defined by the department; and
- (ix) Providing support to sources under the Small Business Compliance Advisory Panel.

(c) The council shall establish procedures for the method of calculation and payment of the emission fee in a manner consistent with this section and shall establish the definition of or a table listing the pollutants which are regulated pollutants and a definition of major source. Such definitions or listing shall comply with and not be more stringent than the requirements of the federal Clean Air Act, as the act existed on May 31, 2001, 42 U.S.C. 7401 et seq.

(3) On or before January 1 of each year, the department shall submit electronically a report to the Legislature in sufficient detail to document all direct and indirect program costs incurred in the previous fiscal year in carrying out the air quality permit program. The Appropriations Committee of the Legislature shall review such report in its analysis of executive programs in order to verify that revenue generated from emission fees was used solely to offset appropriate and reasonable costs associated with the air quality permit program. The report shall identify costs incurred by the department to administer the permit program for each major source. In addition, the department shall identify costs incurred by primary activity not specific to a major source.

(4) The department shall administer a cost tracking system which shall show costs for each major source and costs for each primary activity that is not specific to a major source. The department shall consult with interested parties regarding identification of primary activities to be tracked by the cost tracking system.

Source: Laws 1992, LB 1257, § 82; Laws 1996, LB 634, § 1; Laws 2001, LB 461, § 7; Laws 2005, LB 94, § 1; Laws 2006, LB 872, § 4; Laws 2011, LB156, § 1; Laws 2012, LB782, § 202.

81-1505.05 Clean Air Title V Cash Fund; created; use; investment.

The Clean Air Title V Cash Fund is created. The department shall remit all fees collected pursuant to section 81-1505.04 to the State Treasurer for credit to the fund. Any fee collected pursuant to section 81-1505.04 shall be used solely to pay the reasonable direct and indirect costs required to develop and administer the air quality permit program, including expenses of the Small Business Compliance Advisory Panel. 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 1995, LB 429, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1505.06 Air quality construction permit; fees; Air Quality Permit Cash Fund; created; use; investment.

(1) Beginning January 1, 2005, each application for an air quality construction permit required by rules and regulations adopted pursuant to subsection (12) of section 81-1505 shall be accompanied by an application fee. If fees are required under more than one subdivision of this subsection, the application shall be accompanied by the one fee which is the highest of the applicable fees. The application fee shall be based on potential to emit, as defined in such rules and regulations, in accordance with the following schedule:

(a) Three thousand dollars for facilities that directly emit or have the potential to emit one hundred tons per year or more of any air pollutant, except hazardous air pollutants;

(b) Three thousand dollars for facilities that directly emit or have the potential to emit ten tons per year or more of any single hazardous air pollutant or twenty-five tons per year or more of any combination of hazardous air pollutants;

(c) One thousand five hundred dollars for facilities that directly emit or have the potential to emit fifty tons per year or more but less than one hundred tons per year of any air pollutant, except hazardous air pollutants;

(d) One thousand five hundred dollars for facilities that directly emit or have the potential to emit (i) two and one-half tons per year or more but less than ten tons per year of any single hazardous air pollutant or (ii) ten tons per year or more but less than twenty-five tons per year of any combination of hazardous air pollutants;

(e) Two hundred fifty dollars for facilities that directly emit or have the potential to emit less than fifty tons per year of any air pollutant, except hazardous air pollutants; and

(f) Two hundred fifty dollars for facilities that directly emit or have the potential to emit (i) less than two and one-half tons per year of any single hazardous air pollutant and (ii) less than ten tons per year of any combination of hazardous air pollutants.

(2) All application fees collected under this section shall be remitted to the State Treasurer for credit to the Air Quality Permit Cash Fund, which fund is hereby created. The Air Quality Permit Cash Fund shall be used for purposes identified in subsection (12) of section 81-1505. 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) For purposes of this section, (a) air pollutant means particulate matter with a diameter of ten microns or less, sulfur dioxide or sulfur trioxide or any combination of the two, oxides of nitrogen, volatile organic compounds, and carbon monoxide and (b) hazardous air pollutant means any pollutant defined as such in rules and regulations adopted pursuant to subsection (12) of section 81-1505.

Source: Laws 2004, LB 449, § 2.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1506 Unlawful acts.

(1) It shall be unlawful for any person:

(a) To cause pollution of any air, waters, or land of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, waters, or land of the state; or

(b) To discharge or emit any wastes into any air, waters, or land of the state which reduce the quality of such air, waters, or land below the air, water, or land quality standards established therefor by the council. Any such action is hereby declared to be a public nuisance. An animal feeding operation is not a nuisance if:

(i) Reasonable techniques are employed to keep dust, noise, insects, and odor at a minimum;

(ii) It is in compliance with applicable regulations adopted by the council and zoning regulations of the local governing body having jurisdiction; and

(iii) The action is brought by or on behalf of a person whose date of lawful possession of the land claimed to be affected by an animal feeding operation is subsequent to the issuance of an appropriate permit by the department for such operation or is subsequent to the operation of the feedlot and an onsite inspection by the department is made, before or after filing of the suit, and the inspection reveals that no permit is required for such operation.

(2) It shall be unlawful for any person to:

(a) Discharge any pollutant into waters of the state without obtaining a permit as required by the National Pollutant Discharge Elimination System created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., and by rules and regulations adopted and promulgated pursuant to section 81-1505;

(b) Construct, install, modify, or operate any disposal system or part thereof or any extension or addition thereto without obtaining necessary permits from the department;

(c) Increase in volume or strength any waste in excess of permitted discharges specified under any existing permit;

(d) Construct, install, or operate any industrial, commercial, or other facility or extend, modify, or add to any such facility if the operation would cause an increase in the discharge or emission of wastes into the air, waters, or land of the state or would otherwise cause an alteration of the physical, chemical, or biological properties of any air, waters, or land of the state in a manner that is not lawfully authorized;

(e) Construct or use any new outlet for the discharge or emission of any wastes into the air, waters, or land of the state without the necessary permit; or

(f) Discharge any dredged or fill material into waters of the United States without obtaining a permit as required by section 404 of the Clean Water Act, as amended, 33 U.S.C. 1344, and by rules and regulations adopted and promulgated pursuant to section 81-1505.

(3) It shall be unlawful for any person to:

(a) Construct or operate a solid waste management facility without first obtaining a permit required under the Environmental Protection Act or under the Integrated Solid Waste Management Act and the rules and regulations adopted and promulgated by the council pursuant to the acts;

(b) Violate any term or condition of a solid waste management facility permit;

(c) Violate any rule or regulation adopted and promulgated by the council pursuant to the Environmental Protection Act or the Integrated Solid Waste Management Act; or

(d) After October 1, 1993, dispose of any solid waste at any location other than a solid waste management facility holding a current permit issued by the department pursuant to the Integrated Solid Waste Management Act.

(4) It shall be unlawful to:

(a) Construct or operate an air pollution source without first obtaining a permit required under the Environmental Protection Act and the rules and regulations adopted and promulgated by the council pursuant to subsection (12) of section 81-1505;

(b) Violate any term or condition of an air pollution permit or any emission limit set in the permit; or

(c) Violate any emission limit or air quality standard established by the council.

(5) It shall be unlawful for any person to:

(a) Construct or operate an animal feeding operation without first obtaining a permit if required under the Livestock Waste Management Act or under the Environmental Protection Act and the rules and regulations adopted and promulgated by the council pursuant to such acts;

(b) Violate any provision of the Livestock Waste Management Act;

(c) Violate any term or condition of an animal feeding operation permit; or

(d) Violate any rule or regulation adopted and promulgated by the council pursuant to the Environmental Protection Act or the Livestock Waste Management Act.

(6) Nothing in this section shall be construed to authorize the department to specify the type, design, method of installation, or type of construction of any equipment of manufacturing processes.

Source: Laws 1971, LB 939, § 6; Laws 1972, LB 1435, § 5; Laws 1974, LB 1029, § 4; Laws 1977, LB 132, § 1; Laws 1980, LB 915, § 1; Laws 1983, LB 356, § 6; Laws 1992, LB 1257, § 83; Laws 1993, LB 623, § 4; Laws 1994, LB 570, § 8; Laws 1998, LB 1209, § 22; Laws 2004, LB 916, § 26; Laws 2019, LB302, § 112.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

Even in an industrial or rural area, one cannot conduct a business in such a manner as to materially prejudice a neighbor, but before enjoining it perpetually, a court of equity will usually allow the owner to correct or eliminate the cause of the grievance. *Botsch v. Leigh Land Co.*, 195 Neb. 509, 239 N.W.2d 481 (1976).

81-1507 Director; violations; hearings; orders.

(1) Whenever the director has reason to believe that a violation of any provision of the Environmental Protection Act, the Integrated Solid Waste

Management Act, the Livestock Waste Management Act, a rule or regulation pursuant to such acts, or any order of the department has occurred, he or she may cause a written complaint to be served upon the alleged violator or violators or he or she may bring a criminal or civil action under section 81-1508.01 or 81-1508.02. The complaint shall specify the provision of the act, rule or regulation, or order alleged to be violated and the facts alleged to constitute a violation thereof and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless each person named therein requests in writing a hearing before the director no later than thirty days after the date such order is served. In lieu of such order, the director may require that the alleged violator appear before the director at a time and place specified in the notice and answer the charges complained of. The notice shall be delivered to the alleged violator or violators in accordance with the provisions of subsection (5) of this section not less than thirty days before the time set for the hearing.

Whenever, on the basis of any information, the director determines that there is or has been a release of hazardous waste or hazardous constituents into the environment from a facility authorized to operate under the Environmental Protection Act or from a facility subject to hazardous waste management regulations adopted and promulgated under the act, the director may issue an order requiring the owner or operator to monitor, investigate, and undertake corrective action or such other response at the facility or beyond the facility boundary where necessary to protect human health and the environment. In the case of any facility or site not in operation at the time a determination is made to require corrective action, if the director finds that the owner could not reasonably be expected to have actual knowledge of the presence of hazardous waste at the site, the director may issue an order requiring any previous owner or operator who could reasonably be expected to have actual knowledge to carry out the necessary monitoring, investigation, and corrective action.

(2) The director shall afford an opportunity for a fair hearing, in accordance with the provisions of the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act, to the alleged violator or violators at the time and place specified in the notice or any modification thereof. On the basis of the evidence produced at the hearing, the director or hearing officer shall make findings of fact and conclusions of law and enter such order as in his or her opinion will best further the purposes of the acts and shall give written notice of such order to the alleged violator and to such other persons who appear at the hearing and make written request for notice of the order. If the hearing is held before any person other than the director, such person shall transmit a record of the hearing together with findings of fact and conclusions of law to the director. The director, prior to entering his or her order on the basis of such record, shall provide opportunity to the parties to submit for his or her consideration exceptions to the findings or conclusions and supporting reasons for such exceptions. The order of the director shall become final and binding on all parties unless appealed to the courts as provided in section 81-1509 within thirty days after notice has been sent to the parties.

(3) Any person who is denied a permit by the director or who has such permit revoked or modified shall be afforded an opportunity for a fair hearing as provided in subsection (2) of this section in connection therewith upon written application to the director within thirty days after receipt of notice from the

director of such denial, revocation, or modification. On the basis of such hearing the director shall affirm, modify, or revoke his or her previous determination.

(4) Whenever the director finds that an emergency exists requiring immediate action to protect the public health and welfare, the director may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Notwithstanding the provisions of subsection (2) of this section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately but on application to the director shall be afforded a hearing as soon as possible and not later than ten days after such application by such affected person. On the basis of such hearing, the director shall continue such order in effect, revoke it, or modify it.

(5) Except as otherwise expressly provided, any notice, order, or other instrument issued by or under authority of the director shall be served on any person affected thereby in a manner provided for service of a summons in a civil action. Proof of service shall be filed in the office of the department.

Every certificate or affidavit of service made and filed as provided in this section shall be prima facie evidence of the facts therein stated, and a certified copy thereof shall have like force and effect.

(6) The hearings provided for in this section may be conducted by the director or by any member of the department acting in his or her behalf, or the director may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the director at any time and place. A verbatim record of the proceedings of such hearings shall be taken and filed with the director, together with findings of fact and conclusions of law made by the director or hearing officer. Witnesses who are subpoenaed shall receive the same fees as in civil actions in the district court and mileage as provided in section 81-1176. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under the provisions of this section, the district court shall have jurisdiction, upon application of the director, to issue an order requiring such person to appear and testify or produce evidence as the case may require and any failure to obey such order of the court may be punished by such court as contempt thereof.

If requested to do so by any party concerned with such hearing, the full stenographic notes, or tapes of an electronic transcribing device, of the testimony presented at such hearing shall be taken and filed. The stenographer shall, upon the payment of the stenographer's fee allowed by the court therefor, furnish a certified transcript of the whole or any part of the stenographer's notes to any party to the action requiring and requesting the same.

(7)(a) If the director finds that any person has performed or failed to perform any act that presents or may present a substantial harm to the environment, the director may issue a cease and desist order to such person to take effect immediately, without notice, hearing, or submission, to take or cease all actions necessary to come into compliance. The order shall specify a time for compliance.

(b) Upon issuance of a cease and desist order, the director shall promptly notify in writing all persons to whom the order is directed and include the reasons for the order. Any person to whom the order is directed may request a hearing in writing within fifteen business days after the date of the issuance of

the order. The matter shall be set for hearing within ten business days after receipt of such hearing request by the director, unless the parties agree to a later date or the director or hearing officer sets a later date for good cause. If a hearing is requested, the director or hearing officer shall, after notice and hearing, issue written findings of fact and conclusions of law within ten business days after the hearing and may affirm, vacate, or modify the order. Until the director or hearing officer issues written findings of fact and conclusions of law, the cease and desist order shall continue in effect.

(c) If a hearing is not requested as provided in subdivision (7)(b) of this section, the cease and desist order of the director shall automatically become final and shall remain in effect until modified or vacated by the director.

(d) Any person who violates a cease and desist order of the director under this subsection may be subject to:

- (i) A civil penalty under section 81-1508.02;
- (ii) Suspension or revocation of environmental permits issued by the department; and
- (iii) Further enforcement action.

Source: Laws 1971, LB 939, § 7; Laws 1972, LB 1435, § 6; Laws 1974, LB 1029, § 5; Laws 1981, LB 204, § 197; Laws 1983, LB 447, § 99; Laws 1987, LB 152, § 2; Laws 1992, LB 1257, § 84; Laws 1998, LB 1209, § 23; Laws 1999, LB 784, § 2; Laws 1999, LB 789, § 1; Laws 2022, LB1102, § 12.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.
Livestock Waste Management Act, see section 54-2401.

The Director of Environmental Quality is not required to issue a complaint under this section for each and every possible violation of the Environmental Protection Act, but if the director decides to pursue enforcement of a violation, then the director is

required to issue a complaint meeting the requirements of this section. State ex rel. Wood v. Fisher Foods, Ltd., 254 Neb. 982, 581 N.W.2d 409 (1998).

81-1508 Violations of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act; civil penalties; injunctions.

(1) Any person who violates any of the provisions of the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act, fails to perform any duty imposed by either act or any rule or regulation issued thereunder, or violates any order or determination of the director promulgated pursuant to either act and causes the death of fish or other wildlife shall, in addition to the penalties provided in sections 81-1508.01 and 81-1508.02, be liable to pay to the state an additional amount equal to the sum of money reasonably necessary to restock waters with fish or replenish such wildlife as determined by the director after consultation with the Game and Parks Commission. Such amount may be recovered by the director on behalf of the state in a civil action brought in the district court of the county in which such violation or failure to perform the duty imposed occurred.

(2) Except as provided for in subsection (3) of this section for the handling, storage, treatment, transportation, or disposal of solid or hazardous waste, in addition to the penalties provided by this section and sections 81-1508.01 and 81-1508.02, the director, whenever he or she has reason to believe that any person, firm, or corporation is violating or threatening to violate any provision

of the acts, any rule or regulation adopted and promulgated thereunder, or any order of the director, may petition the district court for an injunction. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to assure compliance with the acts.

(3) Upon receipt of evidence that the past or present handling, storage, treatment, transportation, or disposal of any solid waste or hazardous waste may present an imminent and substantial endangerment to the health of humans or animals or to the environment, the director may petition the district court for an injunction to immediately restrain any person who has contributed or who is contributing to the alleged acts, to stop such handling, storage, treatment, transportation, or disposal, and to take such other action as may be necessary. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to assure compliance with the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act.

Source: Laws 1971, LB 939, § 8; Laws 1972, LB 1435, § 7; Laws 1973, LB 538, § 3; Laws 1979, LB 342, § 3; Laws 1981, LB 216, § 4; Laws 1983, LB 356, § 7; Laws 1984, LB 1078, § 4; Laws 1987, LB 565, § 1; Laws 1991, LB 413, § 1; Laws 1992, LB 1257, § 85; Laws 1994, LB 570, § 9; Laws 1998, LB 1209, § 24; Laws 2022, LB1102, § 13.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

A showing of pollution is not a requisite to recovery of a civil penalty under subsection (1)(c) of this section. In an action for civil penalties under subsection (1)(c) of this section, the size of

the operation must be considered in determining the amount, if any, of a penalty. State ex rel. Grams v. Beach, 243 Neb. 126, 498 N.W.2d 83 (1993).

81-1508.01 Violations of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act; criminal penalties.

(1) Any person who violates the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act by knowingly and willfully committing any of the following offenses shall be guilty of a Class IV felony:

(a) Violating any water pollution control law, rule, or regulation adopted pursuant to the National Pollutant Discharge Elimination System created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., or any permit or permit condition or limitation or failing to obtain a permit as required by the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act;

(b) Violating any air pollution control law, rule, regulation, permit, license, or permit or license condition or limitation;

(c) Violating any hazardous waste control law, rule, regulation, permit, license, or permit or license condition or limitation;

(d) Violating any mineral production, mineral exploration, or injection control law, rule, regulation, permit, license, or permit or license condition or limitation;

(e) Making any false statement, representation, or certification in any application, label, manifest, record, report, plan, or other document required to be filed or maintained by the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act or the rules or regulations adopted and promulgated pursuant to such acts;

(f) Falsifying, tampering with, or rendering inaccurate any monitoring device or method used or required for compliance with any permit or license or the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act or the rules or regulations adopted and promulgated pursuant to such acts;

(g) Transporting hazardous waste to an unpermitted facility; or

(h) Violating any law, rule, regulation, permit, license, or permit or license condition or limitation for the discharge of dredged and fill material under section 404 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(2) Any person who violates the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act by knowingly and willfully committing any of the following offenses shall be guilty of a Class I misdemeanor:

(a) Violating any solid waste control law, rule, regulation, permit, license, or permit or license condition or limitation; or

(b) Violating any livestock waste control law, rule, regulation, permit, license, or permit or license condition or limitation.

(3) Any person who knowingly and willfully violates any other provision of the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act or any rule or regulation adopted and promulgated pursuant to such acts shall be guilty of a Class III misdemeanor.

(4) Each violation under this section shall be actionable. In case of a continuing violation, each day shall constitute a separate offense. Any person who knowingly and willfully violates this section shall be subject to personal liability under this section. In assessing the amount of any fine, the court shall consider the degree and extent of the violation, the size of the operation, and any economic benefit derived from noncompliance.

Source: Laws 1994, LB 570, § 10; Laws 1998, LB 1209, § 25; Laws 2022, LB809, § 7.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

81-1508.02 Unlawful acts; civil penalty.

(1) It shall be unlawful for any person:

(a) To refuse the right of entry and inspection to any authorized representative of the department when the representative is acting under the provisions of a permit issued by the department;

(b) To violate any air, water, or land quality standards, any emission or effluent standards or limitations, any permit or license condition or limitation, any order of the director, or any monitoring, reporting, or record-keeping requirements contained in or issued or entered into pursuant to the Environmental Protection Act, the Integrated Solid Waste Management Act, or the

Livestock Waste Management Act or the rules or regulations adopted and promulgated pursuant to such acts;

(c) To make any false statement, representation, or certification in any application, label, record, report, plan, or other document required to be filed or maintained by such acts, rules, or regulations;

(d) To falsify, tamper with, or render inaccurate any monitoring device or method used or required for compliance with a permit or license or such acts, rules, or regulations; or

(e) To violate any other provision of or fail to perform any other duty imposed by such acts, rules, or regulations.

(2) Each violation of this section or of section 81-1506 shall subject a person to a civil penalty of no more than ten thousand dollars per day. In case of a continuing violation, each day shall constitute a separate offense. In assessing the amount of the fine, the court shall consider the degree and extent of the violation, the size of the operation, and any economic benefit derived from noncompliance.

Source: Laws 1994, LB 570, § 11; Laws 1998, LB 1209, § 26; Laws 1999, LB 789, § 2.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2401.

Before seeking the imposition of a civil penalty under this section, the Director of Environmental Quality must first issue a complaint satisfying the requirements of section 81-1507. State

ex rel. Wood v. Fisher Foods, Ltd., 254 Neb. 982, 581 N.W.2d 409 (1998).

81-1509 Appeal; procedure.

An appeal may be taken from any final decision of the director, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1971, LB 939, § 9; Laws 1972, LB 1435, § 8; Laws 1974, LB 1029, § 6; Laws 1979, LB 321, § 3; Laws 1988, LB 352, § 174.

Cross References

Administrative Procedure Act, see section 84-920.

For the purposes of this section, no final decision has been rendered unless a complaint has first been issued by the Di-

rector of Environmental Quality. State ex rel. Wood v. Fisher Foods, Ltd., 254 Neb. 982, 581 N.W.2d 409 (1998).

81-1510 Director; voluntary compliance; records.

(1) The director shall make every effort to obtain voluntary compliance through warning, conference, or any other appropriate means prior to initiating enforcement proceedings, except that such requirement shall not be construed to alter enforcement duties or requirements of the director and the department.

(2) The director may require the maintenance of records relating to the operation of disposal systems, and any authorized representative of the director may examine and copy any such records or memoranda pertaining to the operation of disposal systems. Copies of such records shall be submitted to the director upon request.

Source: Laws 1971, LB 939, § 10; Laws 1972, LB 1435, § 9; Laws 1992, LB 1257, § 86.

81-1511 Department; inspections; search warrants.

Any duly authorized officer, employee, or representative of the director may at any reasonable time, with the consent of the person or persons in control of an air, land, or water contaminant source, or property where dredged or fill material is being discharged, enter and inspect any property, premise, or place on or at which such a contaminant source is located or being constructed, installed, or established, or where such dredged or fill material is being discharged, for the purpose of ascertaining the state of compliance with the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act and rules and regulations in force pursuant to the acts. A suitably restricted search warrant, upon a showing of probable cause in writing and upon oath or affirmation, may be issued by the district court as provided by law to such officer, employee, or representative of the department for the purpose of enabling him or her to make such inspection. No person shall refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials and warrants. No person shall obstruct, hamper, or interfere with any such inspection. Nothing in this section shall be construed to prevent prompt inspection without consent or appropriate warrant in acute and compelling emergency situations when there is neither sufficient time nor opportunity to obtain a search warrant. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

Source: Laws 1971, LB 939, § 11; Laws 1972, LB 1435, § 10; Laws 1987, LB 152, § 3; Laws 1992, LB 1257, § 87; Laws 1998, LB 1209, § 27; Laws 2022, LB809, § 8.

Cross References

Inspection of grain warehouses, department, duties, see section 88-550.

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

81-1512 Department; emergency powers.

Nothing in the Environmental Protection Act, the Integrated Solid Waste Management Act, or the Livestock Waste Management Act shall be construed to limit any power which the Governor or any other officer may have to declare an emergency and act on the basis of such declaration if such power is conferred by statute or constitutional provision or inheres in the office.

Source: Laws 1971, LB 939, § 12; Laws 1987, LB 152, § 4; Laws 1992, LB 1257, § 88; Laws 1998, LB 1209, § 28.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.

Livestock Waste Management Act, see section 54-2416.

81-1513 Variances from rules or regulations; notice; conditions for granting; appeal.

(1) Any person who owns or is in control of any plant, building structure, process, or equipment may apply to the director for a variance from rules or regulations. The director may grant such variance if he or she finds that the emissions or discharges occurring or proposed to occur do not endanger or tend to endanger human health or safety or that compliance with the rules or

regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public. In making such findings the director shall give due consideration to all the facts and circumstances bearing upon the reasonableness of the emissions or discharges involved including, but not limited to:

- (a) The character and degree of injury to or interference with the health and physical property of the people;
- (b) The social and economic value of the source of the air, water, or land pollution;
- (c) The question of priority of location in the area involved; and
- (d) The technical practicability and economic reasonableness of reducing or eliminating the emissions or discharges resulting from such source.

(2) No variance shall be granted until the director has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public. Before any variance is granted, the director shall give public notice of an application for such variance immediately upon receipt of such application and in accordance with the rules and regulations of the department. The notice shall be published in a newspaper of general circulation in the county in which the plant, building structure, process, or equipment on which the proposed variance is located.

(3) Any variance or renewal thereof shall be granted within the requirements of subsection (1) of this section, for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

(a) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the air, water, or land pollution involved, it shall be only until the necessary means for prevention, abatement, or control become known and available and subject to the taking of any substitute or alternate measures that the director may prescribe;

(b) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the director, is requisite for the taking of the necessary measures. A variance granted on the ground specified in this section shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable; and

(c) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in subdivision (a) or (b) of this subsection, it shall be for not more than one year.

(4) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the director on account of the variance, no renewal thereof shall be granted unless the director finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least thirty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal and before approving the renewal application, the director shall give public notice of such application in accordance with rules and regulations of the department. The

public notice shall be published in a newspaper of general circulation in the county in which the plant, building structure, process, or equipment on which the variance is located.

(5) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the director. The granting or denial of a variance or a renewal shall be by final order of the director. Any person adversely affected by such an order may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act.

(6) Nothing in this section and no variance or renewal granted pursuant to this section shall be construed to prevent or limit the application of the emergency provisions and procedures of section 81-1507 to any person or his or her property.

(7) No variance shall be granted which will sanction any violation of state or federal statutes or regulations.

Source: Laws 1971, LB 939, § 13; Laws 1972, LB 1435, § 11; Laws 1974, LB 1029, § 7; Laws 1988, LB 352, § 175; Laws 2006, LB 975, § 19.

Cross References

Administrative Procedure Act, see section 84-920.

81-1514 Land resources; public policy.

It is hereby declared to be the public policy of the State of Nebraska to achieve and maintain such a reasonable degree of purity of the land resources of the state as will protect human health and safety, and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of the state, protect the scenic beauty of the state, facilitate the enjoyment of the natural attractions of the state, and to provide for the prevention, abatement and control of new or existing land pollution.

Source: Laws 1971, LB 939, § 14.

81-1515 Dredge and Fill Cash Fund; created; use; investment.

The Dredge and Fill Cash Fund is hereby created. The department shall remit all fees collected pursuant to subsection (24) of section 81-1505 and money received by the department in the form of gifts, grants, reimbursements, or monetary transfers from any source intended to be used for the purposes of the fund, to the State Treasurer for credit to the fund. The fund shall be used to pay the reasonable direct and indirect costs required to develop and administer a program to regulate discharges of dredged and fill material under section 404 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq. 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 2022, LB809, § 6.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1516 Refuse, garbage, and rubbish; disposal; conditions.

No person shall dispose of any refuse, garbage, or rubbish at any place except a disposal area for which a permit has been issued as provided by the Environmental Protection Act or, on and after October 1, 1993, in a facility for which a permit has been issued under the Integrated Solid Waste Management Act. Nothing in either act and no act of the director shall usurp the legal right of a local governing body to develop and enforce local ordinances, codes, or rules and regulations on solid waste disposal equal to or more stringent than the provisions of the acts as necessary to protect the public health and welfare and the environment, and the provisions of the acts shall not relieve the applicant from obtaining a permit from a local governing body when required or relieve the person owning or operating a disposal area from responsibility for securing proper zoning permits or complying with all applicable local ordinances, codes, or rules and regulations not in conflict with the provisions of the acts.

Source: Laws 1971, LB 939, § 16; Laws 1987, LB 152, § 5; Laws 1992, LB 1257, § 89.

Cross References

Garbage and solid waste disposal facilities, construction and operation by cities of the first and second classes and villages, see sections 19-2101 to 19-2111.

Integrated Solid Waste Management Act, see section 13-2001.

Solid waste disposal areas and facilities, siting approval from city, village, or county, see sections 13-1701 to 13-1714.

81-1517 Political subdivision; permits; department; powers; evaluation and determination of terms and conditions; factors.

(1) In issuing permits to any political subdivision under the National Pollutant Discharge Elimination System created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., the department may exercise all possible discretion allowed by the United States Environmental Protection Agency to enable the political subdivision to maintain environmental infrastructure while improving water quality in a manner that is sustainable and within the financial capability of the political subdivision. In exercising such discretion, the department may, when requested by a political subdivision, undertake an evaluation and make a determination of the necessity of specific permit terms and conditions to achieve water quality objectives. Such determination may affect the level of water treatment or pollution control, the length of time necessary for compliance, or both. Any political subdivision may request this evaluation and determination from the department in the issuance or reissuance of its permit.

(2) The department may include, but is not limited to, consideration of the following factors in making its evaluation and determination under subsection (1) of this section:

(a) The financial capability of a political subdivision to raise and secure necessary funding at a reasonable cost;

(b) The affordability for ratepayers for implementation of pollution control options available to a political subdivision using the most appropriate methodology and measurements for the political subdivision in making such affordability determination;

(c) The future growth potential and projections of a political subdivision and whether its infrastructure is sufficient for projected needs;

(d) The overall costs and environmental benefits of control technologies;

(e) Other environmental improvement investments made by a political subdivision; and

(f) Any other relevant economic and social concerns or environmental conditions.

Source: Laws 2015, LB413, § 3.

81-1518 Environmental Infrastructure Sustainability Fund; created; use; investment.

The Environmental Infrastructure Sustainability Fund is created. The fund shall be administered by the department. Revenue from the following sources shall be credited to the fund: (1) Application fees collected under section 81-1519; (2) reimbursements for actual costs necessary to complete environmental infrastructure sustainability evaluations as authorized under section 81-1517; (3) supplemental environmental projects resulting from enforcement settlements; and (4) gifts, grants, reimbursements, or appropriations from any source intended to be used for purposes of section 81-1517. The fund shall be used by the department to offset costs related to the completion of environmental infrastructure sustainability evaluations as authorized by section 81-1517. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2015, LB413, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1519 Political subdivision; evaluation; application fee; costs; refund.

Any political subdivision requesting an evaluation authorized under section 81-1517 shall submit a request on a form approved by the department and provide the department with an application fee not to exceed five thousand dollars. If the costs of the department exceed the initial deposit, the department and political subdivision shall enter into an agreement establishing a schedule for the payment of additional costs by the political subdivision. After the completion of the environmental infrastructure sustainability evaluation, any balance of funds paid under this section shall be refunded to the political subdivision.

Source: Laws 2015, LB413, § 5.

81-1520 Political subdivision; evaluation; fee schedule.

The council shall adopt and promulgate rules and regulations to establish a tiered application fee schedule to be charged to political subdivisions requesting an environmental infrastructure sustainability evaluation as authorized under section 81-1517. The rules and regulations shall take into account the population of a political subdivision and any financial hardship that may impact the ability to pay the application fee.

Source: Laws 2015, LB413, § 6.

81-1521 Repealed. Laws 1974, LB 1029, § 10.

81-1521.01 Transferred to section 81-1521.15.

81-1521.02 Transferred to section 81-1521.17.

81-1521.03 Transferred to section 81-1521.20.

81-1521.04 Transferred to section 81-1521.21.

81-1521.05 Transferred to section 81-1521.22.

81-1521.06 Transferred to section 81-1521.23.

81-1521.07 Repealed. Laws 1987, LB 152, § 12.

81-1521.08 Hazardous waste; terms, defined.

For purposes of sections 81-1521.08 to 81-1521.23, unless the context otherwise requires:

(1) Chief executive officer shall mean the mayor, city manager, or chairperson of the board of trustees of a municipality;

(2) Commercial hazardous waste management facility shall mean a hazardous waste management facility which accepts hazardous waste for treatment, storage, or disposal which is generated by any person other than the person which owns or operates such facility;

(3) Committee shall mean the specific site review committee established in response to a notice of intent filed pursuant to section 81-1521.09;

(4) Hazardous waste management facility shall mean all contiguous land, and structures, other appurtenances, and improvements on the land, used for the treatment, storage, or disposal of hazardous waste. A hazardous waste management facility may consist of several treatment, storage, or disposal operational units such as one or more landfills or surface impoundments or any combination of such operational units;

(5) Municipality shall mean an incorporated city or village; and

(6) Other definitions found in section 81-1502 shall apply.

Source: Laws 1987, LB 114, § 2.

81-1521.09 Hazardous waste; commercial hazardous waste management facility; notice of intent to apply for permit; fee; site review committee; director; appoint designee.

(1) Commencing on June 30, 1988, any person who desires a permit for a commercial hazardous waste management facility shall, at least one hundred eighty days prior to making application therefor, file a notice of intent with the director on a form provided by the director. The notice of intent shall include such information as prescribed by the director and shall be accompanied by a fee established by the department in an amount sufficient, but not in excess of the amount necessary, to pay the department for the direct and indirect costs of processing the notice of intent and to pay the costs and expenses specified in section 81-1521.12. Within fifteen days of receipt of a notice of intent, the director shall notify the appropriate local officials and shall establish a specific site review committee. The purpose of establishing the committee shall be to provide for early public involvement in the consideration of a proposed facility.

(2) The director may appoint a designee to carry out duties assigned to the director related to a notice of intent or an application for a permit except the

duty to make the decision required by section 81-1521.19. If the applicant is an individual, the application shall include the applicant's social security number.

Source: Laws 1987, LB 114, § 3; Laws 1997, LB 752, § 225.

81-1521.10 Hazardous waste; site review committee; membership.

(1) The committee shall consist of twelve members, six of whom shall be local members and six of whom shall be regional members.

(2) The six local members shall be chosen as follows:

(a) If the proposed facility will be located within the zoning jurisdiction of a municipality, the chief executive officer of the municipality shall appoint six members who reside within such zoning jurisdiction;

(b) If the proposed facility will be located in an unincorporated area which is within five miles of the zoning jurisdiction of one or more municipalities, the chief executive officer of each such municipality shall appoint a member who resides within the zoning jurisdiction of the respective municipality and the chairperson of the county board of the county in which the facility would be located shall appoint additional members who reside within five miles of the proposed facility for a total of six members; and

(c) If the proposed facility will be located in an unincorporated area which is more than five miles from the zoning jurisdiction of any municipality, the chairperson of the county board of the county in which the facility would be located shall appoint six members who reside within five miles of the proposed facility.

(3) The six regional members shall be appointed by the director to represent various interests affected by a proposed facility and shall include at least one environmental representative, one academic expert, one industry representative, one community planner, one representative of public interest groups, and one representative of the medical community. The regional members shall be appointed for two-year terms and shall serve whenever a committee is needed during that time. Alternates shall be appointed to serve in case a regional member is unable to do so or is already serving on a committee.

Source: Laws 1987, LB 114, § 4.

81-1521.11 Hazardous waste; site review committee; meetings; officers; professional facilitator.

The director shall organize a meeting of the committee within twenty-one days of the filing of a notice of intent by an applicant. The director shall serve as temporary chairperson of the committee and shall select as a professional facilitator a person trained in group dynamics and objectivity to handle committee meetings with the public and the applicant. At its first meeting, the committee shall select a chairperson and any other officers it deems necessary and shall adopt procedures for gathering information and preparing a report. The committee shall hold factfinding meetings near the proposed site for the facility. The applicant shall make a technical advisor and other resource people available to the committee.

Source: Laws 1987, LB 114, § 5.

81-1521.12 Hazardous waste; department; provide staff; applicant; pay expenses.

The department shall provide a secretary and other staff persons to assist the committee. The applicant shall pay the expenses for such clerical and other help and the salary of the professional facilitator, shall pay the costs of printing the committee's report, and shall reimburse the committee members for their mileage expenses at the rate provided in section 81-1176 for state employees. The department shall keep a record of all such costs and expenses and assess the applicant for any amount over the estimated amount on which the fee paid by the applicant was based.

Source: Laws 1987, LB 114, § 6.

81-1521.13 Hazardous waste; site review committee; consider factors; enumerated.

Factors to be considered by the committee shall include, but not be limited to:

(1) Economic considerations such as whether the facility is needed, profit expectations for the facility, how the facility will be operated, effects on the community, the potential for compensation to the local governing body, and aspects related to closure of the facility;

(2) The function of the facility, including the management processes involved, the wastes to be handled, the relationship to any integrated system or master plan for hazardous waste management, and plans for future expansion;

(3) Considerations related to the technology to be used such as why that process was chosen, plans for quality control, reliability of the technology, and the sequence of steps involved from generation of the wastes to postclosure of the facility;

(4) Characteristics of the site for the facility, the methods for determining the characteristics, and why the site was chosen;

(5) Surface drainage, ground water protection, air emissions, and other factors related to environmental quality;

(6) Transportation considerations such as methods to be used, waste containment during transport, party responsible for transport, timing of arrivals, routing, and response plans in case of spills;

(7) Plans for responses to emergencies and for site security, qualifications and training of personnel, and actions to be taken when there are operating problems; and

(8) Enforcement provisions, including applicable regulations, monitoring plans, who is responsible for enforcement, sequence and timing of possible enforcement, and the ability of governmental agencies to ensure compliance.

Source: Laws 1987, LB 114, § 7.

81-1521.14 Hazardous waste; site review committee; issue report; contents.

The committee shall issue a report no later than one hundred eighty days from the date the notice of intent is filed, except that the deadline may be extended by mutual agreement between the applicant and the committee. The report shall document the discussion of community concerns raised during review by the committee of the proposed commercial hazardous waste management facility, including identification and discussion of the issues which were

resolved, the issues which were not resolved, and the questions which were not answered, including the reasons they were not answered.

The report may also include recommendations on the compensation which the applicant should pay or provide to the local governing body. Any recommendations shall be subject to further negotiations between the applicant and the local governing body.

Copies of the report shall be made available to committee members, the department, the applicant, and the public.

After issuance of its report, the committee shall have no further duties, except that the department may ask the committee to review any changes related to the proposed commercial hazardous waste management facility which are proposed by the applicant and to amend its report if appropriate.

Source: Laws 1987, LB 114, § 8.

81-1521.15 Commercial hazardous waste management facility; application for permit.

At the conclusion of the process involving the committee, the person desiring a permit for a commercial hazardous waste management facility shall make application therefor to the director on a form provided by the director. The application shall contain the name and residence of the applicant, the location of the proposed facility, and such other information as may be necessary and shall be accompanied by a copy of the committee's report and any written response by the applicant to such report.

Source: Laws 1980, LB 853, § 8; R.S.1943, (1981), § 81-1521.01; Laws 1987, LB 114, § 9.

81-1521.16 Commercial hazardous waste management facility; application; hearing by local governing body.

If the application for a commercial hazardous waste management facility contains all of the information required by the department, the director shall send a copy of the application, of the committee's report, and of any response by the applicant to the report to the county board of the county if the proposed facility will be located outside the zoning jurisdiction of a city or village or to the city council or board of trustees if it will be located within the zoning jurisdiction of a city or village. A hearing shall be held by the county board, city council, or board of trustees within forty-five days of receipt of the copy of the application.

Source: Laws 1987, LB 114, § 10.

81-1521.17 Commercial hazardous waste management facility; notice of hearing; decision by local governing body.

Before the county board, city council, or board of trustees approves or disapproves a proposed commercial hazardous waste management facility, notice shall be given once at least thirty days but not more than forty days before the hearing and a second time at least ten days before the hearing. Such notice shall be given by publication of a notice in a newspaper either published in or having general circulation in the county, city, or village where the proposed facility is to be located and shall state the time and place of hearing, the name of the applicant for a permit, and the exact location of the proposed

facility. In deciding whether to approve or disapprove such facility, the county board, city council, or board of trustees shall determine if such facility will be in compliance with its zoning laws or violate any local ordinances or resolutions. The local governing body shall make its decision within one hundred eighty days of receipt of a copy of the application from the director and shall notify the department and the applicant of its action. If the local governing body disapproves the application, it shall specify its reasons for disapproval. If the local governing body disapproves the application, the department may not take further action on the application unless the disapproval is reversed by court order. For purposes of appeal, the decision of the local governing body to disapprove the application shall be deemed a final order.

Source: Laws 1980, LB 853, § 9; R.S.1943, (1981), § 81-1521.02; Laws 1987, LB 114, § 11; Laws 1987, LB 152, § 8.

81-1521.18 Commercial hazardous waste management facility; appeal of decision.

The disapproval decision made by the local governing body may be appealed to district court. The court may affirm the decision or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the decision is:

- (1) In violation of constitutional provisions;
- (2) In excess of the statutory authority or jurisdiction of the local governing body;
- (3) Made upon unlawful procedure;
- (4) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or
- (5) Arbitrary or capricious.

Source: Laws 1987, LB 114, § 12.

81-1521.19 Commercial hazardous waste management facility; approval; director; duties.

Following approval action by the local governing body, the director shall determine if the proposed facility complies with the provisions of the Environmental Protection Act and all rules, regulations, and standards promulgated pursuant to such act. The review shall include, but not be limited to, consideration of factors related to air quality, water quality, waste management, and hydrogeology and of the environmental risks and benefits to the vicinity in which the facility would be located. Each person in the department who reviews the application shall prepare and sign a written statement for evaluation by the director who shall decide whether to approve or disapprove the application.

Source: Laws 1987, LB 114, § 13.

81-1521.20 Commercial hazardous waste management facility; publication of notice; additional hearing; permit; issuance; conditions.

The department shall publish notice of an application for a permit for a commercial hazardous waste management facility, together with the action taken by the local governing body, the director's decision, and whether the permit will be granted or denied, in a legal newspaper either published in or

having general circulation in the vicinity affected. A copy of such notice shall also be provided to the applicant. The public may comment or request a public hearing within thirty days after the date such information is made available, and the director may, within his or her discretion, hold a hearing on the granting or denial of the permit if he or she determines that the circumstances justify it.

Prior to issuing the permit, the director shall find that the applicant is a responsible and suitable person to conduct the business and that the proposed facility complies with the provisions specified in section 81-1521.19 and has the requisite approval of the local governing body. Permit conditions established by the department shall supersede any ordinances, resolutions, regulations, or requirements of the local governing body, then or thereafter in effect, which are inconsistent with such conditions.

Source: Laws 1980, LB 853, § 10; R.S.1943, (1981), § 81-1521.03; Laws 1987, LB 114, § 14.

81-1521.21 Commercial hazardous waste management facility; permittee; financial responsibility and insurance.

As a condition of granting a permit for any commercial hazardous waste management facility, the permittee shall provide proof of financial responsibility pursuant to subdivision (21)(a) of section 81-1505 and liability insurance, including coverage against nonsudden and accidental occurrences, in an amount determined by the director.

Source: Laws 1980, LB 853, § 11; Laws 1984, LB 1078, § 6; R.S.Supp.,1986, § 81-1521.04; Laws 1987, LB 114, § 15.

81-1521.22 Commercial hazardous waste management facility permit; expiration; renewal.

Permits shall expire five years following the date of issuance but may be renewed if the permittee has complied with the provisions of the Environmental Protection Act and the rules and regulations adopted and promulgated thereunder.

Source: Laws 1980, LB 853, § 12; R.S.1943, (1981), § 81-1521.05; Laws 1987, LB 114, § 16; Laws 1987, LB 152, § 9.

81-1521.23 Commercial hazardous waste management facility permit; revocation; when.

The director may revoke the permit for a commercial hazardous waste management facility, pursuant to subsection (3) of section 81-1507, if he or she finds that the facility is not being operated in accordance with the Environmental Protection Act and rules and regulations adopted and promulgated thereunder.

Source: Laws 1980, LB 853, § 13; R.S.1943, (1981), § 81-1521.06; Laws 1987, LB 114, § 17; Laws 1987, LB 152, § 10.

81-1522 Repealed. Laws 1992, LB 1257, § 105.

81-1523 Accumulation of junk; unlawful.

It shall be unlawful for any property owner or person in lawful possession of property to allow the accumulation of junk on property that is not purely agricultural in character to the extent that such accumulation is a potential hazard to health.

Source: Laws 1971, LB 939, § 23.

81-1524 Accumulation of junk; investigation; removal; notice.

The department of health of a city, or the director, as the case may be, shall have the power to investigate all complaints of violations of section 81-1523 and, if either the department or director finds that the property owner or person in lawful possession of the property has allowed an unlawful accumulation of junk, shall give notice to the owner or person in lawful possession of the property by certified or registered mail to remove the accumulation within thirty days.

Source: Laws 1971, LB 939, § 24.

81-1525 Accumulation of junk; failure to remove; violation; penalty.

Any property owner or person in lawful possession of property who fails or refuses to remove an accumulation of junk as directed by the director pursuant to section 81-1524 shall be guilty of a Class IV misdemeanor.

Source: Laws 1971, LB 939, § 25; Laws 1972, LB 1435, § 13; Laws 1977, LB 39, § 305; Laws 2007, LB8, § 1.

81-1526 Rules and regulations; provisions applicable; exceptions.

(1) All rules and regulations adopted by the council and all hearings and other proceedings of the director, and judicial review thereof, shall be subject to the provisions of the Administrative Procedure Act.

(2) Nothing in this section shall be construed to require a hearing prior to the issuance of an emergency order pursuant to section 81-1507.

(3) Nothing in the Administrative Procedure Act shall be construed to render inapplicable or unenforceable the procedure set forth in section 81-1507. In any case of inconsistency or conflict, the provisions of section 81-1507 shall prevail.

Source: Laws 1971, LB 939, § 26; Laws 1974, LB 1029, § 8.

Cross References

Administrative Procedure Act, see section 84-920.

81-1527 Records and information; confidential use.

(1) Any records or other information furnished to or obtained by the department concerning one or more air, water, or land contaminant sources, which records or information, as certified by the owner or operator and determined by the director to relate to methods or processes entitled to protection as trade secrets of such owner or operator, shall be only for the confidential use of the department in the administration of the Environmental Protection Act and the Integrated Solid Waste Management Act unless such owner or operator expressly agrees to their publication or availability to the general public, except that emission data obtained under the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., or effluent data, permit applications, draft permits, or permits as issued, all under the National Pollutant Discharge Elimination System, pursu-

ant to the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended, shall be available to the public during business hours. Any information to be accorded confidential status in a national pollutant discharge elimination system form shall be forwarded to the Regional Administrator of the Environmental Protection Agency for concurrence with the director's determination of such status. Nothing in this section shall be construed to prevent the use of such records or information by the department in compiling or publishing analyses or summaries relating to the general condition of water or the land or the outdoor atmosphere as long as such analyses or summaries do not identify any owner or operator or reveal any information otherwise confidential under this section.

(2) The director shall permit the Administrator or Regional Administrator of the Environmental Protection Agency or his or her delegates to inspect the confidential records of the department concerning a given source.

Source: Laws 1971, LB 939, § 27; Laws 1972, LB 1435, § 14; Laws 1974, LB 1029, § 9; Laws 1984, LB 1078, § 7; Laws 1992, LB 1257, § 90.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.

81-1528 Act; political subdivision exempt; when; council; rules and regulations.

(1) The Environmental Protection Act shall not apply in any political subdivision which provides for the control of air, water, or land pollution by resolution, ordinance, or regulation not inconsistent with the substantive provisions of the Environmental Protection Act or any rule or regulation adopted pursuant to such act, except that no such resolution, ordinance, or regulation shall become effective until a certificate of exemption has been issued by the director. Such certificate of exemption shall be available for inspection in the office of the county, city, or village clerk as the case may be.

(2) If the director determines at any time after the issuance of such a certificate that a resolution, ordinance, or regulation is being enforced in a manner inconsistent with the Environmental Protection Act or any rule or regulation adopted pursuant to such act in any political subdivision holding a certificate of exemption, the director may suspend the certificate of exemption and the Environmental Protection Act shall apply in such political subdivision until such standards are met and a new certificate is issued.

(3) Any political subdivision desiring a certificate of exemption shall make application for such certificate by filing a petition for certificate of exemption with the director. The director or his or her designated representative shall promptly investigate such petition. If the recommendation of the director or his or her designated representative is against the granting of a certificate of exemption and he or she, in his or her discretion, concludes that a hearing would be advisable, a hearing shall be held as provided in section 81-1507 on the questions of whether the resolution, ordinance, or regulation is consistent with the substantive provisions of the Environmental Protection Act or any rule or regulation adopted pursuant to such act and whether adequate provisions have been made for enforcement. The burden of proof shall be upon the political subdivision. A like hearing shall be held upon any proposed suspension of a certificate of exemption.

(4) If the director finds that the location, character, or extent of particular concentrations of population, air, water, or land contaminant sources, the geographic, topographic, or meteorological considerations, or any combination thereof are such as to make impracticable the maintenance of appropriate levels of air, water, or land quality without an areawide air, water, or land pollution control program, the director may determine the boundaries within which such program is necessary and require it as the only acceptable alternative to direct state administration.

(5) Nothing in the Environmental Protection Act shall be construed to supersede or oust the jurisdiction of any local air, water, or land pollution control program in operation on May 26, 1971. Such program shall meet all requirements of the Environmental Protection Act for a local air, water, or land pollution control program. Any approval required from the department shall be deemed granted unless the department takes specific action to the contrary.

(6) Until October 1, 1993, cities of the second class and villages shall be exempt from the provisions of the Environmental Protection Act and the Integrated Solid Waste Management Act pertaining to permits for and control of nonhazardous solid waste disposal systems if such cities and villages provide solid waste disposal systems which do not result in the pollution of waters of the state. The department shall act in an advisory capacity to such cities and villages and shall have the right to inspect solid waste disposal sites and evaluate them according to the site evaluation criteria promulgated pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq. The department shall notify the community of the results of its evaluation.

(7) The council shall, by July 1, 1992, adopt and promulgate rules and regulations which provide standards for the closure and postclosure care of all landfills, including landfills previously exempted under this section.

Source: Laws 1971, LB 939, § 28; Laws 1972, LB 1435, § 15; Laws 1980, LB 853, § 7; Laws 1984, LB 1078, § 8; Laws 1991, LB 67, § 2; Laws 1992, LB 1257, § 91.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.

81-1528.01 Repealed. Laws 1986, LB 491, § 40.

81-1529 Act, how construed.

Nothing in the Environmental Protection Act shall be construed to:

(1) Grant to the department any jurisdiction or authority with respect to air contamination existing solely within commercial and industrial plants, works, or shops or private property appurtenant thereto;

(2) Affect the relations between employers and employees with respect to or arising out of any condition of air contamination or air pollution; or

(3) Supersede or limit the applicability of any law or ordinance relating to sanitation, industrial health, or safety.

Source: Laws 1971, LB 939, § 29; Laws 1987, LB 152, § 11.

81-1530 Repealed. Laws 1987, LB 152, § 12.

81-1531 Repealed. Laws 1974, LB 1029, § 10.

81-1531.01 Act, how construed.

Nothing in the Environmental Protection Act shall be construed to apply to any wells or holes covered by sections 57-901 to 57-922.

Source: Laws 1983, LB 356, § 10; Laws 2016, LB1082, § 17.

81-1531.02 Uranium mining; department; regulatory duties; prohibited methods; enforcement.

(1) The department shall recommend an appropriate regulatory policy for controlling uranium mining to be presented to the council and the Legislature by January 1, 1986. The department shall evaluate all reasonable regulatory options for addressing the impacts on air, land, and water quality of uranium mining by methods other than mineral production and injection wells which are presently regulated. The department shall examine and consider regulatory programs created by other states and the federal government, their applicability to Nebraska, and their success in the states or areas where they are used and shall consider, but not be limited to, the following policy options:

(a) The development of uranium surface and shaft mining regulations;

(b) The development of regulations addressing appropriate development, mitigation, or reclamation standards for uranium mining or uranium mining-related activities;

(c) The appropriateness of developing regulations addressing ground or surface water use standards for uranium mining or uranium mining-related activities as a means of limiting the impact of uranium mining on land and water resources; and

(d) The use of any other existing state regulatory programs to control or regulate the impacts of uranium mining on land and water resources.

(2) The department shall perform the evaluation in cooperation with other state agencies which have or could have a role in regulating the impacts of uranium mining on Nebraska's people and resources or in controlling other uranium mining activities. The department shall also create a citizen advisory panel, of interested or affected parties, which shall be consulted for its input and opinion on the results of the evaluation of regulatory options.

(3) Uranium mining by any method other than mineral production and injection wells shall be prohibited until legislation is passed authorizing the department to regulate such mining activities. It is the intent of the Legislature that uranium mining shall be regulated by the department. Upon receipt of evidence that uranium mining by any method other than by mineral production and injection wells or related activities are presenting or are likely to present an imminent and substantial threat to the environment, the director shall petition the district court for an injunction to immediately restrain any person from contributing to the alleged acts or to require any person to stop such acts or to take such other action as may be necessary. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to assure compliance with this section.

Source: Laws 1983, LB 356, § 11; Laws 1984, LB 742, § 2; Laws 1986, LB 1008, § 3.

81-1532 Act, how cited.

Sections 81-1501 to 81-1532 shall be known and may be cited as the Environmental Protection Act.

Source: Laws 1971, LB 939, § 32; Laws 1983, LB 356, § 12; Laws 1987, LB 114, § 18; Laws 1991, LB 528, § 2; Laws 1992, LB 1257, § 92; Laws 1994, LB 570, § 12; Laws 1998, LB 1209, § 30; Laws 2000, LB 1234, § 13; Laws 2001, LB 461, § 8; Laws 2004, LB 449, § 3; Laws 2015, LB413, § 7; Laws 2022, LB809, § 9.

81-1533 Repealed. Laws 2000, LB 1234, § 24.

(b) NEBRASKA LITTER REDUCTION AND RECYCLING ACT

81-1534 Act, how cited.

Sections 81-1534 to 81-1566 shall be known and may be cited as the Nebraska Litter Reduction and Recycling Act.

Source: Laws 1979, LB 120, § 1; Laws 1993, LB 203, § 2; Laws 2007, LB568, § 1.

Termination date September 30, 2025.

81-1535 Legislative declaration; litter and recycling program.

The Legislature declares that the protection of the public health, safety, and well-being, the maintenance of the economic productivity and environmental quality of the state, and the conservation of natural resources require the implementation of a comprehensive litter and recycling program throughout the state and the rapid development of technologically and economically feasible operational projects for the recovery of energy and resources.

Source: Laws 1979, LB 120, § 2.

Termination date September 30, 2025.

81-1536 Definitions, where found.

For purposes of the Nebraska Litter Reduction and Recycling Act, unless the context otherwise requires, the definitions found in sections 81-1537 to 81-1548.04 shall be used.

Source: Laws 1979, LB 120, § 3; Laws 1981, LB 253, § 2; Laws 1993, LB 203, § 3.

Termination date September 30, 2025.

81-1537 Department, defined.

Department shall mean the Department of Environment and Energy.

Source: Laws 1979, LB 120, § 4; Laws 1993, LB 3, § 50; Laws 2019, LB302, § 113.

Termination date September 30, 2025.

81-1538 Council, defined.

Council shall mean the Environmental Quality Council.

Source: Laws 1979, LB 120, § 5; Laws 1993, LB 3, § 51.

Termination date September 30, 2025.

81-1539 Fund, defined.

Fund shall mean the Nebraska Litter Reduction and Recycling Fund.

Source: Laws 1979, LB 120, § 6.
Termination date September 30, 2025.

81-1540 Director, defined.

Director shall mean the Director of Environment and Energy.

Source: Laws 1979, LB 120, § 7; Laws 1993, LB 3, § 52; Laws 2019, LB302, § 114.
Termination date September 30, 2025.

81-1541 Litter, defined.

Litter shall mean all waste material susceptible to being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state, but not including the wastes of primary processes of farming or manufacturing. Waste material as used in this section shall mean any material appearing in a place or in a context not associated with that material's function or origin.

Source: Laws 1979, LB 120, § 8; Laws 1981, LB 253, § 3.
Termination date September 30, 2025.

81-1542 Manufacturer, defined.

Manufacturer shall mean any person engaged in a business activity who has annual gross proceeds in this state of at least one hundred thousand dollars resulting from the sale of tangible personal property which the person has made, produced, manufactured, processed, or fabricated which is within any of the categories listed in section 81-1560.

Source: Laws 1979, LB 120, § 9; Laws 1981, LB 253, § 4; Laws 1993, LB 203, § 4.
Termination date September 30, 2025.

81-1543 Person, defined.

Person shall mean any natural person, political subdivision, government agency, public or private corporation, partnership, limited liability company, joint venture, association, firm, or individual proprietorship.

Source: Laws 1979, LB 120, § 10; Laws 1993, LB 121, § 539.
Termination date September 30, 2025.

81-1544 Public place, defined.

Public place shall mean any place or area in the state that is used or held out for use by the public, whether owned or operated by public or private interests.

Source: Laws 1979, LB 120, § 11.
Termination date September 30, 2025.

81-1545 Recycling, defined.

Recycling shall mean the process of separating, cleaning, treating, and reconstituting waste or other discarded materials for the purpose of recovering and reusing the resources contained therein.

Source: Laws 1979, LB 120, § 12.
Termination date September 30, 2025.

81-1546 Recycling center, defined.

Recycling center shall mean a central collection point in a community for recyclable materials.

Source: Laws 1979, LB 120, § 13.
Termination date September 30, 2025.

81-1547 Resource recovery, defined.

Resource recovery shall mean a system or process for the recovery of materials or energy from waste material.

Source: Laws 1979, LB 120, § 14.
Termination date September 30, 2025.

81-1548 Source separation, defined.

Source separation shall mean separation by the public from their general refuse of recyclable material.

Source: Laws 1979, LB 120, § 15.
Termination date September 30, 2025.

81-1548.01 Wholesaler, defined.

Wholesaler shall mean any person engaged in business who has annual gross proceeds in this state of at least one hundred thousand dollars resulting from sales at the wholesale level to retailers, other merchants, or industrial, institutional, and commercial users of any tangible personal property falling into any of the categories listed in section 81-1560 which is sold at the wholesale level.

Source: Laws 1981, LB 253, § 5; Laws 1993, LB 203, § 5.
Termination date September 30, 2025.

81-1548.02 Retailer, defined.

Retailer shall mean any person engaged in business who has annual gross proceeds in this state of at least one hundred thousand dollars resulting from the sales of tangible personal property for storage, use, or other consumption or from the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption of any of the products, including byproducts, falling into the categories listed in section 81-1560.02.

Source: Laws 1981, LB 253, § 6; Laws 1993, LB 203, § 6.
Termination date September 30, 2025.

81-1548.03 Tangible personal property, defined.

Tangible personal property shall mean all tangible personal property except:
(1) Gas, electricity, and water delivered through mains, lines, pipes, or channels to purchasers;

(2) Food and food products for human or pet consumption sold in bulk form and not packaged or subpackaged in individual containers, packages, or units, or a type of size not suitable for sale to consumers purchasing in the ordinary course of retail marketing; and

(3) Fertilizer, seeds, annual plants, any form of animal life, and animal feed sold for resale or use in the agricultural food industry.

Source: Laws 1981, LB 253, § 7.

Termination date September 30, 2025.

81-1548.04 Gross proceeds, defined.

Gross proceeds shall mean the total receipts from all sales less expenditures for the purchase of any item in this state for the purpose of recycling such item.

Source: Laws 1981, LB 253, § 8.

Termination date September 30, 2025.

81-1549 Council; adopt rules and regulations.

In addition to other powers and duties, the council shall have the power to propose and to adopt and promulgate rules and regulations necessary to carry out the provisions, purposes, and intent of the Nebraska Litter Reduction and Recycling Act.

Source: Laws 1979, LB 120, § 16; Laws 1981, LB 253, § 9; Laws 1993, LB 203, § 7.

Termination date September 30, 2025.

81-1550 Litter prone activities and areas; litter receptacles; required.

Litter prone activities and areas shall be required to have appropriate litter receptacles meeting minimum standards established by the department. The council shall, by regulation, determine what are litter prone activities and areas.

Source: Laws 1979, LB 120, § 17.

Termination date September 30, 2025.

81-1551 Litter receptacles; owner or operator provide and maintain; penalty.

It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by section 81-1550 to procure and place such receptacles at his or her own expense on the premises and to maintain the same in accord with rules and regulations adopted by the council. Any person who fails to place such litter receptacles on the premises in the numbers required or to maintain such receptacles in the manner required shall be guilty of a Class V misdemeanor.

Source: Laws 1979, LB 120, § 18; Laws 1981, LB 253, § 10.

Termination date September 30, 2025.

81-1552 Litter receptacle; abuse; misuse; prohibited; violation; penalty.

(1) No person shall damage, deface, abuse, or misuse any litter receptacle not owned by him or her so as to interfere with its proper function or to detract from its proper appearance.

(2) No person shall deposit leaves, clippings, prunings, garden refuse, or household waste materials in any litter receptacle, except with the permission of the owner of such receptacle.

(3) Any person violating this section shall be guilty of a Class V misdemeanor.

Source: Laws 1979, LB 120, § 19; Laws 1981, LB 253, § 11.
Termination date September 30, 2025.

81-1553 Repealed. Laws 2007, LB 79, § 3.

81-1553.01 Litter problem; surveys; department; grant funds; progress report.

Prior to April 5, 2007, in order to identify the litter problem more fully and to measure the progress made by the department, the department conducted, or granted funds to enable public or private agencies to conduct, a survey measuring the amount and composition of litter on the public highways, recreation lands, and urban areas in the state. The department shall conduct, or grant funds to enable public or private agencies to conduct, followup surveys on a sufficiently regular basis to provide meaningful measurement of the amount and composition of litter and the rate of littering. The results of these surveys shall be reported to the Governor.

Source: Laws 2007, LB568, § 2.
Termination date September 30, 2025.

81-1554 Department; jobs for unemployed; design programs; grant funds.

In order to provide employment and to establish litter free areas, the department may design programs and grant funds for the use of unemployed persons on a seasonal and part-time basis. In designing such programs, the department shall cooperate and coordinate with federal, other governmental, and private programs aimed at providing jobs for the unemployed.

Source: Laws 1979, LB 120, § 21.
Termination date September 30, 2025.

81-1555 Department; encourage effective local littering laws.

The department shall work toward establishing effective local ordinances and resolutions relating to littering laws.

Source: Laws 1979, LB 120, § 22.
Termination date September 30, 2025.

81-1556 Act; enforcement; personnel.

The director may designate trained employees of the department to enforce and administer the Nebraska Litter Reduction and Recycling Act and all rules and regulations adopted pursuant to the act. The director may contract with other state and local governmental agencies having law enforcement capabilities for services and personnel reasonably necessary to carry out the enforcement provisions of the act. All peace officers of this state or any political subdivision of this state shall enforce the provisions of the act and all rules and

regulations adopted pursuant to the act and are empowered to issue citations to any person violating any provision of the act in their presence.

Source: Laws 1979, LB 120, § 23; Laws 1981, LB 253, § 13; Laws 1993, LB 203, § 9.

Termination date September 30, 2025.

81-1557 Department; littering laws; appropriate provisions posted.

The penalties which may be imposed for littering in this state and any provisions of the Nebraska Litter Reduction and Recycling Act deemed appropriate by the department shall be posted along public highways of this state, at visitor centers, at the entrance to state parks and recreation areas, at public beaches, and at such other public places as the department determines is necessary to accomplish the purposes of the act.

Source: Laws 1979, LB 120, § 24; Laws 1981, LB 253, § 14; Laws 1993, LB 203, § 10.

Termination date September 30, 2025.

81-1558 Nebraska Litter Reduction and Recycling Fund; created; use; investment.

There is hereby created within the state treasury a fund to be known as the Nebraska Litter Reduction and Recycling Fund. The proceeds of the fee imposed by sections 81-1559 to 81-1560.02, money received by the department as gifts, donations, or contributions toward the goals stated in section 81-1535, and money received by the department for nonprofit activities concerning litter reduction and recycling, including, but not limited to, honoraria, literature furnished by the department, and funds realized as reimbursement for expenses in conducting educational forums, shall be remitted to the State Treasurer for credit to such fund to be used for the administration and enforcement of the Nebraska Litter Reduction and Recycling Act. Any money in the Nebraska Litter Reduction and Recycling Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 1979, LB 120, § 25; Laws 1981, LB 253, § 15; Laws 1993, LB 203, § 11; Laws 1994, LB 1066, § 113; Laws 1999, LB 592, § 2; Laws 2017, LB331, § 52; Laws 2020, LB858, § 19; Laws 2024, First Spec. Sess., LB3, § 41.

Effective date August 21, 2024.

Termination date September 30, 2025.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1559 Annual litter fee; manufacturer; wholesaler; rate; collection and administration; license; revocation; violation; penalty.

(1) To aid in defraying the cost of administration of the Nebraska Litter Reduction and Recycling Act and the Waste Reduction and Recycling Incentive Fund, there shall be collected an annual litter fee equal to one hundred seventy-five dollars for each one million dollars of gross proceeds of products manufac-

tured and the sales of which are consummated within this state, including byproducts, in the case of manufacturers and equal to one hundred seventy-five dollars for each one million dollars of the gross proceeds of the sales consummated within this state in the case of wholesalers. The litter fee provided by this section shall not be applied to gross proceeds of the sales of any animal, bird, or insect or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom if the person performs only the growing or raising function of such animal, bird, or insect. Such fee shall be collected and administered by the Department of Revenue. The fee imposed by this section shall be due on or before October 1 each year, based upon the gross proceeds for the immediately preceding July 1 to June 30 period. The collection and penalty provisions of the Nebraska Revenue Act of 1967 shall be applicable to the administration and collection of the fee imposed by this section.

(2) No manufacturer or wholesaler in the state shall produce or sell any product which falls within the categories enumerated in this section and section 81-1560 without having first obtained a license issued in the same manner as permits issued pursuant to section 77-2705. If the applicant is an individual, the application for the license shall include the applicant's social security number. Failure to obtain such license shall be a Class IV misdemeanor. Except as provided in section 81-1560.03, any manufacturer or wholesaler who fails to pay the fee imposed pursuant to subsection (1) of this section may have such license revoked in the same manner as permits are revoked pursuant to section 77-2705.

Source: Laws 1979, LB 120, § 26; Laws 1981, LB 253, § 19; Laws 1986, LB 1027, § 222; Laws 1993, LB 203, § 12; Laws 1997, LB 752, § 226.

Termination date September 30, 2025.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

81-1560 Litter fee; manufacturer; wholesaler; products subject to; enumerated.

The fee imposed by section 81-1559 shall be calculated only on the value of products or the gross proceeds of sales of products which directly contribute to litter as defined in section 81-1541 and which fall into the following categories: (1) Food for human or pet consumption; (2) groceries; (3) cigarettes and other tobacco products; (4) soft drinks and carbonated waters; (5) liquor, wine, and beer and other malt beverages; (6) household paper and paper products, excluding magazines, periodicals, newspapers, and literary works; (7) glass containers; (8) metal containers; (9) plastic or fiber containers made of synthetic material; and (10) cleaning agents and toiletries.

Source: Laws 1979, LB 120, § 27; Laws 1981, LB 253, § 20.

Termination date September 30, 2025.

81-1560.01 Annual litter fee; retailer; rate; collection and administration; license; revocation; violation; penalty.

(1) There is hereby imposed on every person engaged in business within this state as a retailer selling products which fall within the categories enumerated in section 81-1560.02 an annual litter fee equal to one hundred seventy-five dollars for each one million dollars of gross proceeds of the sales which are

consummated within this state except as provided in sections 81-1560.02 to 81-1560.04. The litter fee provided by this section shall not be applied to gross proceeds of the sales of any animal, bird, or insect or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom, if the person performs only the growing or raising function of the animal, bird, or insect. The annual litter fee shall be collected and administered by the Department of Revenue. The fee imposed by this section shall be due on or before October 1 based upon the gross proceeds for the immediately preceding July 1 to June 30 period. The collection and penalty provisions of the Nebraska Revenue Act of 1967 shall be applicable to the administration and collection of the fee imposed by this section.

(2) No retailer in this state shall sell any product which falls within the categories enumerated in section 81-1560.02 without having first obtained a license issued in the same manner as permits issued pursuant to section 77-2705. Failure to obtain a license shall be a Class IV misdemeanor. Except as provided in sections 81-1560.02 to 81-1560.04, any retailer who fails to pay the fee imposed pursuant to subsection (1) of this section may have the license revoked in the same manner as permits are revoked pursuant to section 77-2705.

Source: Laws 1981, LB 253, § 16; Laws 1993, LB 203, § 13; Laws 1995, LB 581, § 1.

Termination date September 30, 2025.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

81-1560.02 Litter fee; retailer; products subject to fee.

The fee imposed by section 81-1560.01 shall be calculated only on the gross proceeds of sales of products falling into the following categories:

- (1) Food for human consumption, beverages, soft drinks, carbonated water, liquor, wine, beer, and other malt beverages, unless sold by retailers solely for consumption indoors on the retailer's premises;
- (2) Food for pet consumption;
- (3) Cigarettes and other tobacco products;
- (4) Household paper and household paper products;
- (5) Cleaning agents; and
- (6) Kitchen supplies.

Source: Laws 1981, LB 253, § 17; Laws 1993, LB 203, § 14.

Termination date September 30, 2025.

81-1560.03 Litter fee; payment; nonduplication.

Any person engaged in business as both a manufacturer and a retailer or as both a wholesaler and a retailer shall pay the fee either under section 81-1559 or 81-1560.01, whichever is greater. No person shall be required to pay a fee more than once on the same item or product under the Nebraska Litter Reduction and Recycling Act.

Source: Laws 1981, LB 253, § 18; Laws 1993, LB 203, § 15.

Termination date September 30, 2025.

81-1560.04 Litter fee; taxable and nontaxable sales; calculation.

In lieu of requiring each license holder to separately account for taxable and nontaxable sales under sections 81-1560.01 and 81-1560.02, the Tax Commissioner shall provide by rule and regulation that the tax imposed under section 81-1560.01 may be reported and paid based on a percentage of the sales for a particular type of business if the Tax Commissioner determines that the percentage reasonably approximates the taxable activity of the particular type of business.

Source: Laws 1993, LB 203, § 16.
Termination date September 30, 2025.

81-1561 Litter Fee Collection Fund; created; Nebraska Litter Reduction and Recycling Fund; distribution; procedure; purposes.

(1) The Tax Commissioner shall deduct and withhold from the litter fee collected a fee sufficient to reimburse himself or herself for the cost of collecting and administering the litter fee and shall deposit such collection fee in the Litter Fee Collection Fund which is hereby created. The Litter Fee Collection Fund shall be appropriated to the Department of Revenue. Any money in the Litter Fee Collection Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The Tax Commissioner shall remit the balance of the litter fee collections to the Department of Environment and Energy. The department shall allocate and distribute funds from the Nebraska Litter Reduction and Recycling Fund in percentage amounts to be determined by the council on an annual basis, after a public hearing on a date to be determined by the council, for the following activities:

(a) Programs of public education, motivation, and participation aimed at creating an ethic conducive to the reduction of litter, establishing an attitude against littering and a desire for a clean environment, and securing greater awareness of and compliance with antilitter laws. Such programs shall include:

(i) The distribution of informative materials to elementary and secondary schools;

(ii) The purchase and erection of roadside signs;

(iii) The organization and operation of cleanup drives conducted by local agencies and organizations using volunteer help;

(iv) Grants to state and local government units and agencies and private organizations for developing and conducting antilitter programs; and

(v) Any other public information method selected by the department, including the use of media;

(b) Cleanup of public highways, waterways, recreation lands, urban areas, and public places within the state, including, but not limited to:

(i) Grants to cities and counties for payment of personnel employed in the pickup of litter;

(ii) Grants for programs aimed at increasing the use of youth and unemployed persons in seasonal and part-time litter pickup programs and to establish work release and other programs to carry out the purposes of the Nebraska Litter Reduction and Recycling Act;

(iii) Grants to public and private agencies and persons to conduct surveys of amounts and composition of litter and rates of littering; and

(iv) Grants to public and private agencies and persons for research and development in the fields of litter reduction, removal, and disposal, including the evaluation of behavioral science techniques in litter control and the development of new equipment, and to implement such research and development when appropriate; and

(c) New or improved community recycling and source separation programs, including, but not limited to:

(i) Expansion of existing and creation of new community recycling centers;

(ii) Expansion of existing and creation of new source separation programs;

(iii) Research and evaluation of markets for the materials and products recovered in source separation and recycling programs; and

(iv) Providing advice and assistance on matters relating to recycling and source separation, including information and consultation on available technology, operating procedures, organizational arrangements, markets for materials and products recovered in recycling and source separation, transportation alternatives, and publicity techniques.

Source: Laws 1979, LB 120, § 28; Laws 1981, LB 253, § 21; Laws 1985, LB 273, § 69; Laws 1993, LB 3, § 53; Laws 1993, LB 203, § 17; Laws 1994, LB 1066, § 114; Laws 2003, LB 408, § 5; Laws 2005, LB 426, § 17; Laws 2019, LB302, § 115.
Termination date September 30, 2025.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1562 Annual grants; separate application.

All grants under section 81-1561 shall be made on an annual basis. A separate application shall be required for each grant sought.

Source: Laws 1979, LB 120, § 29.
Termination date September 30, 2025.

81-1563 Grant recipients; periodic reports.

The department shall require periodic reports to be filed by grant recipients to enable the department to review and follow up on actions taken by grant recipients to insure that the purposes of the Nebraska Litter Reduction and Recycling Act are being achieved.

Source: Laws 1979, LB 120, § 30; Laws 1981, LB 253, § 22; Laws 1993, LB 203, § 18.
Termination date September 30, 2025.

81-1564 Repealed. Laws 1981, LB 253, § 26.

81-1565 Funds; department; adopt eligibility guidelines for recipients.

The department shall adopt guidelines for the determination of eligibility of public and private agencies and persons to receive funds pursuant to the Nebraska Litter Reduction and Recycling Act and the determination of quali-

cation and suitability of plans submitted by such agencies and persons consistent with the purposes of the act.

Source: Laws 1979, LB 120, § 32; Laws 1981, LB 253, § 23; Laws 1993, LB 203, § 19.

Termination date September 30, 2025.

81-1566 Act; termination; extension; considerations.

The Nebraska Litter Reduction and Recycling Act shall terminate on September 30, 2025, unless extended by the Legislature. In order to determine whether such extension shall occur, the department shall review and evaluate the extent to which the purposes of the act have been and are being achieved and the need for continuation of the program and requirements established by the act. Such review and evaluation shall be completed at least six months prior to the date established by this section for termination of the act.

Source: Laws 1979, LB 120, § 33; Laws 1981, LB 253, § 24; Laws 1985, LB 127, § 1; Laws 1992, LB 1257, § 93; Laws 2001, LB 337, § 1; Laws 2005, LB 33, § 1; Laws 2010, LB798, § 1; Laws 2014, LB844, § 1; Laws 2020, LB858, § 20.

Termination date September 30, 2025.

81-1566.01 Repealed. Laws 1999, LB 59, § 4.

(c) HAZARDOUS MATERIALS

81-1567 Terms, defined.

As used in sections 81-1567 to 81-1570, unless the context otherwise requires:

- (1) Discharge shall mean any leakage, seepage, or other release;
- (2) Hazardous materials shall mean all materials and substances which are defined as hazardous by Nebraska or federal law or by the regulations of any Nebraska or federal government agency as of July 10, 1984; and
- (3) Person shall mean any individual, partnership, limited liability company, corporation, association, or other entity.

Source: Laws 1984, LB 420, § 1; Laws 1993, LB 121, § 540.

81-1568 Volunteer; limitation on liability.

Any volunteer or any person who provides assistance or advice in attempting to mitigate or in mitigating the effects of an actual or threatened discharge of hazardous materials or who attempts to prevent, dispose of, or clean up or prevents, disposes of, or cleans up any such discharge shall not be subject to any civil liability or penalty, except that the person whose act or omission, in whole or in part, caused such actual or threatened discharge shall be liable for any negligence of such volunteer or other person.

Source: Laws 1984, LB 420, § 2.

81-1569 Limitation on liability; exceptions.

Section 81-1568 shall not apply to any person:

- (1) Whose act or omission caused in whole or in part such actual or threatened discharge and who would otherwise be liable; or

(2) Who receives compensation other than reimbursement for out-of-pocket expenses for his or her services in rendering such assistance or advice.

Source: Laws 1984, LB 420, § 3.

81-1570 Liability; when.

Nothing in section 81-1568 shall be construed to limit or otherwise affect the liability of any person for damages resulting from his or her gross negligence or reckless or intentional misconduct.

Source: Laws 1984, LB 420, § 4.

(d) LANDFILL AND WASTE DISPOSAL

81-1571 Repealed. Laws 1992, LB 1257, § 105.

81-1572 Transferred to section 13-2026.

81-1573 Transferred to section 13-2027.

81-1574 Transferred to section 13-2028.

(e) STORAGE OF HAZARDOUS SUBSTANCES

81-1575 Repealed. Laws 2016, LB712, § 4.

81-1576 Repealed. Laws 2016, LB712, § 4.

81-1577 Repealed. Laws 2016, LB712, § 4.

81-1577.01 Motor vehicle fuel storage tanks; aboveground tanks authorized.

(1) The State Fire Marshal shall permit by rule and regulation, in cities, in villages, and in unincorporated areas, the installation of aboveground tanks used for the storage of motor vehicle fuel by dealers who sell motor vehicle fuel at retail.

(2) For purposes of this section, dealers and motor vehicle fuel shall have the meanings provided in section 66-482 for importers and motor vehicle fuel.

Source: Laws 1990, LB 1118, § 1; Laws 1991, LB 627, § 143; Laws 2016, LB712, § 2.

(f) LOW-LEVEL RADIOACTIVE WASTE DISPOSAL ACT

81-1578 Act, how cited.

Sections 81-1578 to 81-15,116 shall be known and may be cited as the Low-Level Radioactive Waste Disposal Act.

Source: Laws 1986, LB 491, § 1; Laws 1987, LB 426, § 1; Laws 1988, LB 1092, § 1; Laws 1989, LB 761, § 1; Laws 1991, LB 837, § 2; Laws 1991, LB 716, § 1; Laws 1996, LB 1201, § 3.

81-1579 Legislative policy.

(1) The Legislature hereby declares that it is the policy of the State of Nebraska, in furtherance of its responsibility to cooperate and coordinate with

the Central Interstate Low-Level Radioactive Waste Compact Commission and to protect the health, safety, and welfare of its citizens and the environment:

(a) To provide for the availability of capacity either within or outside the state for the commercial disposal of low-level radioactive waste generated within the state at commercial low-level radioactive waste disposal facilities as designated by the Central Interstate Low-Level Radioactive Waste Compact Commission, except for waste generated as a result of defense or federal research and development activities;

(b) To recognize that low-level radioactive waste can be most safely and efficiently managed on a regional basis; and

(c) To institute and maintain a regulatory program for commercial disposal of low-level radioactive waste at such facilities.

(2) It is also the policy of the State of Nebraska that the cost of disposal of low-level radioactive waste be borne by the generators of such waste. In furtherance of such policy, the state shall not be liable for any financial subsidy of the construction and maintenance of a low-level radioactive waste disposal facility.

(3) The Legislature hereby finds that it is the policy of the state that a facility for the disposal of low-level radioactive waste shall be established at a location that best protects the health and safety of its citizens and the environment. In selecting such location, the developer shall emphasize geologic, topographic, demographic, hydrologic, and other technical factors that contribute to such protection and shall construct, operate, and maintain such facility in a manner consistent with state and federal requirements.

It is the intent of the Legislature that potential host communities be actively and voluntarily involved in the siting process. To the extent possible, consistent with the highest level of protection for the health and safety of the citizens of the state and protection of the environment, the developer shall make every effort to locate the facility where community support is evident.

Source: Laws 1986, LB 491, § 2; Laws 1987, LB 426, § 2; Laws 1988, LB 1092, § 2.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, see section 71-3522.

81-1579.01 Offices of commission; legislative intent.

It is the intent of the Legislature that the Central Interstate Low-Level Radioactive Waste Compact Commission shall establish a satellite office in the State of Nebraska within thirty days after May 26, 1989, and shall establish its central offices in the State of Nebraska prior to commencement of construction of the facility.

Source: Laws 1988, LB 1092, § 7; Laws 1989, LB 761, § 2.

81-1580 Act; purpose.

The purpose of the Low-Level Radioactive Waste Disposal Act is to effectuate the policies set forth in section 81-1579 by providing:

(1) A program of effective regulation of disposal of low-level radioactive waste based on zero-release objectives that will protect the public health and environment with an adequate margin of safety; and

(2) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to disposal of low-level radioactive waste.

Nothing in the Low-Level Radioactive Waste Disposal Act shall be intended to establish any other regulatory responsibilities pertaining to radioactive materials except for the licensing and regulation of a facility.

Source: Laws 1986, LB 491, § 3; Laws 1987, LB 426, § 3.

81-1581 Definitions, where found.

For purposes of the Low-Level Radioactive Waste Disposal Act, unless the context otherwise requires, the definitions found in sections 81-1582 to 81-1597 shall be used.

Source: Laws 1986, LB 491, § 4; Laws 1987, LB 426, § 4; Laws 1988, LB 1092, § 3; Laws 1989, LB 761, § 3; Laws 1996, LB 1201, § 4.

81-1582 Byproduct material, defined.

Byproduct material shall mean (1) any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

Source: Laws 1986, LB 491, § 5.

81-1583 Closure or site closure and stabilization, defined.

Closure or site closure and stabilization shall mean those actions that are taken upon completion of operations which prepare the disposal site for custodial care and which assure that the disposal site will remain stable and will not need ongoing active maintenance.

Source: Laws 1986, LB 491, § 6.

81-1584 Council, defined.

Council shall mean the Environmental Quality Council.

Source: Laws 1986, LB 491, § 7; Laws 1993, LB 3, § 54.

81-1584.01 Custodial care, defined.

Custodial care shall mean the continued observation, monitoring, and care of a facility for a minimum of one hundred years following the operational life of the facility and closure pursuant to the rules and regulations of the department.

Source: Laws 1987, LB 426, § 5; Laws 1996, LB 1201, § 6.

81-1585 Decommissioning, defined.

Decommissioning shall mean final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care.

Source: Laws 1986, LB 491, § 8.

81-1586 Department, defined.

Department shall mean the Department of Environmental Quality.

Source: Laws 1986, LB 491, § 9; Laws 1993, LB 3, § 55.

81-1586.01 Developer, defined.

Developer shall mean any person or commercial entity seeking to site, license, or operate a facility within this state.

Source: Laws 1988, LB 1092, § 4.

81-1587 Director, defined.

Director shall mean the Director of Environmental Quality.

Source: Laws 1986, LB 491, § 10; Laws 1993, LB 3, § 56.

81-1588 Disposal, defined.

Disposal shall mean the isolation and final disposition of radioactive waste from the biosphere by emplacement in a facility that employs technology dictated by a zero-release objective.

Source: Laws 1986, LB 491, § 11; Laws 1987, LB 426, § 6.

81-1589 High-level radioactive waste, defined.

High-level radioactive waste shall mean (1) irradiated reactor fuel, (2) liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or equivalent in a facility for reprocessing irradiated reactor fuel, (3) solids into which such liquid wastes have been converted, and (4) other highly radioactive waste material as defined by the United States Nuclear Regulatory Commission.

Source: Laws 1986, LB 491, § 12.

81-1590 Facility, defined.

Facility shall mean the land, building, and equipment selected pursuant to the Central Interstate Low-Level Radioactive Waste Compact and used or to be used for the disposal of low-level radioactive waste.

Source: Laws 1986, LB 491, § 13; Laws 1987, LB 426, § 7; Laws 1989, LB 761, § 4.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, see section 71-3522.

81-1590.01 Licensed facility operator, defined.

Licensed facility operator shall mean any person or entity who has obtained a license under the Low-Level Radioactive Waste Disposal Act to operate a facility, including any person or entity to whom an assignment of a license is approved by the department.

Source: Laws 1996, LB 1201, § 5.

81-1591 Low-level radioactive waste, defined.

Low-level radioactive waste shall mean radioactive waste not classified as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (2) of section 81-1582 and classified by the federal government as low-level radioactive waste but shall not include waste which remains a federal responsibility as designated in section 3(b) of the Low-Level Radioactive Waste Policy Act, as amended, 42 U.S.C. 2021C(b).

Source: Laws 1986, LB 491, § 14; Laws 1989, LB 761, § 5.

81-1591.01 Operational life of the facility, defined.

Operational life of the facility shall mean the period of time commencing when low-level radioactive waste is initially received at the facility and ending when the facility permanently ceases to receive such waste for disposal.

Source: Laws 1989, LB 761, § 6.

81-1592 Person, defined.

Person shall mean any individual, corporation, partnership, limited liability company, firm, association, joint venture, trust, estate, public or private institution, group, public agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, but shall not include federal governmental agencies.

Source: Laws 1986, LB 491, § 15; Laws 1987, LB 426, § 8; Laws 1993, LB 121, § 541.

81-1593 Radioactive material, defined.

Radioactive material shall mean any material, solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material shall include accelerator-produced, byproduct, naturally occurring, source, and special nuclear materials.

Source: Laws 1986, LB 491, § 16.

81-1594 Source material, defined.

Source material shall mean (1) uranium or thorium or any combination thereof in any chemical or physical form or (2) ores which contain by weight one-twentieth of one percent or more of uranium or thorium or any combination thereof. Source material shall not include special nuclear material.

Source: Laws 1986, LB 491, § 17.

81-1595 Special nuclear material, defined.

Special nuclear material shall mean (1) plutonium, uranium 233, and uranium enriched in the isotope 233 or in the isotope 235 but does not include source material or (2) any material artificially enriched by any of the foregoing, but shall not include source material.

Source: Laws 1986, LB 491, § 18.

81-1596 Spent nuclear fuel, defined.

Spent nuclear fuel shall mean irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power

reactor. Spent fuel shall include the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies.

Source: Laws 1986, LB 491, § 19.

81-1597 Transuranic waste, defined.

Transuranic waste shall mean radioactive waste containing alpha emitting transuranic elements at levels determined by the United States Nuclear Regulatory Commission to be transuranic waste.

Source: Laws 1986, LB 491, § 20.

81-1598 Department; designated agency.

The department shall be designated as the agency responsible for the administration of the Low-Level Radioactive Waste Disposal Act.

Source: Laws 1986, LB 491, § 21.

81-1599 Department; powers and duties.

The department shall have and may exercise the following powers and duties to carry out the Low-Level Radioactive Waste Disposal Act:

- (1) Develop a program for the regulation of disposal of low-level radioactive waste based on a zero-release objective;
- (2) Issue, modify, suspend, or revoke licenses or orders;
- (3) Advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions, and other organizations concerned with control of sources of radiation;
- (4) Accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;
- (5) Enter upon any private or public property at all reasonable times to determine compliance with the act and rules and regulations adopted and promulgated pursuant to the act;
- (6) Institute training programs to qualify personnel to administer the act and make such personnel available for participation in any programs of the federal government, other states, or interstate agencies in furtherance of the purposes of the act;
- (7) Enter into agreements with the federal government, other states, or interstate agencies by which the department agrees to perform inspections and other functions relating to the disposal of low-level radioactive waste on a cooperative basis with the federal government, other states, or interstate agencies;
- (8) Require submission of plans, specifications, and other data for siting, construction, and operation of a facility;
- (9) Require proper operation and maintenance of a facility;
- (10) Require licensees (a) to keep detailed records of each and every release which may cause or contribute to air, water, or land pollution or to the exposure to the environment of radioactive or hazardous substances, (b) to inform the department of each such event within twenty-four hours of its

occurrence, and (c) to make such records available for inspection by the department, the public, and other interested persons;

(11) Require licensees to adopt low-level radioactive waste technological and operative procedures consistent with a zero-release objective; and

(12) Exercise all incidental powers necessary to carry out the purposes of the Low-Level Radioactive Waste Disposal Act.

Source: Laws 1986, LB 491, § 22; Laws 1987, LB 426, § 9.

81-1599.01 Acceptance of applications for licensure; limitation.

The department shall not accept any applications for licensure as provided in section 81-15,101 prior to October 1, 1989.

Source: Laws 1988, LB 1092, § 13.

81-1599.02 Nebraska representatives to commission; appointment.

Pursuant to the Central Interstate Low-Level Radioactive Waste Compact, Nebraska as the host state shall have two at-large voting members and one nonvoting member from the county in which the facility is located on the Central Interstate Low-Level Radioactive Waste Commission. The members of the commission representing Nebraska shall be appointed by the Governor with the approval of a majority of the members of the Legislature, and such members shall serve at the pleasure of the Governor. The Governor shall appoint the nonvoting member upon submission of an application for a license for the operation of a facility or on March 22, 1991, whichever occurs later. The appointees may begin to serve immediately following appointment and prior to approval by the Legislature. If any appointee receives less than majority approval by the members of the Legislature, the Governor shall appoint another person to represent Nebraska on the commission within ten days of the failure to receive such approval. The members representing Nebraska on the commission may, when necessary, designate an alternate member to represent Nebraska.

Source: Laws 1989, LB 761, § 7; Laws 1991, LB 837, § 3.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.

81-15,100 Council; disposal of low-level radioactive waste; adopt rules and regulations; considerations.

In order to carry out the purposes of the Low-Level Radioactive Waste Disposal Act, the council shall adopt and promulgate rules and regulations for the disposal of low-level radioactive waste. In adopting such rules and regulations, the council shall consider, but not be limited to, requirements for licensing, including terms, conditions, amendment, suspension, or revocation thereof, performance objectives and technical requirements, financial assurance, record-keeping, reporting, testing, and such other requirements established by the United States Nuclear Regulatory Commission at 10 C.F.R. part 61.

Source: Laws 1986, LB 491, § 23.

81-15,101 License application; contents; transfer; limitation; review, when; department; duties.

(1) Each application for a license shall be in writing and shall state such information as the department may determine to be necessary to decide the technical and financial qualifications or any other qualifications of the applicant deemed reasonable and necessary to protect the public health and environment with an adequate margin of safety. The applicant shall also describe the funding arrangements such applicant will make to provide for custodial care. The department may at any time after the filing of the application and before the expiration of the license require further written statements and may make such inspections as the department may deem necessary in order to determine whether the license should be modified, suspended, or revoked. All applications and statements shall be signed by the applicant or licensee.

(2) No license issued under the Low-Level Radioactive Waste Disposal Act shall be assigned or in any manner disposed of unless the department, after securing full information, finds that the transfer is in accordance with the act and gives its consent in writing.

(3) If any person becomes the legal or beneficial owner of more than fifty percent of any class of the issued and outstanding equity securities of an applicant or licensee at any time after the application has been made and before the expiration of the license, the department shall conduct a review which shall include, but not be limited to, the environmental compliance record and financial responsibility of such person. At the conclusion of the review, the department shall issue a report of its findings, including its conclusions regarding the adequacy of such person to fulfill the provisions of the application or license and all laws, rules, and regulations. Copies of the report shall be sent to the Governor, Legislature, and local monitoring committee.

Source: Laws 1986, LB 491, § 24; Laws 1987, LB 426, § 10; Laws 1989, LB 761, § 8; Laws 1996, LB 1201, § 7.

81-15,101.01 Selection of site; local monitoring committee; establishment; members; powers and duties; technical assistance; immunity from liability; Local Site Selection Cash Fund; Local Monitoring Committee Cash Fund; created; use; investment.

(1)(a) The developer shall send written notification by certified or registered mail to the Governor and the Legislature of the selection of three proposed sites by January 1, 1989. Within thirty days after such notification, a local monitoring committee shall be established for each proposed site area. The local monitoring committees shall only exist until a site is selected, except that the local monitoring committee for the selected site area shall continue to exist.

(b) The committees shall represent the citizens of the proposed site areas and maintain communication with the developer and the department to assure protection of public health and safety and the protection of the air, land, and water resources of the area. It is the intent of the Legislature that the local monitoring committees provide significant input concerning local needs and resources regarding all relevant aspects of the site selection and, after a site is selected, that the remaining local monitoring committee provide significant input concerning local needs and resources regarding all relevant aspects of the construction, operation, monitoring, closure, and custodial care of the facility. The functions and duties of the committees shall be established pursuant to rules and regulations adopted and promulgated by the council.

(c) Each local monitoring committee shall have access to all monitoring data collected at the site and may contract with a geologist or any other technical expert who shall participate in the developer's onsite characterization and selection process. After a license is issued, the local monitoring committee may hire or contract with a qualified inspector as determined by the department. The inspector shall have the right of independent access to the facility and may inspect all records and activities at the site and carry out joint inspections with the department. The inspector shall report any violations to the department for appropriate action.

(2) The Conservation and Survey Division of the University of Nebraska shall provide without charge technical assistance to the local monitoring committee with the sampling, analysis, and testing provided for in this section, including, but not limited to, monitoring and performance of such sampling, analysis, and testing.

(3) Each local monitoring committee shall be composed of the following ten members, all of whom shall be residents of Nebraska:

(a) Two members selected from municipalities which have zoning jurisdiction within fifteen miles of the proposed site or, if there are no such municipalities, from the municipality in closest proximity to the proposed site, to be appointed by the chief executive officer of each municipality or by the governing body if there is no chief executive officer;

(b) Two members from the county in which the site is proposed, to be appointed by the governing body of the county. One member shall be an owner of real property that is within a three-mile radius of the proposed site, and one member shall be an at-large member;

(c) Two members appointed by the board of directors of the natural resources district in which the site is proposed; and

(d) Four members, to be appointed by the Governor, who reside within fifty miles of the proposed site, one of whom represents conservation, one of whom represents agriculture, one of whom is an at-large member, and one of whom is the chief of a fire department located within fifteen miles of the proposed site.

If the appointments required by subdivisions (a) through (c) of this subsection have not been made within thirty days after May 26, 1989, the Governor shall make such appointments. Appointment of a person ineligible to serve pursuant to the requirements of this section shall be considered the equivalent of not making an appointment.

(4) No member of a local monitoring committee shall be liable in any civil action for damages resulting from his or her acts of commission or omission arising out of and in the course of his or her rendering any services as such member in good faith. This section shall not grant immunity for the operation of a motor vehicle in connection with such services or to any member causing damages by willful and wanton acts of commission or omission.

(5) There is hereby created the Local Site Selection Cash Fund which shall be under the direction of the department. Fees or surcharges received pursuant to subdivision (1)(g) of section 81-15,104 shall be placed in the fund. The funds shall be appropriated equally among the committees and may be used for technical studies, determination of social and economic impact, and any other purpose deemed appropriate by such committees to the monitoring of the low-level radioactive waste site planning, construction, or maintenance to assure

protection of the air, land, and water resources of the area. The committees shall file quarterly reports with the department verifying expenditures made pursuant to this subsection. The local monitoring committees may hire clerical staff and purchase supplies. The local monitoring committees may not hire professional or technical staff but may contract for professional or technical services.

(6) There is hereby created the Local Monitoring Committee Cash Fund which shall be under the direction of the department. Fees or surcharges received pursuant to subdivision (1)(h) of section 81-15,104 shall be placed in the fund. The fees and surcharges collected pursuant to subdivision (1)(h) of section 81-15,104 shall not exceed one hundred thousand dollars per year and shall be used by such local monitoring committee for all reasonable and necessary costs in order to carry out this section. The local monitoring committee may hire clerical staff and purchase office supplies. Except for a qualified inspector hired pursuant to subdivision (1)(c) of this section, the local monitoring committee may not hire professional or technical staff but may contract for professional or technical services.

(7) Any money in the Local Site Selection Cash Fund or the Local Monitoring Committee 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.

(8) The State Treasurer shall transfer the entire balance in the Local Monitoring Committee Cash Fund, including any investment income credited to the fund, to the General Fund as soon as possible after August 15, 2005.

Source: Laws 1987, LB 426, § 15; Laws 1988, LB 1092, § 5; Laws 1989, LB 761, § 9; Laws 1991, LB 716, § 3; Laws 1994, LB 1066, § 116; Laws 2005, LB 426, § 18.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,101.02 Applicant; design and planning requirements.

No license for the operation of a facility shall be granted to any applicant who proposes a disposal design which uses traditional shallow land burial as used prior to 1979. The disposal cells of the facility shall be built above grade levels and designed to meet the state's zero-release objectives. An applicant shall present a disposal design for aboveground disposal or other technology which contains one or more engineered, artificially constructed barriers to isolate the waste from the surrounding environment. An applicant shall present a plan of continuous environmental monitoring to detect any releases of radiation from the disposal facility and having the capability of providing early warning of releases of radiation from the facility. The monitoring plan shall cover the operational life of the facility and such time period following site closure and stabilization that is necessary to protect the health and safety of the public. An applicant shall present a plan for the recovery, cleanup, or other corrective action necessary as a result of the release of radiation from the facility. The facility design shall include a plan for retrievability and removal of all waste.

Source: Laws 1987, LB 426, § 16; Laws 1989, LB 761, § 10.

81-15,101.03 Decommissioned nuclear reactor; waste; storage or disposal; waste from outside region; acceptance.

(1) No low-level radioactive waste produced as a result of decommissioning a nuclear reactor shall be stored or disposed of at the facility until the department has determined that such facility is designed to safely store or dispose of such waste.

(2) Unless an emergency exists, no waste shall be accepted from outside the Central Interstate Low-Level Radioactive Waste Compact region without prior approval by the Legislature. No agreement entered into pursuant to an emergency situation shall extend beyond six months unless a continuation of the agreement is approved by the Legislature.

Source: Laws 1988, LB 1092, § 8; Laws 1989, LB 761, § 11.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.

81-15,101.04 Class C low-level radioactive waste; storage; disposal; requirements.

Class C low-level radioactive waste, as defined by 10 C.F.R. 61.55 in effect on January 26, 1983, shall be stored or disposed of separately from other types of low-level radioactive waste in containers which can be easily monitored and retrieved and shall be handled, stored, and disposed of in a manner consistent with the zero-release objective described in section 81-1580.

Source: Laws 1988, LB 1092, § 9.

81-15,101.05 Mixed waste; requirements.

Waste which is defined by the Nuclear Regulatory Commission or the federal Environmental Protection Agency as mixed waste shall be solidified, neutralized, and stabilized to the maximum degree practicable prior to shipment to the facility. Mixed waste which has not been treated to the degree required by this section shall not be disposed of at the facility.

Source: Laws 1988, LB 1092, § 10.

81-15,102 Disposal site; acquisition or acceptance; construction contracts; conditions; use; notice required; contract for management; management; remedial cleanup costs.

(1) The state shall accept or acquire, by gift, transfer, or purchase, from the licensed facility operator, title to the land and appurtenances used for the disposal of low-level radioactive waste after the expiration of both the operational life and closure period of the facility, if:

(a) Both the Department of Health and Human Services Regulation and Licensure and the Department of Environmental Quality determine that (i) the requirements for site closure, decommissioning, and decontamination adopted pursuant to rules and regulations of the Department of Health and Human Services Regulation and Licensure and the Department of Environmental Quality which are allowed under federal law have been met by the licensed facility operator and (ii) such operator is in compliance with all financial requirements; and

(b) The amendments to the Central Interstate Low-Level Radioactive Waste Compact made by Laws 1991, LB 837, section 4, codified in section 71-3521, are in effect and have been ratified by Congress.

The title to the land and appurtenances shall be transferred without cost to the state. Such transfer of title to the state does not relieve the developer, licensed facility operator, or generators of such waste from liability for their actions that occurred whether known or unknown during the design, construction, operation, and closure of the facility. Sites received by gift or transfer shall be subject to approval and acceptance by the Legislature on behalf of the state.

(2) The applicant shall notify the Governor and the Legislature before beginning any onsite geological activity, such as soil core sampling, to determine the suitability of a site in the State of Nebraska for use as a facility.

(3) Lands and appurtenances which are used for the disposal of low-level radioactive waste shall be acquired and held in fee simple absolute by the licensed facility operator so long as such ownership does not preclude licensure or operation of the facility under federal law and until title to the land and appurtenances is transferred to the state pursuant to subsection (1) of this section. Such lands and appurtenances shall be used exclusively for the disposal of low-level radioactive waste until the department determines that such exclusive use is not required to protect the public health, safety, welfare, or environment. Before such a site is leased for other use, the department shall require and assure that the radioactive waste history of the site be recorded in the permanent land records of the site. Remedial cleanup costs which become necessary during the period of custodial care shall be assessed first to the licensed facility operator, then proportionately against the generators of the radioactive waste and as set out in the Central Interstate Low-Level Radioactive Waste Compact found in section 71-3521.

(4) The state may contract for the management of a disposal site. The contractor shall be subject to licensing by the department and shall be subject to the surety and custodial care funding provisions of section 81-15,103.

(5) If and until licensing of a facility is approved, no further construction contracts shall be let or actual construction begun, other than filling the identified wetland, before the Department of Environmental Quality has conducted a six-month public education program to inform the people of the county and the people of the state of the exact characteristics of the facility to be built, which program shall be undertaken forthwith.

Source: Laws 1986, LB 491, § 25; Laws 1987, LB 426, § 11; Laws 1994, LB 72, § 2; Laws 1996, LB 1201, § 8; Laws 1997, LB 307, § 218; Laws 1998, LB 1174, § 1.

81-15,102.01 Property near facility; loss of value; compensation authorized; procedure.

(1) Any owner of real property that is within a three-mile radius of the facility on the date a license for such facility is granted who believes that his or her property has declined in value as a result of construction of the facility or his or her heirs or assigns may apply for compensation as provided in this section. Any application for compensation shall be filed within five years of the date the facility first begins accepting low-level radioactive waste. Upon application by a real property owner, the county board of the county in which the facility is located shall hold a hearing to determine whether a loss of real property value

has occurred. In reaching a decision, the county board shall consider the value of such property on the date a license is granted to the developer, using appraisals, valuations made by the county assessor of the county, data developed by the Property Tax Administrator, and any other relevant data, including appraisals which the county board may order. If the real property owner establishes by a preponderance of the evidence that his or her property has suffered loss which has not previously been compensated due to the construction of the facility, the developer shall provide compensation to the real property owner for the amount of the loss. Compensation shall be provided by the developer from fees assessed upon generators of low-level radioactive waste at the time such waste is delivered to the facility. Any real property owner aggrieved by a final decision of the county board shall be entitled to an appeal in the same manner as appeals are taken pursuant to section 23-135.

(2) As used in this section, real property owner shall mean the owner of record in the office of the county register of deeds on the date a license is granted to the developer as provided in section 81-15,101 or his or her heirs or assigns.

Source: Laws 1988, LB 1092, § 11; Laws 1995, LB 490, § 188.

81-15,102.02 Department; testing of water and agricultural products.

(1) The department shall offer to landowners directly adjacent to the facility's boundary an annual well and surface water sampling and analysis of any domestic water supply at no cost to the landowner.

(2) The department shall offer to landowners directly adjacent to the facility's boundary the opportunity for testing of agricultural products produced on the property for contamination by radioactivity. The testing shall be conducted pursuant to a plan developed by the department and at no cost to the landowner.

Source: Laws 1989, LB 761, § 16.

81-15,102.03 Developer; provide emergency training and equipment.

The developer shall provide to the appropriate local political subdivision training of the first responding fire, police, and emergency medical services to handle emergency events at the facility and support for affected county emergency management planning, training, and central dispatch facilities as may be required to handle emergency events at the facility. The developer shall conduct such training programs or contract with appropriate public or private agencies for such training. The content of any such training program shall, prior to the commencement of the training program, be approved by the appropriate state agency which is responsible for such emergency training activity. The developer shall also provide to the appropriate local political subdivision any equipment which is necessary to provide emergency response due to the location and operation of the facility.

Source: Laws 1989, LB 761, § 17; Laws 1997, LB 138, § 54.

81-15,103 Council; financial requirements; adopt rules and regulations; remedial cleanup costs; Radiation Site Closure and Reclamation Fund; Radiation Custodial Care Fund; created; use; investment; agreement with Department of Health and Human Services.

(1) For licensed activities involving disposal of low-level radioactive waste, the council shall adopt and promulgate rules and regulations which require a licensee to provide an adequate surety or other financial arrangement sufficient to accomplish any necessary corrective action or cleanup on real or personal property caused by releases of radiation from a disposal site during the operational life and closure period of the facility and to comply with the requirements for decontamination, decommissioning, site closure, and stabilization of sites, and structures and equipment used in conjunction with such licensed activity, in the event the licensee abandons the facility or defaults for any reason in performing its operational, closure, or other requirements. Such sureties required under the license shall be compatible with applicable federal financial assurance regulations and shall be reviewed by the department at the time of license review under subsection (1) of section 81-15,106. Any arrangement which constitutes self-insurance shall not be allowed. In addition to the surety requirements, the licensee shall purchase property and third-party liability insurance and pay the necessary periodic premiums at all times in such amounts as determined by the council pursuant to rules and regulations adopted and promulgated pursuant to the Low-Level Radioactive Waste Disposal Act.

(2) All sureties required pursuant to subsection (1) of this section which are forfeited shall be paid to the department and remitted to the State Treasurer for credit to the Radiation Site Closure and Reclamation Fund which is hereby created. Any money in the fund may be expended by the department as necessary to complete the requirements on which licensees have defaulted. Money in this fund shall not be used for normal operating expenses of the department. 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) For licensed activities involving the disposal of low-level radioactive waste, the council shall adopt and promulgate rules and regulations which require a licensee, before termination of the license, to make available such funding arrangements as may be necessary to provide for custodial care.

(4)(a) Remedial cleanup costs which become necessary during the operational life and closure of the facility shall be the responsibility of the licensed facility operator either directly or through applicable surety bonds, insurance, and other financial arrangements required pursuant to subsection (1) of this section, and (b) any remaining remedial cleanup costs which become necessary during the operational life and closure of the facility and which exceed funds available under subdivision (a) of this subsection shall be assessed proportionately by waste volume against the generators, then proportionately by waste volume against the party states as provided by the Central Interstate Low-Level Radioactive Waste Compact.

(5) Remedial cleanup costs which become necessary during the period of custodial care shall be assessed (a) first, against the funds established pursuant to this section and any surety bonds, insurance, or other financial arrangements established for the facility, excluding such funds reserved for custodial care, (b) second, against the licensed facility operator, (c) third, against the generators based on proportionate waste volume, and (d) fourth, against the party states based on proportionate waste volume as provided by the Central Interstate Low-Level Radioactive Waste Compact.

(6) All funds collected from licensees pursuant to subsection (3) of this section and subsection (1) of section 81-15,101 shall be paid to the department and remitted to the State Treasurer for credit to the Radiation Custodial Care Fund which is hereby created. All interest accrued on money deposited in the fund may be expended by the department for the continuing custodial care, maintenance, and other care of facilities from which such funds are collected as necessary for protection of the public health, safety, and environment. 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.

(7) The department may, by contract, agreement, lease, or license with the Department of Health and Human Services, provide for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site subject to this section as needed to carry out the purposes of this section.

Source: Laws 1986, LB 491, § 26; Laws 1987, LB 426, § 12; Laws 1995, LB 7, § 127; Laws 1996, LB 1044, § 868; Laws 1996, LB 1201, § 9; Laws 2007, LB296, § 757.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,104 Fees or surcharges for services; special assessment; failure to pay; effect; Low-Level Radioactive Waste Cash Fund; created; investment.

(1) The department shall collect fees or surcharges established by the council for radiation protection services provided pursuant to the Low-Level Radioactive Waste Disposal Act and the Central Interstate Low-Level Radioactive Waste Compact. Services for which fees or surcharges may be established include (a) issuance, amendment, and renewal of licenses for facilities, (b) inspection of licensees, (c) environmental custodial care activities to assess the radiological impact of activities conducted by licensees, (d) certification of personnel to operate the facility, (e) such other activities of department personnel which are reasonably necessary to assure that the licensed facility is being operated in accordance with the Low-Level Radioactive Waste Disposal Act and which reasonably should be borne by the licensee, (f) the budget of the Central Interstate Low-Level Radioactive Waste Compact Commission pursuant to Article IV, section (h)(2), of the compact, (g) payment by the developer of all reasonable and necessary costs of the local monitoring committees as prescribed in subsection (5) of section 81-15,101.01 until June 30, 1989, or until a site is selected, whichever is later, and (h) payment by the developer of all reasonable and necessary costs of the local monitoring committee where the facility is located as prescribed in subsection (6) of section 81-15,101.01.

(2) In determining the amount of such fees or surcharges, the council shall set the fees or surcharges in an amount sufficient to reimburse the state for its direct and indirect costs of the services specified in subsection (1) of this section. Any costs incurred by the State of Nebraska that exceed the fees or surcharges collected pursuant to this section shall be recovered through a special assessment against those generators of low-level radioactive waste which used the facility during the previous two years. The director shall compute the amount due from each generator based on the ratio of the fees or surcharges collected from a particular generator during the two-year period to

the total fees or surcharges collected from all generators during such two-year period. Any special assessment collected pursuant to this section shall be remitted to the State Treasurer who shall credit it to the Low-Level Radioactive Waste Cash Fund. The council shall take into account any special arrangements between the state and a licensee, another state, or a federal agency from which the cost of the service is partially or fully recovered.

(3) When a licensee fails to pay the applicable fee or surcharge, the department may suspend or revoke the license or may issue an appropriate order.

(4) Except as provided in subsections (5) and (6) of section 81-15,101.01, any fees or surcharges collected pursuant to this section shall be deposited in the Low-Level Radioactive Waste Cash Fund, which fund is hereby created. The fund shall be administered by the department. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The State Treasurer shall transfer the entire balance in the Low-Level Radioactive Waste Cash Fund, including any investment income credited to the fund, to the General Fund as soon as possible after August 15, 2005.

Source: Laws 1986, LB 491, § 27; Laws 1987, LB 426, § 13; Laws 1988, LB 1092, § 6; Laws 1989, LB 761, § 12; Laws 1994, LB 1066, § 117; Laws 2005, LB 426, § 19.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,104.01 Council; designated as rate-review agency.

For purposes of section (c) of Article III of the Central Interstate Low-Level Radioactive Waste Compact, the council is hereby designated as the rate-review agency for this state.

Source: Laws 1983, LB 200, § 3; R.S.1943, (1989), Appendix (BB); Laws 1991, LB 716, § 2.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.

81-15,105 Inconsistent ordinances, resolutions, or regulations; superseded.

The Low-Level Radioactive Waste Disposal Act shall supersede ordinances, resolutions, or regulations, now or hereafter in effect, of the governing body of a municipality or county or of state agencies which are inconsistent with the act.

Source: Laws 1986, LB 491, § 28.

81-15,105.01 Acceptance of waste by facility; when.

No waste shall be accepted by the facility until the amendments to the Central Interstate Low-Level Radioactive Waste Compact contained in Laws 1991, LB 837, are in effect in Kansas, Oklahoma, Louisiana, and Arkansas and have been ratified by Congress.

Source: Laws 1991, LB 837, § 1; Laws 1996, LB 1201, § 10.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.

81-15,106 License; term; review; revocation; denial; hearing; closure of facility.

(1) Licenses shall provide that a facility shall not accept waste for a period longer than thirty years or until five million cubic feet of low-level radioactive waste has been received, whichever occurs sooner. Licenses shall be reviewed every five years subsequent to the date of issuance and shall be modified as necessary to assure that the facility continues to comply with the currently applicable laws, rules, and regulations. Nothing in this subsection shall preclude a license from being reviewed and modified at any time during its term.

(2) The department may issue an order temporarily or permanently closing a facility prior to its scheduled closing date if it finds there is a potential hazard to public health, safety, or the environment which justifies a temporary or permanent closure. A facility that is temporarily closed shall remain closed for as long as necessary for remedial action and throughout the period of facility cleanup and stabilization. Before authorizing the reopening of a temporarily closed facility, the department shall provide an explanation of its reasons for authorizing the reopening.

(3) Any license issued under the Low-Level Radioactive Waste Disposal Act shall be subject to revocation for failure of the licensee to comply with the terms and conditions of the license, the applicable rules and regulations, or the provisions of the act. Any person whose license has been revoked shall be afforded an opportunity for a hearing by the department upon written application made within thirty days after service of notice of such revocation.

(4) In any proceeding for the denial of an application for a license or for revocation, suspension, or modification of a license, the department shall provide to the applicant or licensee an opportunity for a hearing on the record.

Source: Laws 1986, LB 491, § 29; Laws 1987, LB 426, § 14; Laws 1989, LB 761, § 13.

81-15,107 License application; notice; hearing; environmental impact analysis required; appeal.

(1) For any application for a license, the department shall provide an opportunity, after public notice, for written comments and shall hold a public hearing in the county in which the proposed facility is to be located. The cost of such hearing shall be borne by the applicant. All testimony offered at such hearing shall be recorded. The department shall issue a written determination of the action to be taken which is based upon findings to be included in the determination and upon evidence presented during the public comment period.

(2) The department shall prepare, for each licensed activity which has a significant impact on the human environment, a written analysis of the impact of such licensed activity on the environment. The environmental impact analysis shall address each subject listed in Public Law 91-190, Title I, section 102(2)(c), 83 Stat. 853, and supporting regulations. The department shall prohibit any construction with respect to any activity for which an environmental impact analysis is required prior to completion of such analysis. The analysis shall be available to the public at the time notice is given for the hearing held pursuant to this section and shall include:

- (a) An assessment of the radiological and nonradiological impacts to the public health;
 - (b) An assessment of any impact on any waterways and ground water;
 - (c) Consideration of alternatives to the activities to be conducted, including alternative sites and engineering methods; and
 - (d) Consideration of the long-term impacts, including closure, decommissioning, decontamination, and reclamation of facilities and sites associated with the licensed activities and management of any radioactive materials which will remain on the site after such closure, decommissioning, decontamination, and reclamation.
- (3) Any final agency action or order may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1986, LB 491, § 30; Laws 1987, LB 426, § 17; Laws 1988, LB 352, § 176.

Cross References

Administrative Procedure Act, see section 84-920.

81-15,108 Emergency order; hearing.

Whenever the director finds that an emergency exists requiring immediate action to protect the public health and safety, the director may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet the emergency including, but not limited to, closure of the site. Such order shall be effective immediately. Any person to whom such order is directed shall comply immediately, but on application to the director, such person shall be afforded a hearing not later than ten days after receipt of such application. On the basis of such hearing, the director shall continue, modify, or revoke such order within thirty days after such hearing.

Source: Laws 1986, LB 491, § 31.

81-15,109 Violations of act; action to enjoin.

Whenever, in the judgment of the department, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of the Low-Level Radioactive Waste Disposal Act or any rule, regulation, or order issued pursuant to the act, the Attorney General or county attorney may apply to the district court for an order enjoining such acts or practices or for an order directing compliance. Upon a showing by the department that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

Source: Laws 1986, LB 491, § 32.

81-15,110 Disposal of low-level radioactive waste; license required.

It shall be unlawful for any person to dispose of low-level radioactive waste unless licensed by the department pursuant to the Low-Level Radioactive Waste Disposal Act.

Source: Laws 1986, LB 491, § 33.

81-15,111 Violation; criminal penalty.

Any person who violates the Low-Level Radioactive Waste Disposal Act or rules, regulations, or orders issued pursuant to the act shall upon conviction be guilty of a Class IV felony.

Source: Laws 1986, LB 491, § 34.

81-15,112 Violation; civil penalty; procedure; appeal.

(1) Any person who (a) violates any licensing provision of the Low-Level Radioactive Waste Disposal Act, any rule, regulation, or order issued pursuant to the act, or any term, condition, or limitation of any license issued pursuant to the act or (b) commits any violation for which a license may be revoked under rules or regulations issued pursuant to the act may be subject to a civil penalty, to be imposed by the department, not to exceed ten thousand dollars. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The department shall have the power to compromise, mitigate, or remit such penalties.

(2) Whenever the department proposes to subject a person to the imposition of a civil penalty under this section, the department shall notify such person in writing (a) setting forth the date, facts, and nature of each act or omission with which the person is charged, (b) specifically identifying the particular provision or provisions of the section, rule, regulation, order, or license involved in the violation, and (c) specifying each penalty which the department proposes to impose and its amount. Such written notice shall be sent by registered or certified mail by the department to the last-known address of such person. The person so notified may request a hearing, in writing, within thirty days of receipt of such notice. A hearing, if granted, shall be held in accordance with the Administrative Procedure Act. The notice shall also advise such person that upon failure to pay the civil penalty subsequently determined by the department, if any, the penalty may be collected by civil action. Any person upon whom a civil penalty is imposed may appeal such penalty, and the appeal shall be in accordance with the Administrative Procedure Act. On the request of the department, the Attorney General or county attorney may institute a civil action to collect a penalty imposed pursuant to this section.

Source: Laws 1986, LB 491, § 35; Laws 1988, LB 352, § 177.

Cross References

Administrative Procedure Act, see section 84-920.

81-15,112.01 Strict liability in tort; when.

Any person engaged in the disposal of low-level radioactive waste shall be subject to strict liability in tort for property damage, bodily injury, or death resulting from such disposal.

Source: Laws 1988, LB 1092, § 12.

81-15,112.02 Repealed. Laws 1995, LB 15, § 6.**81-15,113 Contribution to Central Interstate Low-Level Radioactive Waste Compact Commission's budget; how paid.**

The state's annual contribution to the Central Interstate Low-Level Radioactive Waste Compact Commission's budget shall be paid by generators of low-level radioactive waste in this state which dispose of such waste in low-level radioactive waste disposal facilities through fees assessed by the department pursuant to section 81-15,104. Fees may be reasonably assessed on the basis of volume of the waste shipped and shall be deposited in the Low-Level Radioactive Waste Cash Fund. Such fees shall be due the first of July beginning in 1986 and shall continue until surcharges are collected pursuant to Article IV, section (h)(2), of the compact. There shall be no General Fund appropriation for the construction, maintenance, or long-term monitoring and care of a facility.

Source: Laws 1986, LB 491, § 36; Laws 1987, LB 426, § 18.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.

81-15,113.01 Community Improvements Cash Fund; created; surcharge; distribution; allocation; investment; legislative study.

(1) There is hereby created the Community Improvements Cash Fund which shall be under the direction of the department. The Central Interstate Low-Level Radioactive Waste Compact Commission shall annually through 1998 remit to the department the funds received from the states belonging to the Central Interstate Low-Level Radioactive Waste Compact as compensation paid to the host state. When the facility begins operation, the developer shall levy, collect, and remit to the department a surcharge on the rates charged to the users of the facility which is sufficient to raise two million dollars per year together with any adjustments made by the department pursuant to this section. The department shall remit such surcharge to the State Treasurer who shall credit it to the Community Improvements Cash Fund. On October 1, 1990, and each October 1 thereafter, the department shall adjust the amount to be remitted by the developer by an amount equal to the percentage increase in the Consumer Price Index or, if publication of the Consumer Price Index is discontinued, a comparable index selected by the director. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall distribute money from the fund as follows:

(a) Prior to final site selection, three hundred thousand dollars per year shall be allocated for public purposes to be divided among the communities that are under active consideration to host the facility as provided in subsection (3) of this section;

(b) After the final site has been selected and until the facility is operational, three hundred thousand dollars per year shall be allocated for public purposes as provided in subsection (3) of this section. Acceptance of the funds distributed pursuant to this subdivision or subdivision (a) of this subsection shall in no way affect the siting process; and

(c) Once the facility is operational and during the operational life of the facility, the total amount in the fund shall be allocated each year for public purposes as provided in subsection (3) of this section.

(3) Money distributed pursuant to subdivisions (2)(a), (b), and (c) of this section shall be allocated as follows:

(a) Fifty percent of such money shall be distributed to incorporated municipalities which lie totally or partially within ten kilometers of the facility or the proposed facility based on the ratio of the population of the particular incorporated municipality to the total population of all such incorporated municipalities as determined by the latest federal census; and

(b) Fifty percent of such money shall be distributed to the county treasurer of the county where the facility is located or proposed to be located to be distributed to each political subdivision which levied property taxes on the property where the facility is located or proposed to be located. The money shall be distributed on the basis of the ratio of the total amount of taxes levied by each political subdivision to the total amount of property taxes levied by all such political subdivisions on such property based on the amounts stated in the most recent certificate of taxes levied submitted by each county to the Property Tax Administrator pursuant to section 77-1613.01.

(4) The Natural Resources Committee of the Legislature shall conduct a study to establish a formula for the equitable distribution of the funds specified in subdivision (2)(c) of this section. The committee shall hold public hearings necessary to carry out the purposes of the study.

(5) The State Treasurer shall transfer the entire balance in the Community Improvements Cash Fund, including any investment income credited to the fund, to the General Fund as soon as possible after August 15, 2005.

Source: Laws 1988, LB 1092, § 14; Laws 1989, LB 761, § 14; Laws 1993, LB 625, § 1; Laws 1994, LB 1066, § 118; Laws 1994, LB 1349, § 11; Laws 1995, LB 490, § 189; Laws 1995, LB 552, § 1; Laws 1997, LB 658, § 14; Laws 1998, LB 1174, § 2; Laws 2005, LB 426, § 20.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

81-15,113.02 Generator; failure to fulfill responsibilities; effect.

If a generator of low-level radioactive waste fails to fulfill its financial or regulatory responsibilities under either the Central Interstate Low-Level Radioactive Waste Compact or the Low-Level Radioactive Waste Disposal Act, the wastes generated by that generator shall not be received for disposal at the facility until the obligations are fulfilled.

Source: Laws 1989, LB 761, § 15.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.

81-15,114 Violation of Central Interstate Low-Level Radioactive Waste Compact; civil penalty.

Any person who violates any provision of the Central Interstate Low-Level Radioactive Waste Compact shall be subject to a civil penalty of not more than ten thousand dollars per day of violation.

Source: Laws 1986, LB 491, § 37.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.

81-15,115 Violation of Central Interstate Low-Level Radioactive Waste Compact; action to enjoin; performance compelled.

Any person violating the provisions of the Central Interstate Low-Level Radioactive Waste Compact may be enjoined from continuing such violation. An action may also be brought to compel performance of an obligation created by the compact. The court may require any person who is adjudged responsible to do and perform any and all things within his or her power which are reasonably necessary to fulfill the obligation.

Source: Laws 1986, LB 491, § 38.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.

81-15,116 Violation of Central Interstate Low-Level Radioactive Waste Compact; Attorney General; duties.

Any action for a violation of the Central Interstate Low-Level Radioactive Waste Compact or an action to enjoin a violation or to compel performance under the compact shall be brought by the Attorney General in the name of the state.

Source: Laws 1986, LB 491, § 39.

Cross References

Central Interstate Low-Level Radioactive Waste Compact, withdrawal, see section 71-3522.

**(g) PETROLEUM PRODUCTS AND HAZARDOUS
SUBSTANCES STORAGE AND HANDLING****81-15,117 Act, how cited.**

Sections 81-15,117 to 81-15,127 shall be known and may be cited as the Petroleum Products and Hazardous Substances Storage and Handling Act.

Source: Laws 1986, LB 217, § 1; Laws 1989, LB 289, § 31; Laws 1991, LB 409, § 20; Laws 1996, LB 1226, § 14; Laws 1998, LB 1161, § 39; Laws 2001, LB 461, § 10.

81-15,118 Legislative findings.

The Legislature finds that the number of leaking underground storage tanks throughout the state is increasing and that there exists a serious threat to the health and safety of citizens because substances contained in leaking storage tanks are often potential ground water contaminants and major fire and explosive hazards.

For the reasons stated in this section, the Legislature deems it necessary to provide a program of storage tank registration and inspection as a preventative measure and a comprehensive leak cleanup program as a responsive measure. Primary responsibility for the Petroleum Products and Hazardous Substances Storage and Handling Act shall be with the Department of Environment and Energy. However, preventative measures described in such act shall also be

carried out by the State Fire Marshal. The State Fire Marshal's actions shall be pursuant to an interagency agreement with the department.

Source: Laws 1986, LB 217, § 2; Laws 1993, LB 3, § 57; Laws 2019, LB302, § 116.

81-15,119 Terms, defined.

For purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act, unless the context otherwise requires:

(1) Operator shall mean any person in control of, or having responsibility for, the daily operation of a tank but shall not include a person described in subdivision (2)(b) of this section;

(2)(a) Owner shall mean:

(i) In the case of a tank in use on July 17, 1986, or brought into use after such date, any person who owns a tank used for the storage or dispensing of regulated substances; and

(ii) In the case of any tank in use before July 17, 1986, but no longer in use on such date, any person who owned such tank immediately before the discontinuation of its use.

(b) Owner shall not include a person who, without participating in the management of a tank and otherwise not engaged in petroleum production, refining, and marketing:

(i) Holds indicia of ownership primarily to protect his or her security interest in a tank or a lienhold interest in the property on or within which a tank is or was located; or

(ii) Acquires ownership of a tank or the property on or within which a tank is or was located:

(A) Pursuant to a foreclosure of a security interest in the tank or of a lienhold interest in the property; or

(B) If the tank or the property was security for an extension of credit previously contracted, pursuant to a sale under judgment or decree, pursuant to a conveyance under a power of sale contained within a trust deed or from a trustee, or pursuant to an assignment or deed in lieu of foreclosure.

(c) Ownership of a tank or the property on or within which a tank is or was located shall not be acquired by a voidable transfer, as provided in the Uniform Voidable Transactions Act;

(3) Permanent abandonment shall mean that a tank has been taken permanently out of service as a storage vessel for any reason or has not been used for active storage for more than one year;

(4) Person shall mean any individual, firm, joint venture, partnership, limited liability company, corporation, association, political subdivision, cooperative association, or joint-stock association and includes any trustee, receiver, assignee, or personal representative thereof owning or operating a tank;

(5) Petroleum product shall mean any petroleum product, including, but not limited to, petroleum-based motor or vehicle fuels, gasoline, kerosene, and other products used for the purposes of generating power, lubrication, illumination, heating, or cleaning, but shall not include propane or liquefied natural gas;

(6) Regulated substance shall mean any petroleum product and any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as such act existed on May 31, 2001, but not including any substance regulated as a hazardous waste under subtitle C of such act;

(7) Release shall mean any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a tank or any overfilling of a tank into ground water, surface water, or subsurface soils;

(8) Remedial action shall mean any immediate or long-term response to a release or suspected release in accordance with rules and regulations adopted and promulgated by the department or the State Fire Marshal, including tank testing only in conjunction with a release or suspected release, site investigation, site assessment, cleanup, restoration, mitigation, and any other action which is reasonable and necessary;

(9) Risk-based corrective action shall mean an approach to petroleum release corrective actions in which exposure and risk assessment practices, including appropriate consideration of natural attenuation, are integrated with traditional corrective actions to ensure that appropriate and cost-effective remedies are selected that are protective of human health and the environment;

(10) Tank shall mean any tank or combination of tanks, including underground pipes connected to such tank or tanks, which is used to contain an accumulation of regulated substances and the volume of which is ten percent or more beneath the surface of the ground. Tank shall not include any:

(a) Farm or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for consumptive use on the premises where stored, subject to a one-time fee;

(b) Tank with a storage capacity of one thousand one hundred gallons or less used for storing heating oil for consumptive use on the premises where stored, subject to a one-time fee;

(c) Septic tank;

(d) Tank situated in an underground area such as a basement, cellar, mineworking, drift, shaft, or tunnel if the tank is situated on or above the surface of the floor;

(e) Pipeline facility, including gathering lines:

(i) Defined under 49 U.S.C. 60101, as such section existed on May 31, 2001; or

(ii) Which is an intrastate pipeline regulated under state law comparable to the law prescribed in subdivision (e)(i) of this subdivision;

(f) Surface impoundment, pit, pond, or lagoon;

(g) Flow-through process tank;

(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

(i) Storm water or wastewater collection system; and

(11) Temporary abandonment shall mean that a tank will be or has been out of service for at least one hundred eighty days but not more than one year.

Source: Laws 1986, LB 217, § 3; Laws 1987, LB 365, § 1; Laws 1989, LB 289, § 32; Laws 1991, LB 409, § 22; Laws 1993, LB 121, § 542; Laws 1996, LB 1226, § 15; Laws 1998, LB 1161, § 40; Laws 2001, LB 461, § 11; Laws 2019, LB70, § 18.

Cross References

Uniform Voidable Transactions Act, see section 36-801.

81-15,120 Farm or residential tank; heating oil storage tank; registration; when required; fee; Petroleum Products and Hazardous Substances Storage and Handling Fund; created; use; investment.

Any farm or residential tank or tank used for storing heating oil as defined in subdivisions (10)(a) and (b) of section 81-15,119 shall be registered with the State Fire Marshal. The registration shall be accompanied by a one-time fee of five dollars and shall be valid until the State Fire Marshal is notified that a tank so registered has been permanently closed. Such registration shall specify the ownership of, location of, and substance stored in the tank to be registered. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Petroleum Products and Hazardous Substances Storage and Handling Fund which is hereby created as a cash fund. The fund shall also consist of any money appropriated to the fund by the state. The fund shall be administered by the Department of Environment and Energy to carry out the purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act, including the provision of matching funds required by Public Law 99-499 for actions otherwise authorized by the act. Any money in such 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 217, § 4; Laws 1989, LB 816, § 1; Laws 1993, LB 3, § 58; Laws 1994, LB 1066, § 119; Laws 1996, LB 1226, § 16; Laws 1998, LB 1161, § 41; Laws 2001, LB 461, § 12; Laws 2019, LB302, § 117.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,121 Tanks; permit; when required; fees; application; Underground Storage Tank Fund; created; investment.

(1) A person shall not (a) maintain or use any tank for the storage of regulated substances, (b) install any new tank, or (c) permanently close a tank without first securing a permit from the State Fire Marshal.

(2) A fee shall not be charged for a permit under subdivision (1)(a) or (c) of this section. The fee for a permit for installation shall be fifty dollars. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Underground Storage Tank Fund.

(3) All owners of operating tanks, except those provided for in subsection (4) of this section, shall annually register each tank. All registration permits shall expire on December 31 of the year for which the permit was issued. The registration fee shall be thirty dollars per tank. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Underground Storage Tank Fund. Such permits shall contain the information specified in subsection (5) of this section.

(4) In the case of tanks permanently abandoned on or after January 1, 1974, an annual permit shall not be required and an initial registration permit shall be sufficient.

(5) The application for a registration permit shall be provided by and filed with the State Fire Marshal's office and shall require, but not be limited to, the following information:

- (a) The date the tank was placed in or taken out of operation;
- (b) The age of the tank;
- (c) The size, type, and location of the tank; and
- (d) The type of substances stored in the tank and the quantity of such substances remaining in the tank if the tank has been permanently closed.

(6) The registration permit fee collected pursuant to this section shall be deposited in the Underground Storage Tank Fund which is hereby created as a cash fund. The fund shall also consist of any money appropriated to the fund by the state. The fund shall be administered by the State Fire Marshal to carry out the purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Underground Storage Tank 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 217, § 5; Laws 1987, LB 365, § 2; Laws 1989, LB 816, § 2; Laws 1994, LB 1066, § 120; Laws 1998, LB 1161, § 42; Laws 2009, First Spec. Sess., LB3, § 77.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,122 Denial of permit; procedures; appeal.

Before the State Fire Marshal denies an application for a permit, the affected person shall be given notice and opportunity for a hearing under procedures established by the State Fire Marshal. Upon receipt of the notification, any person aggrieved by the denial or revocation of a permit may request a hearing within ten days or the decision of the State Fire Marshal shall become final. When the State Fire Marshal has reason to believe that a permit holder's activities create an immediate threat to public safety, a permit may be suspended until the hearing process is complete. Any person aggrieved by a final decision of the State Fire Marshal may appeal such action, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1986, LB 217, § 6; Laws 1988, LB 352, § 178.

Cross References

Administrative Procedure Act, see section 84-920.

81-15,123 State Fire Marshal; rules and regulations; considerations; requirements.

The State Fire Marshal shall adopt and promulgate rules and regulations governing release, detection, prevention, and correction procedures applicable to all owners and operators as shall be necessary to protect human health, public safety, and the environment. Such rules and regulations may distinguish between types, classes, and ages of tanks. In making such distinctions, the State Fire Marshal shall consider, but not be limited to, location of the tanks, soil and climate conditions, uses of the tanks, history of maintenance, age of the tanks,

current industry-recommended practices, national consensus codes, hydrogeology, depth to the ground water, size of the tanks, quantity of regulated substances periodically deposited in or dispensed from the tanks, the technical capability of the owners and operators, and the compatibility of the regulated substance and the materials of which the tank is fabricated. Before adoption, such rules and regulations shall be reviewed and approved by the Director of Environment and Energy who shall determine whether the proposed rules and regulations are adequate to protect the environment. Rules and regulations adopted and promulgated pursuant to this section shall include, but not be limited to:

(1) Proper procedures and specifications for the construction, design, installation, replacement, or repair of tanks;

(2) A permit and registration system for all tanks;

(3) A program to establish an inspection system for all tanks. Such program shall provide for periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal. A fee schedule may also be developed for the inspection of new tank and piping installations and tank closures in the manner prescribed in section 81-505.01. Such inspection fees shall be remitted by the State Fire Marshal to the State Treasurer for credit to the Underground Storage Tank Fund. No fee shall be charged for the periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal;

(4) A monitoring system for all tanks which includes, but is not limited to, the following:

(a) An inventory-control procedure for any tank used to hold petroleum products or hazardous substances for resale;

(b) An inventory-control procedure for any tank used solely for consumptive onsite purposes and not for resale. Such control procedure shall determine the method of inventory measurement giving consideration to the economic burden created by the procedure. The frequency of inventory measurement for such category of tank shall include at least one measurement every thirty days;

(c) Provisions for the prompt reporting of any release of a regulated substance; and

(d) A procedure for the proper method of monitoring tanks;

(5) A procedure for notifying the State Fire Marshal of temporarily or permanently abandoned tanks;

(6) A procedure for removing or making safe any abandoned tanks, except that the State Fire Marshal may dispense with such procedure in special circumstances;

(7) Financial responsibility requirements, taking into account the financial responsibility requirements established pursuant to 42 U.S.C. 6991b(d);

(8) Requirements for maintaining a leak-detection system, an inventory-control system, and a tank-testing or comparable system or method designed to identify releases in a manner consistent with the protection of human health, public safety, and the environment;

(9) Requirements for maintaining records of any monitoring or leak-detection system, inventory-control system, or tank-testing or comparable system;

(10) Provisions to establish a system for licensing tank installation and removal contractors;

(11) Provisions to prohibit delivery to, deposit into, or the acceptance of a regulated substance into, an underground storage tank at a facility which has been identified by the State Fire Marshal to be ineligible for such delivery, deposit, or acceptance; and

(12) Effective August 8, 2009, requirements for training and certification of operators.

Nothing in this section shall be construed to require a subcontractor working under the direction of a licensed installation or removal contractor to be licensed.

Source: Laws 1986, LB 217, § 7; Laws 1989, LB 816, § 3; Laws 1991, LB 409, § 23; Laws 1993, LB 3, § 59; Laws 1993, LB 720, § 1; Laws 2007, LB390, § 1; Laws 2019, LB302, § 118.

81-15,124 Release of regulated substance; Department of Environment and Energy; State Fire Marshal; powers and duties; remedial action plan.

Any reported or suspected release of a regulated substance from any tank shall be investigated consistent with principles of risk-based corrective action by the State Fire Marshal and the Department of Environment and Energy. In the event that the State Fire Marshal or the department finds an adverse effect caused by a release of a regulated substance from a tank:

(1) The State Fire Marshal shall (a) determine the immediate danger presented by the release, (b) take all steps necessary to assure immediate public safety, and (c) assist the department in determining the source of the release and taking all steps necessary to ensure that the release is halted;

(2) By order of the department, the owner or operator of the tank causing the release shall, after securing the source of the release, develop a plan for remedial action to be approved by the department. The department shall inform the owner or operator of its approval or disapproval of a plan for remedial action within one hundred twenty days after receipt of a remedial action plan which contains all required information. If after one hundred twenty days the department fails to either deny, approve, or amend the remedial action plan submitted, the proposed plan shall be deemed approved; and

(3) The approved remedial action plan shall then be carried out by the owner or operator of the tank causing the release. All expenses incurred during the remedial action shall be paid by the owner or operator subject to reimbursement pursuant to the Petroleum Release Remedial Action Act.

If it is determined that the source of the release is unknown or that the owner or operator of the facility causing the release is unknown or unavailable, a remedial action plan shall be developed by or under the direction of the department. Such remedial action plan shall be developed and carried out by the department with money from the Petroleum Products and Hazardous Substances Storage and Handling Fund if funds are available. If at a later date the owner or operator of the facility which caused the release is determined, he or she shall be responsible for remedial action costs incurred on his or her behalf subject to reimbursement pursuant to the Petroleum Release Remedial Action Act. Any money received from such person shall be deposited in the Petroleum Products and Hazardous Substances Storage and Handling Fund.

Source: Laws 1986, LB 217, § 8; Laws 1989, LB 289, § 33; Laws 1993, LB 3, § 60; Laws 1993, LB 237, § 5; Laws 1998, LB 1161, § 43; Laws 2019, LB302, § 119.

Cross References

Petroleum Release Remedial Action Act, see section 66-1501.

81-15,124.01 Environmental Quality Council; rules and regulations.

(1) The Environmental Quality Council shall adopt and promulgate rules and regulations consistent with principles of risk-based corrective action governing all phases of remedial action to be taken by owners, operators, and other persons in response to a release or suspected release of a regulated substance from a tank. Such rules and regulations shall include:

(a) Provisions governing remedial action to be taken by owners and operators pursuant to section 81-15,124;

(b) Provisions by which the Department of Environment and Energy may determine the cleanup levels to be achieved through soil or water remediation and the applicable limitations for air emissions at the petroleum release site or occurring by reason of such remediation; and

(c) Such other provisions necessary to carry out the Petroleum Products and Hazardous Substances Storage and Handling Act.

(2) In developing rules and regulations, the Environmental Quality Council shall take into account risk-based corrective action assessment principles which identify the risks presented to the public health and safety or the environment by each release in a manner that will protect the public health and safety and the environment using, to the extent appropriate, a tiered approach consistent with the American Society for Testing of Materials guidance for risk-based corrective action applicable to petroleum release sites.

Source: Laws 1989, LB 289, § 34; Laws 1993, LB 3, § 61; Laws 1996, LB 1226, § 18; Laws 1998, LB 1161, § 44; Laws 2009, LB154, § 19; Laws 2019, LB302, § 120.

81-15,124.02 Access to property.

If necessary in the course of an investigation or inspection or during the remedial action and if the owner of property or the owner's agent has specifically denied the Department of Environment and Energy access to the property for such purposes, the department may order the owner or owner's agent to grant access to property for the performance of reasonable steps, including drilling, to determine the source and extent of contamination or for remediation. Access shall be by the department or by a person conducting an investigation, inspection, or remedial action at the direction of the department. All actions taken on the property shall be performed in the least obtrusive manner possible to allow the investigation, inspection, or remedial action to proceed. Upon completion of any such actions, the property shall be restored as nearly as possible to its original condition.

Source: Laws 1991, LB 409, § 21; Laws 1993, LB 3, § 62; Laws 2019, LB302, § 121.

81-15,124.03 Remedial action plan; considerations.

The plan for remedial action shall take into account risk-based corrective action assessment principles which identify the risks presented to the public health and safety or the environment by each release in a manner that will protect the public health and safety and the environment using, to the extent

appropriate, a tiered approach consistent with the American Society for Testing of Materials standards.

Source: Laws 1996, LB 1226, § 17.

81-15,124.04 Risk-based corrective action; department provide briefing.

The Department of Environment and Energy shall provide briefing on the use by the department of risk-based corrective action. The briefing shall be directed toward comprehension and knowledge of the use by the department of risk-based corrective action, and a fee may be charged for attending the briefing which shall be remitted to the State Treasurer for credit to the Petroleum Release Remedial Action Cash Fund. The department may contract for providing such briefing and shall maintain and make available to the public a list of attendees.

Source: Laws 1998, LB 1161, § 45; Laws 2019, LB302, § 122.

81-15,124.05 Remedial action plan; certificate of completion; form; effect.

(1) If a remedial action plan submitted by a responsible person as defined in section 66-1514 is approved or deemed to be approved by the Department of Environment and Energy pursuant to subdivision (2) of section 81-15,124 and has been carried out, the department may issue to the responsible person a certificate of completion stating that no further remedial action needs to be taken at the site relating to any contamination for which remedial action has already been taken in accordance with the approved remedial action plan. The department shall condition the certificate of completion upon compliance with any monitoring, institutional, or technological controls that may be necessary and which were relied upon by the responsible person to demonstrate compliance with the remedial action plan. Any certificate of completion issued pursuant to this section shall be in a form which can be filed for record in the real estate records of the county in which the remedial action took place. The responsible person shall file the certificate of completion and notify the department within ten days after issuance as to the date and location of the real estate filing. If the department issues a certificate of completion to a responsible person under this section, a covenant not to sue shall arise by operation of law subject to subsection (2) of this section. The covenant not to sue releases the responsible person from liability to the state and from liability to perform additional environmental assessment, remedial activity, or response action with regard to the release of a petroleum product for which the responsible person has complied with the requirements of this subsection. The covenant not to sue shall be voided if the responsible person fails to conduct additional remedial action as required under subsection (2) of this section, if a certificate of completion is revoked by the department under subsection (3) of this section, or if the responsible person fails to comply with the monitoring, institutional, or technological controls, if any, upon which the certificate of completion is conditioned.

(2) A certificate of completion issued by the department under subsection (1) of this section shall require the responsible person to conduct additional remedial action in the event that any monitoring conducted at or near the real property or other circumstances indicate that (a) contamination is reoccurring, (b) additional contamination is present for which remedial action was not taken according to the remedial action plan, or (c) contamination from the site

presents a threat to human health or the environment and was not addressed in the remedial action plan.

(3) A certificate of completion shall be revoked if the department demonstrates by a preponderance of the evidence that any approval provided under this section was obtained by fraud or material misrepresentation, knowing failure to disclose material information, or false certification to the department. The department shall file a copy of the notice of revocation of any certificate of completion in the real estate records of the county in which the remedial action took place within ten days after such revocation.

(4) If a responsible person transfers property to an affiliate in order for that affiliate to obtain a benefit to which the transferor would not otherwise be eligible under this section or to avoid an obligation under this section, the affiliate shall be subject to the same obligations and obtain the same level of benefits as those available to the transferor under this section.

(5)(a) A covenant not to sue arising under subsection (1) of this section, unless voided pursuant to such subsection, shall bar suit against any person who acquires title to property to which a certificate of completion applies for all claims of the state or any other person in connection with petroleum products which were the subject of an approved remedial action plan and (b) a person who purchased a site before May 31, 2001, is released, upon the issuance of a certificate of completion under this section or upon the issuance of a no further action letter on or after May 31, 2001, pursuant to section 81-15,186, from all liability to the state for cleanup of contamination that was released at the site covered by the certificate of completion or the no further action letter before the purchase date, except as provided in subsection (4) of this section, for releases or consequences that the person contributed to or caused, for failure by such person to comply with the monitoring, institutional, or technological controls, if any, upon which the certificate of completion is conditioned, or in the event the certificate of completion is revoked by the department under subsection (3) of this section.

(6) Any person entitled to the protections of the covenant not to sue or eligible to be released from liability pursuant to the issuance of a certificate of completion or a no further action letter under subsection (5) of this section who is ordered by the department to take remedial action shall be eligible for reimbursement as a responsible person pursuant to section 66-1525 and shall not be required to pay the first cost or percent of the remaining cost as provided in subsection (1) of section 66-1523 unless such person contributed to or caused the release or failed to comply with the monitoring, institutional, or technological controls, if any, imposed under subsection (1) of this section.

Source: Laws 2001, LB 461, § 13; Laws 2019, LB302, § 123.

81-15,124.06 Remedial action plan; certificate of completion; immunity.

Upon issuance of a certificate of completion under section 81-15,124.05, except as otherwise provided in such section, the responsible person shall no longer have liability to the state as to the release of petroleum products for which compliance with the remedial action plan is demonstrated by the responsible person.

Source: Laws 2001, LB 461, § 14.

81-15,124.07 Remedial action plan; participation; effect.

(1) Participating in a remedial action plan does not constitute an admission of liability under the laws of this state, the rules and regulations adopted pursuant to law, or the ordinances and resolutions of any political subdivision or an admission of civil liability under statutory or common law of this state.

(2) The fact that a responsible person has participated in a remedial action plan is not admissible in any civil, criminal, or administrative proceeding initiated or brought under any law of this state other than to enforce sections 81-15,124.05 to 81-15,124.07.

(3) Participating in a remedial action plan shall not be construed to be an acknowledgment that the conditions of the affected area identified and addressed by the remedial action plan constitute a threat or danger to the public health or safety or the environment.

Source: Laws 2001, LB 461, § 15.

81-15,125 Violation; penalty.

Any person violating the Petroleum Products and Hazardous Substances Storage and Handling Act or the rules, regulations, or orders of the State Fire Marshal or the Department of Environment and Energy adopted and promulgated or issued pursuant to such act shall be subject to a civil fine of not more than five thousand dollars for each offense and, in the case of a continuing violation, each day of violation shall constitute a separate offense. In assessing the amount of the fine, the court shall consider the size of the operation and the degree and extent of the pollution.

Source: Laws 1986, LB 217, § 9; Laws 1993, LB 3, § 63; Laws 2019, LB302, § 124.

81-15,126 Violation; action to enjoin.

The Department of Environment and Energy or the State Fire Marshal may apply to the district court of the county where the violation is occurring or about to occur for a restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the Petroleum Products and Hazardous Substances Storage and Handling Act or the rules, regulations, or orders adopted and promulgated under the act. The court shall have jurisdiction to grant relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

Source: Laws 1986, LB 217, § 10; Laws 1993, LB 3, § 64; Laws 2019, LB302, § 125.

81-15,127 Notice of registration requirements; duty to provide.

(1) Any person who deposits regulated substances in a tank shall reasonably notify the owner or operator of such tank of the owner's or operator's registration requirements pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act.

(2) The Department of Environment and Energy shall design and make available a printed notice of registration for owners of tanks to any person who deposits regulated substances in a tank.

Source: Laws 1986, LB 217, § 11; Laws 1993, LB 3, § 65; Laws 2019, LB302, § 126.

(h) WASTEWATER TREATMENT OPERATOR CERTIFICATION ACT

81-15,128 Act, how cited.

Sections 81-15,128 to 81-15,143 shall be known and may be cited as the Wastewater Treatment Operator Certification Act.

Source: Laws 1987, LB 533, § 1.

81-15,129 Terms, defined.

As used in the Wastewater Treatment Operator Certification Act, unless the context otherwise requires:

(1) Certificate shall mean a certificate of competency issued by the director or his or her duly authorized representative certifying that the operator has met the requirements for the specified operator classification of the certification program;

(2) Council shall mean the Environmental Quality Council;

(3) Department shall mean the Department of Environment and Energy;

(4) Director shall mean the Director of Environment and Energy;

(5) Nationally recognized association of certification authorities shall mean an organization or organizations selected by the director which (a) serve as an information center for certification activities, (b) recommend minimum standards and guidelines for classification of wastewater treatment facilities and certification of operators, (c) facilitate reciprocity between state programs, (d) assist authorities in establishing new certification programs and updating existing ones, and (e) provide testing services;

(6) Operator shall mean any person who regularly makes recommendations or is responsible for process control decisions at a wastewater treatment facility. Operator shall not include a person whose duties are limited solely to laboratory testing or maintenance or who exercises general or indirect supervision only;

(7) Voluntarily certified operator shall mean an operator who holds a certificate of competency described in section 81-15,133; and

(8) Wastewater treatment facility shall mean the structures, equipment, and processes required to collect, transport, and treat domestic or industrial wastes and to dispose of the effluent and sludge.

Source: Laws 1987, LB 533, § 2; Laws 1993, LB 3, § 66; Laws 2019, LB302, § 127.

81-15,130 Council; adopt rules and regulations; contents.

In order to carry out the purposes of the Wastewater Treatment Operator Certification Act, the council shall adopt and promulgate rules and regulations. Such rules and regulations shall include, but not be limited to:

(1) Establishing and carrying out procedures for the certification program provided for in the act;

(2) Classification of wastewater treatment facilities. Such classification shall be based on the size and type of wastewater treatment facility, the quality and quantity of wastewater to be treated, and other physical, chemical, and biological conditions affecting such treatment facilities and according to the skill, knowledge, and experience that the operator must have to supervise successful-

ly the operation of the facilities so as to protect the public health and to protect the waters of the state;

(3) A procedure to be carried out by the department to receive applications and examine the qualifications of applicants for certification;

(4) Development of a training and continuing educational program including regular training schools, short courses, conferences, and programs. The council shall adopt procedures and minimum requirements for the approval of correspondence courses, required classroom instruction, and minimum attendance standards to maintain certification;

(5) Requirements for the maintenance of records of the classification of wastewater treatment facilities;

(6) Distribution of applications and notices of examinations;

(7) Procedures in the department for preparing, conducting, and grading examinations either by the department or by its representatives or persons conducting approved training schools, short courses, conferences, and programs, including correspondence courses;

(8) A fee schedule to be implemented by the department which shall include a fee designed to cover direct and indirect costs associated with applicant's certification but not to exceed three hundred dollars per application. Fees may also be charged by the department for each educational program to be paid by the participant. Such fee shall be an amount necessary to cover program costs;

(9) Procedures and requirements to allow the director to issue temporary certificates as provided in section 81-15,135; and

(10) Provisions for granting exemptions to operators of individual septic tank systems, nondischarging lagoon systems, and other disposal systems as determined by the council.

Source: Laws 1987, LB 533, § 3; Laws 2007, LB161, § 1.

81-15,131 Director; powers and duties.

The director shall have authority to exercise all incidental powers necessary to carry out the purposes of the Wastewater Treatment Operator Certification Act. In carrying out such powers the director shall advise, consult, and cooperate with agencies of the state, the federal government, other states, interested groups, political subdivisions, and industries.

Source: Laws 1987, LB 533, § 4.

81-15,132 Operator certification without examination; recommended by governing body or owner.

The director may provide for certification without examination of any operator recommended by a governing body or owner as having been in charge of the operation or supervising the operation of a wastewater treatment facility on August 30, 1987, and whose competence has been demonstrated. Certificates issued under this section shall be valid for a period of four years from August 30, 1987. After such four-year period, certificates granted under this section shall no longer be valid, and such operators shall become fully certified under the Wastewater Treatment Operator Certification Act.

Source: Laws 1987, LB 533, § 5.

81-15,133 Operator certification without examination; holder of certificate of competency.

The director shall provide for certification without examination of operators who, on August 30, 1987, hold certificates of competency issued pursuant to a program which the director determines meets the requirements of the Wastewater Treatment Operator Certification Act.

Source: Laws 1987, LB 533, § 6.

81-15,134 Wastewater treatment facilities; supervision required; exceptions.

Within two years following August 30, 1987, all wastewater treatment facilities shall be under the supervision of an operator certified by the director at least to the level of classification of the wastewater treatment facility to be supervised by such operator, except that individual septic tank systems and individual wastewater treatment lagoons for domestic wastewater treatment shall be exempt from the Wastewater Treatment Operator Certification Act. No operator shall be required to be certified in a classification other than that corresponding to the classification of the wastewater treatment facility to be supervised by the operator.

Source: Laws 1987, LB 533, § 7.

81-15,135 Temporary certificate.

The director shall have the authority to issue a temporary certificate to an operator of a wastewater treatment facility which relies on the services of one person for its operation. A temporary certificate shall be valid for a period of one year after which time such operator shall be required to become fully certified under the Wastewater Treatment Operator Certification Act.

Source: Laws 1987, LB 533, § 8.

81-15,136 Certificate; revoke, suspend, or refuse; grounds.

The director may revoke, suspend, or refuse to grant the certificate of an operator, following opportunity for hearing, upon any reasonable ground including, but not limited to, the following: (1) The operator has practiced fraud or deception; (2) reasonable care was not used in the performance of duties; (3) the operator is unable to perform duties properly; or (4) for failure to maintain the minimal continuing education requirements of the Wastewater Treatment Operator Certification Act.

Source: Laws 1987, LB 533, § 9.

81-15,137 Hearings; procedures applicable.

All hearings shall be conducted in accordance with procedures established in section 81-1507.

Source: Laws 1987, LB 533, § 10.

81-15,138 Certificate; term; renewal.

Certificates shall expire two years from the date of issuance and shall be renewed by the director if the applicant has met minimum continuing education requirements and if other provisions of section 81-15,136 do not apply. Operators shall be given sixty days' notice prior to expiration of their certifi-

ates and shall have a ninety-day period after such expiration to renew their certificates.

Source: Laws 1987, LB 533, § 11.

81-15,139 Certification required; when.

On and after two years following August 30, 1987, unless the director determines that an emergency exists, it shall be unlawful for any wastewater treatment facility to be operated unless its operator is duly certified under the Wastewater Treatment Operator Certification Act at the level of classification of the facility to be operated.

Source: Laws 1987, LB 533, § 12.

81-15,140 Reciprocal certification agreements; director; duties.

(1) The director shall provide for reciprocal certification agreements with other states, territories, and countries if the requirements for certification by such other states, territories, and countries do not conflict with the Wastewater Treatment Operator Certification Act and are as stringent as those required by this state.

(2) In making determinations pursuant to subsection (1) of this section, the director may consider any generally applicable criteria and guidelines developed by a nationally recognized association of certification authorities.

Source: Laws 1987, LB 533, § 13.

81-15,141 Violation; penalty.

Any person violating any provisions of the Wastewater Treatment Operator Certification Act or the rules and regulations adopted and promulgated pursuant to such act shall be subject to a civil fine of not more than five hundred dollars for each offense, and in the case of a continuing violation, each day of violation shall constitute a separate offense.

Source: Laws 1987, LB 533, § 14.

81-15,142 Appeal.

Any person aggrieved by an order or decision of the director may appeal such order, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1987, LB 533, § 15; Laws 1988, LB 352, § 179.

Cross References

Administrative Procedure Act, see section 84-920.

81-15,143 Wastewater Treatment Operator Certification Cash Fund; created; use; investment.

All fees collected pursuant to the Wastewater Treatment Operator Certification Act shall be remitted to the State Treasurer for credit to the Wastewater Treatment Operator Certification Cash Fund which is hereby created. Such fund shall be administered by the department for the purposes of the act. Any money in the fund available for investment shall be invested by the state

investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1987, LB 533, § 16; Laws 1995, LB 7, § 128.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(i) MOTOR VEHICLE EXHAUST EMISSIONS

81-15,144 Repealed. Laws 1993, LB 3, § 74.

81-15,145 Repealed. Laws 1993, LB 3, § 74.

(j) SOLID WASTE DISPOSAL SITES

81-15,146 Repealed. Laws 1993, LB 3, § 74.

(k) WASTEWATER TREATMENT FACILITIES
CONSTRUCTION ASSISTANCE ACT

81-15,147 Act, how cited.

Sections 81-15,147 to 81-15,157 shall be known and may be cited as the Wastewater Treatment Facilities Construction Assistance Act.

Source: Laws 1988, LB 766, § 1; Laws 1989, LB 311, § 7; Laws 2011, LB383, § 5; Laws 2014, LB514, § 1.

81-15,148 Legislative findings.

The Legislature finds that the construction, rehabilitation, operation, and maintenance of modern and efficient sewer systems and wastewater treatment works are essential to protecting and improving the state's water quality, that protecting water quality is an issue of concern to all citizens of the state, that in addition to protecting and improving the state's water quality, adequate wastewater treatment works are essential to economic growth and development, and that the amount of needed assistance which may be provided to municipalities or counties for wastewater treatment purposes can be increased and needed projects can be undertaken more expeditiously through the issuance of revenue bonds and the deposit of the proceeds thereof into the Wastewater Treatment Facilities Construction Loan Fund.

The Legislature finds that construction, rehabilitation, operation, and maintenance of nonpoint source control systems are essential to water quality protection, that such systems are financially burdensome to municipalities and counties, and that the amount of needed assistance which may be provided to municipalities or counties for nonpoint source control systems can be increased and needed projects can be undertaken more expeditiously through the issuance of revenue bonds and the deposit of the proceeds of such bonds into the Wastewater Treatment Facilities Construction Loan Fund.

The Legislature finds and determines that the issuance of revenue bonds for the purpose of financing the fund serves a public purpose by assisting municipalities or counties in providing and improving wastewater treatment facilities and nonpoint source control systems and thereby providing clean water to the

citizens of the state, promoting the health and well-being of the citizens, and assisting in the economic growth and development of the state and its political subdivisions. The full faith and credit and the taxing power of the state are not pledged to the payment of such bonds or the interest thereon.

The Legislature finds that a linked deposit program established to make low-interest loans available for the construction, rehabilitation, and enhancement of and assistance with nonpoint source control systems will improve the water quality of the waters of the state.

Source: Laws 1988, LB 766, § 2; Laws 1989, LB 311, § 8; Laws 1994, LB 1139, § 38; Laws 1996, LB 1226, § 21; Laws 2014, LB514, § 2.

81-15,149 Terms, defined.

As used in the Wastewater Treatment Facilities Construction Assistance Act, unless the context otherwise requires:

- (1) Clean Water Act means the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.;
- (2) Construction means any of the following: Preliminary planning to determine the feasibility of wastewater treatment works or nonpoint source control systems; engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, designs, plans, working drawings, specifications, procedures, or other necessary preliminary actions; erection, building, acquisition, alteration, remodeling, improvement, or extension of wastewater treatment works or nonpoint source control systems; or the inspection or supervision of any of the foregoing items;
- (3) Council means the Environmental Quality Council;
- (4) County means any county authorized to construct a sewerage disposal system and plant or plants pursuant to the County Industrial Sewer Construction Act;
- (5) Department means the Department of Environment and Energy;
- (6) Director means the Director of Environment and Energy;
- (7) Eligible financial institution means a bank that agrees to participate in the linked deposit program and which is chartered to conduct banking in this state pursuant to the Nebraska Banking Act, is chartered to conduct banking by another state and authorized to do business in this state, or is a national bank authorized to do business in this state;
- (8) Fund means the Wastewater Treatment Facilities Construction Loan Fund;
- (9) Linked deposit program means the Wastewater Treatment Facilities Construction Assistance Act Linked Deposit Program established in accordance with section 81-15,151.03;
- (10) Municipality means any city, town, village, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes;
- (11) Nonpoint source control systems means projects which establish the use of methods, measures, or practices to control the pollution of surface waters and ground water that occurs as pollutants are transported by water from diffuse or scattered sources. Such projects include, but are not limited to, structural and nonstructural controls and operation and maintenance proce-

dures applied before, during, and after pollution-producing activities. Sources of nonpoint source pollution may include, but are not limited to, agricultural, forestry, and urban lands, transportation corridors, stream channels, mining and construction activities, animal feeding operations, septic tank systems, underground storage tanks, landfills, and atmospheric deposition;

(12) Operate and maintain means all necessary activities including the normal replacement of equipment or appurtenances to assure the dependable and economical function of a wastewater treatment works or nonpoint source control systems in accordance with its intended purpose; and

(13) Wastewater treatment works means the structures, equipment, processes, and land required to collect, transport, and treat domestic or industrial wastes and to dispose of the effluent and sludges.

Source: Laws 1988, LB 766, § 3; Laws 1993, LB 3, § 67; Laws 1994, LB 1139, § 39; Laws 1996, LB 1226, § 22; Laws 2003, LB 164, § 1; Laws 2004, LB 916, § 27; Laws 2014, LB514, § 3; Laws 2016, LB737, § 1; Laws 2019, LB302, § 128.

Cross References

County Industrial Sewer Construction Act, see section 23-3601.
Nebraska Banking Act, see section 8-101.02.

81-15,150 Federal grants; director; powers.

The director may obligate and administer any federal grants to municipalities and counties pursuant to the Wastewater Treatment Facilities Construction Assistance Act and the Clean Water Act.

Source: Laws 1988, LB 766, § 4; Laws 1994, LB 1139, § 40; Laws 1996, LB 1226, § 23; Laws 2016, LB737, § 2.

81-15,151 Wastewater Treatment Facilities Construction Loan Fund; transfers authorized; Construction Administration Fund; created; use; investment.

(1)(a) The Wastewater Treatment Facilities Construction Loan Fund is hereby created. The fund shall be held as a trust fund for the purposes and uses described in the Wastewater Treatment Facilities Construction Assistance Act.

(b) The fund shall consist of federal capitalization grants, state matching appropriations, repayments of principal and interest on loans, transfers made pursuant to section 71-5327, and other money designated for the fund. The director may make loans from the fund pursuant to the act and may use (i) up to four percent of all federal capitalization grant awards to the fund, (ii) up to four hundred thousand dollars per year, or (iii) the equivalent of one-fifth percent per year of the current valuation of the fund for the reasonable cost of administering the fund and conducting activities under Title VI of the federal Clean Water Act.

(c) The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that (i) amounts designated by the director for use in the linked deposit program shall be deposited with eligible financial institutions by the director and (ii) any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the

bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

(d) The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for the security, investment, and repayment of bonds.

(e) The fund and the assets thereof may be used, to the extent permitted by the Clean Water Act, as amended, and the regulations adopted and promulgated pursuant to such act, (i) to pay or to secure the payment of bonds and the interest thereon, except that amounts deposited into the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon, (ii) to deposit as provided by the linked deposit program, and (iii) to buy or refinance the debt obligation of municipalities for wastewater treatment works if the debt was incurred and construction was begun after March 7, 1985. Eligibility and terms of such refinancing shall be in accordance with the Wastewater Treatment Facilities Construction Assistance Act.

(f) The director may transfer any money in the Wastewater Treatment Facilities Construction Loan Fund to the Drinking Water Facilities Loan Fund to meet the purposes of section 71-5327. The director shall identify any such transfer in the intended use plan presented to the council for annual review and adoption pursuant to section 71-5321.

(2)(a) There is hereby created the Construction Administration Fund. Any funds available for administering loans or fees collected pursuant to the Wastewater Treatment Facilities Construction Assistance Act shall be deposited in such fund. The fund shall be administered by the department for the purposes of the act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings shall be credited to the fund.

(b) The Construction Administration Fund and assets thereof may be used, to the extent permitted by the Clean Water Act and the regulations adopted and promulgated pursuant to such act, to fund subdivisions (11), (12), and (13) of section 81-15,153. The annual obligation of the state pursuant to subdivisions (11) and (13) of such section shall not exceed sixty-five percent of the revenue from administrative fees collected pursuant to this section in the prior fiscal year.

(c) The director may transfer any money in the Construction Administration Fund to the Wastewater Treatment Facilities Construction Loan Fund to meet the nonfederal match requirements of any applicable federal capitalization grants or to meet the purposes of subdivision (11) of section 81-15,153.

Source: Laws 1988, LB 766, § 5; Laws 1989, LB 623, § 1; Laws 1989, LB 311, § 9; Laws 1993, LB 3, § 68; Laws 1994, LB 1066, § 121; Laws 1996, LB 1226, § 24; Laws 2008, LB726, § 1; Laws 2014, LB514, § 4; Laws 2016, LB737, § 3; Laws 2019, LB307, § 5.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,151.01 Obligation to repay loan; effect.

If funds are loaned to or otherwise deposited in the Wastewater Treatment Facilities Construction Loan Fund with an obligation to repay such loan or deposit, the obligation to repay the amount of the loan or deposit and the interest thereon shall, upon authorization by the council and execution and delivery by the department of an agreement to repay the loan or deposit, be a valid and binding obligation of the fund and payable in accordance with the terms of the agreement executed by the department.

Source: Laws 1989, LB 311, § 12.

81-15,151.02 Pledge of fund or assets; effect.

Any pledge of the Wastewater Treatment Facilities Construction Loan Fund or any part thereof or any pledge of the assets of the fund made by the department as authorized by the council shall be valid and binding from the time the pledge is made. The revenue, money, or assets so pledged and thereafter received by the fund shall immediately be subject to a lien of such pledge without any physical delivery thereof or further act, and the lien shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the fund or the assets thereof, regardless of whether the parties have notice of the lien. Neither the action by the council, the pledge agreement executed by the department, nor any other instrument by which a pledge is created need be recorded.

Source: Laws 1989, LB 311, § 13.

81-15,151.03 Linked deposit program; eligible financial institution; duties; linked deposit program loans; use.

(1) The department may establish and administer the linked deposit program, pursuant to rules and regulations adopted and promulgated by the council, to promote loans by eligible financial institutions for the construction, rehabilitation, and enhancement of nonpoint source control systems for public or private owners thereof. When an eligible financial institution has executed a linked deposit agreement with the director, the director may deposit a portion of the Wastewater Treatment Facilities Construction Loan Fund with the eligible financial institution in low-yielding deposit accounts, certificates of deposit, or other authorized deposits as set forth in the linked deposit agreement between the director and the eligible financial institution. Such deposits shall not be subject to the requirements of the Public Funds Deposit Security Act. In the linked deposit agreement, the eligible financial institution shall make loans available at an interest rate lower than the otherwise prevailing interest rate for construction, rehabilitation, and enhancement of nonpoint source control systems. Eligibility for the linked deposit program shall be determined pursuant to rules and regulations adopted and promulgated by the council.

(2) Linked deposit program loans may be made to public or private owners by eligible financial institutions for the construction, rehabilitation, and enhancement of nonpoint source control systems including:

(a) Onsite wastewater and private septic systems;

(b) Local water protection projects, including best management practices for nutrient controls; and

(c) Eligible nonpoint source activities under the Livestock Waste Management Act.

Source: Laws 2014, LB514, § 5.

Cross References

Livestock Waste Management Act, see section 54-2416.
Public Funds Deposit Security Act, see section 77-2386.

81-15,152 Council; powers and duties.

The council shall have the following powers and duties:

(1) The power to adopt and promulgate rules and regulations to govern the application procedure and requirements for making loans under the Wastewater Treatment Facilities Construction Assistance Act;

(2) The power to adopt a system for the ranking of wastewater treatment construction projects with known needs or for which loan applications have been received by the department. In establishing the system the council shall consider, among other things, the severity of pollution, public health, water quality impact, population, financial capability, and eligibility of the construction project for federal or state funds. This priority system shall be reviewed annually by the council;

(3) The power to adopt and promulgate rules and regulations to govern types of nonpoint source control system projects which will be eligible for loans and to adopt a system for priority ranking of such projects;

(4) The power to adopt a system of establishing interest rates to be charged on loans. The system shall presume that the current market interest rate shall be charged unless a municipality or a county demonstrates a serious financial hardship. The system may allow discounted interest rates for short-term loans. The following factors shall be considered when making a determination of serious financial hardship: Income level of residents; amount of debt and debt service requirements; and level of user fees both in absolute terms and relative to income of residents;

(5) The power to create an administrative fee to be assessed on a loan for the purpose of administering the Wastewater Treatment Facilities Construction Assistance Act. Such fee shall be based on the availability of federal funding for such purpose and the projected administrative needs for carrying out the purposes of the act;

(6) The power to determine the maximum amount of any one loan or combination of loans for any single municipality or any single county;

(7) Except as limited by section 81-15,151, the power to obligate the Wastewater Treatment Facilities Construction Loan Fund and the assets thereof, in whole or in part, to repay with interest loans to or deposits into the fund, including bonds, the proceeds of which are deposited into the fund;

(8) The power to adopt and promulgate rules and regulations to govern the application procedure and requirements, including any funding caps and cost-share requirements, for grants pursuant to subdivision (12) of section 81-15,153;

(9) The power to adopt and promulgate rules and regulations to establish and administer the linked deposit program; and

(10) The power to adopt and promulgate rules and regulations for refinancing of debt obligations of municipalities in accordance with section 81-15,151.

Source: Laws 1988, LB 766, § 6; Laws 1989, LB 623, § 2; Laws 1989, LB 311, § 10; Laws 1994, LB 1139, § 41; Laws 1996, LB 1226, § 25; Laws 2000, LB 1234, § 14; Laws 2014, LB514, § 6.

81-15,153 Department; powers and duties.

The department shall have the following powers and duties:

(1) The power to establish a program to make loans to municipalities or to counties, individually or jointly, for construction or modification of publicly owned wastewater treatment works in accordance with the Wastewater Treatment Facilities Construction Assistance Act and the rules and regulations of the council adopted and promulgated pursuant to such act;

(2) The power to establish a program to make loans to municipalities or to counties for construction, rehabilitation, operation, or maintenance of nonpoint source control systems in accordance with the Wastewater Treatment Facilities Construction Assistance Act and the rules and regulations of the council adopted and promulgated pursuant to such act;

(3) The power, if so authorized by the council pursuant to section 81-15,152, to execute and deliver documents obligating the Wastewater Treatment Facilities Construction Loan Fund and the assets thereof to the extent permitted by section 81-15,151 to repay, with interest, loans to or deposits into the fund and to execute and deliver documents pledging to the extent permitted by section 81-15,151 all or part of the fund and its assets to secure, directly or indirectly, the loans or deposits;

(4) The power to establish the linked deposit program to promote loans for construction, rehabilitation, operation, or maintenance of nonpoint source control systems in accordance with the Wastewater Treatment Facilities Construction Assistance Act and the rules and regulations adopted and promulgated pursuant to such act;

(5) The duty to prepare an annual report for the Governor and the Legislature containing information which shows the financial status of the program. The report submitted to the Legislature shall be submitted electronically;

(6) The duty to establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods, including the following:

(a) Accounting from the Nebraska Investment Finance Authority for the costs associated with the issuance of bonds pursuant to the act;

(b) Accounting for payments or deposits received by the fund;

(c) Accounting for disbursements made by the fund; and

(d) Balancing the fund at the beginning and end of the accounting period;

(7) The duty to establish financial capability requirements that assure sufficient revenue to operate and maintain a facility for its useful life and to repay the loan for such facility;

(8) The power to determine the rate of interest to be charged on a loan in accordance with the rules and regulations adopted and promulgated by the council;

(9) The power to refinance debt obligations of municipalities in accordance with the rules and regulations adopted and promulgated by the council;

(10) The power to enter into required agreements with the United States Environmental Protection Agency pursuant to the Clean Water Act;

(11) The power to enter into agreements to provide grants and loan forgiveness concurrent with loans to municipalities with populations of ten thousand inhabitants or less as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census which demonstrate serious financial hardships. The department may authorize grants for up to seventy-five percent of the eligible project cost. Such grants shall contain a provision that payment of the amount allocated is conditional upon the availability of appropriated funds;

(12) The power to authorize emergency grants to municipalities with wastewater treatment facilities which have been damaged or destroyed by natural disaster or other unanticipated actions or circumstances. Such grants shall not be used for routine repair or maintenance of facilities;

(13) The power to provide financial assistance to municipalities with populations of ten thousand inhabitants or less as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census for completion of engineering studies, research projects, investigating low-cost options for achieving compliance with the Clean Water Act, encouraging wastewater reuse, and conducting other studies for the purpose of enhancing the ability of communities to meet the requirements of the Clean Water Act. The department may authorize financial assistance for up to ninety percent of the eligible project cost. Such state allocation shall contain a provision that payment of the amount obligated is conditional upon the availability of appropriated funds;

(14) The power to provide grants or an additional interest subsidy on loans for municipalities if the project contains a sustainable community feature, measurable energy-use reductions, or low-impact development or if there are any special assistance needs as determined under section 81-1517; and

(15) Such other powers as may be necessary and appropriate for the exercise of the duties created under the Wastewater Treatment Facilities Construction Assistance Act.

Source: Laws 1988, LB 766, § 7; Laws 1989, LB 311, § 11; Laws 1993, LB 3, § 69; Laws 1994, LB 1139, § 42; Laws 1996, LB 1226, § 26; Laws 2000, LB 1234, § 15; Laws 2003, LB 164, § 2; Laws 2008, LB726, § 2; Laws 2012, LB782, § 203; Laws 2014, LB514, § 7; Laws 2015, LB413, § 8; Laws 2017, LB113, § 59; Laws 2022, LB809, § 10.

81-15,154 Categories of loan eligibility; eligible items.

Categories of loan eligibility shall include: Primary, secondary, or tertiary treatment and appurtenances; infiltration and inflow correction; major sewer system rehabilitation; new collector sewers and appurtenances; new interceptors and appurtenances; acquisition of land integral to the treatment process; acquisition of land and interests in land necessary for construction; correction of combined sewer overflows; water conservation, efficiency, or reuse; energy efficiency; reuse or recycling of wastewater, stormwater, or subsurface drain-

age water; development and implementation of watershed projects; measures to increase the security of treatment works; and nonpoint source control systems. Loans shall be made only for eligible items within such categories. For loans made entirely from state funds, eligible items shall include, but not be limited to, the costs of engineering services and contracted construction. Eligible items shall not include the costs of water rights, legal costs, fiscal agent's fees, operation and maintenance costs, and municipal or county administrative costs. For loans made in whole or in part from federal funds, eligible items shall be those identified pursuant to the Clean Water Act.

Source: Laws 1988, LB 766, § 8; Laws 1989, LB 623, § 3; Laws 1994, LB 1139, § 43; Laws 1996, LB 1226, § 27; Laws 2016, LB737, § 4.

81-15,155 Loans to municipalities or counties; conditions.

(1) All loans made under the Wastewater Treatment Facilities Construction Assistance Act shall be made only to municipalities or to counties that:

- (a) Meet the requirements of financial capability set by the department;
- (b) Pledge sufficient revenue sources for the repayment of the loan if such revenue may by law be pledged for that purpose;
- (c) Agree to maintain financial records according to generally accepted government accounting standards and to conduct an audit of the project's financial records;
- (d) Provide a written assurance, signed by an attorney, that the municipality or county has proper title, easements, and rights-of-way to the property on or through which the wastewater treatment works or nonpoint source control systems is to be constructed or extended;
- (e) Require the contractor of the construction project to post separate performance and payment bonds or other security approved by the department in the amount of the bid;
- (f) Provide a written notice of completion and start of operation of the facility; and
- (g) Employ a professional engineer to provide and be responsible for engineering services on the project such as an engineering report, construction contract documents, observation of construction, and startup services.

(2) Loans made under the act for the construction, rehabilitation, operation, and maintenance of wastewater treatment works shall be made only to municipalities or to counties which meet the conditions of subsection (1) of this section and, in addition, that:

- (a) Develop and implement a long-term wastewater treatment works management plan for the term of the loan, including yearly renewals;
- (b) Provide capacity for up to the term of the loan, but not less than twenty years, for domestic and industrial growth or reasonable capacity as determined by the department;
- (c) Agree to operate and maintain the wastewater treatment works so that it will function properly over the structural and material design life which shall not be less than twenty years; and

(d) Provide a certified operator pursuant to voluntary or mandatory certification program, whichever is in effect.

Source: Laws 1988, LB 766, § 9; Laws 1994, LB 1139, § 44; Laws 1996, LB 1226, § 28; Laws 1997, LB 622, § 125; Laws 2016, LB737, § 5.

81-15,156 Loan terms.

Loan terms shall include, but not be limited to, the following:

- (1) The term of the loan shall not exceed the lesser of thirty years or the projected useful life of the project;
- (2) The interest rate shall be at or below market interest rates;
- (3) The annual principal and interest payment shall commence not later than one year after completion of any project and all loans shall be fully amortized not later than the loan term after the date of completion of the project; and
- (4) The loan recipient shall immediately repay any loan when a grant has been received which covers costs provided for by such loan.

Source: Laws 1988, LB 766, § 10; Laws 2016, LB737, § 6.

81-15,157 Loans; procedures for granting.

Loans shall be granted for projects in accordance with the procedures established through the state's continuing planning process pursuant to sections 205(j), 208, 303(e), and 320 of the Clean Water Act and for projects listed on the state's priority list under section 216 of the Clean Water Act.

Source: Laws 1988, LB 766, § 11.

81-15,158 Repealed. Laws 2011, LB 383, § 9.

(I) WASTE REDUCTION AND RECYCLING

81-15,158.01 Act, how cited.

Sections 81-15,158.01 to 81-15,165 shall be known and may be cited as the Waste Reduction and Recycling Incentive Act.

Source: Laws 1994, LB 1034, § 4; Laws 1997, LB 495, § 6; Laws 2016, LB1101, § 1.

81-15,159 Legislative findings and intent; state purchases; preference requirements.

(1) The Legislature hereby finds and declares that:

(a) Some landfills operating with or without a permit in Nebraska exhibit numerous operational and management practices which are inconsistent with proper landfill management and permit requirements, and the owners and operators of such landfills should be encouraged to cooperate and work with the Department of Environment and Energy to ensure that the air, land, and water of this state are not polluted;

(b) Some landfills in Nebraska are reaching capacity and the siting of a new location can be a financially expensive and socially disruptive process, and because of this situation all Nebraska citizens and businesses are encouraged to

implement waste reduction measures that will result in a reduction of waste entering landfills by at least twenty-five percent;

(c) Recycling and waste reduction are necessary components of any well-managed waste management system and can extend the lifespan of a landfill and provide alternative waste management options; and

(d) The state can encourage recycling by the example of its own purchase and use of recycled and recyclable materials. The state can also encourage recycling and waste reduction by the creation of funding grants which support existing and future waste management systems.

(2) It is the intent of the Legislature that the state, as a major consumer and an example for others, should assist resource recovery by making a concerted effort to use recyclable and recycled products and encourage other levels of government and the private sector to follow its example. When purchasing products, materials, or supplies for use by the State of Nebraska, the Department of Administrative Services, the University of Nebraska, and any other state agency making such purchases shall give preference to and purchase products, materials, and supplies which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use. Preference shall also be given to the purchase of corn-based biodegradable plastics and road deicers, depending on the availability and suitability of such products. Such preference shall not operate when it would result in the purchase of products, materials, or supplies which are of inadequate quality or substantially higher cost.

Source: Laws 1990, LB 163, § 1; Laws 1992, LB 1257, § 94; Laws 2019, LB302, § 129.

81-15,159.01 Department of Environment and Energy; conduct study; establish advisory committee; members; department powers; report.

(1) The Department of Environment and Energy shall conduct a study to examine the status of solid waste management programs operated by the department and make recommendations to modernize and revise such programs. The study shall include, but not be limited to: (a) Whether existing state programs regarding litter and waste reduction and recycling should be amended or merged; (b) a needs assessment of the recycling and composting programs in the state, including the need for infrastructure development operating standards, market development, coordinated public education resulting in behavior change, and incentives to increase recycling and composting; (c) methods to partner with political subdivisions, private industry, and private, nonprofit organizations to most successfully address waste management issues in the state; (d) recommendations regarding existing funding sources and possible new revenue sources at the state and local level to address existing and emerging solid waste management issues; and (e) revisions to existing grant programs to address solid waste management issues in a proactive manner.

(2) The Director of Environment and Energy shall establish an advisory committee to advise the department regarding the study described in this section. The members of the advisory committee shall be appointed by the director and shall include no more than nine members. The director shall designate a chairperson of the advisory committee. The members shall receive no compensation for their services.

(3) In addition to the advisory committee, the department may hire consultants and special experts to assist in the study described in this section. After completion of the study, the department shall submit a report, including recommendations, to the Executive Board of the Legislative Council and the chairpersons of the Natural Resources Committee, the Urban Affairs Committee, and the Appropriations Committee of the Legislature no later than December 15, 2017. The report shall be submitted electronically.

Source: Laws 2016, LB1101, § 2; Laws 2019, LB302, § 130.

81-15,159.02 Terms, defined.

For purposes of the Waste Reduction and Recycling Incentive Act:

- (1) Council means the Environmental Quality Council;
- (2) Department means the Department of Environment and Energy;
- (3) Director means the Director of Environment and Energy;
- (4) Scrap tire or waste tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;
- (5) Tire means any tire made of rubber or other resilient material and normally used on any vehicle;
- (6) Tire-derived product means the usable product produced from a scrap tire. Tire-derived product does not include crumb rubber or chipped tires not intended for a direct end use and does not include baled tires or tire-derived fuel; and
- (7) Tire retailer means a person, business, or other entity which engages in the retail sale of tires in any quantity for any use or purpose by the purchaser other than for resale.

Source: Laws 1994, LB 1034, § 6; Laws 1997, LB 495, § 8; Laws 2003, LB 143, § 10; Laws 2019, LB302, § 131.

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. 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 first class, 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, 2029, 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;

(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;

(h) Disbursement to a political subdivision up to one hundred percent of costs incurred in cleaning up scrap tire collection and disposal sites; and

(i) Costs related to the study provided in section 81-15,159.01.

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.

(7) The department 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; Laws 2016, LB1101, § 3; Laws 2018, LB1008, § 5; Laws 2019, LB302, § 132; Laws 2022, LB809, § 11; Laws 2023, LB565, § 46.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,161 Waste Reduction and Recycling Incentive Fund; grants; application; contents; director and council; duties; rules and regulations.

(1) Allocations from the Waste Reduction and Recycling Incentive Fund may be made as grants to a political subdivision or other entity or organization, public, private, or nonprofit, when it is found that the proposed program, project, or study appears to benefit the general public, to further the goals of waste reduction and recycling, and to be consistent with proper waste management practices. Each application for a grant under the Waste Reduction and Recycling Incentive Act shall be filed with the department in a manner and form prescribed by the department.

(2) The council shall adopt guidelines for the determination of eligibility of public, private, and nonprofit entities, organizations, or persons to receive funds pursuant to the act and for the determination of qualification and suitability of plans submitted by such entities, organizations, and persons consistent with the act.

(3) An application for a grant shall: (a) Describe the nature and purpose of the proposed program, project, or study; (b) set forth or be accompanied by a plan for development of the proposed program, project, or study, together with engineering, economic, and financial feasibility data and information and such estimated costs of construction or implementation as may be required by the department; (c) state whether money other than that for which the application is made will be used to help in meeting program, project, or study costs and whether such money is available or has been sought for this purpose; (d) when appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands; (e) show that the applicant possesses all necessary authority to undertake or participate in the proposed program, project, or study; and (f) demonstrate the probable environmental and ecological consequences that may result from the proposed program or project. Upon receipt of an application the director shall evaluate and investigate all aspects of the proposed program, project, or study and the proposed schedule for the development and completion of such program, project, or study and determine the eligibility of the program, project, or study for funding. As a part of his or her investigation, the director shall consider whether the plan for development of the program, project, or study is satisfactory. If the director determines that the plan is unsatisfactory or that the application does not contain adequate information upon which to make determinations, the director shall return the application to the applicant and may make recommendations to the applicant which the director considers necessary to make the plan or the application satisfactory.

(4) The director shall within a reasonable time, not to exceed six months, after receipt of such application approve or reject grant funding for the program, project, or study. The grant shall be for a specific dollar amount of funds, and the funds shall be used only for the purpose specified in the grant. The director may set any terms for the administration of the funds as he or she deems necessary and any penalties to be imposed upon the recipient if it fails to comply with any requirements of the grant.

(5) It is the intent of the Legislature that allocations from the Waste Reduction and Recycling Incentive Fund shall be made in an equitable manner which maximizes the benefits of the fund. When awarding grants, the director shall balance the needs of: (a) All geographic areas of the state; (b) all sizes and classes of communities; and (c) all manner and scale of programs, projects, and studies. The director shall also give consideration to eligible programs, projects, and studies which would specifically employ disabled or handicapped persons.

(6) The director may deny any application which he or she determines (a) is not in conformance with this section, (b) does not reflect reasonable costs for the type of project proposed, (c) contains inaccurate, incomplete, or misleading information in the application, or (d) would require the expenditure of funds beyond the fund's unobligated balance or for any other reason which the director determines is necessary to properly administer this section.

(7) All disbursements made under this section shall be formalized by a written agreement between the department and all recipients of the disbursement. The agreement may include, but need not be limited to, the following conditions designed to protect the fund and ensure completion of the project: (a) Mechanics of funding disbursement; (b) any bidding requirements; (c) completion timelines for any deliverables; (d) record-keeping and reporting requirements; (e) security interest and insurance requirements on equipment;

(f) forfeiture and repayment of funds; and (g) other conditions necessary or desirable to carry out this section.

(8) The council shall adopt and promulgate rules and regulations to carry out the Waste Reduction and Recycling Incentive Act.

Source: Laws 1990, LB 163, § 3; Laws 1991, LB 325, § 1; Laws 1993, LB 3, § 70; Laws 1993, LB 444, § 2; Laws 1994, LB 1034, § 8; Laws 1997, LB 495, § 10; Laws 2003, LB 143, § 12.

81-15,161.01 Repealed. Laws 2003, LB 143, § 15.

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.

81-15,162.01 Repealed. Laws 2003, LB 143, § 15.

81-15,162.02 Repealed. Laws 2003, LB 143, § 15.

81-15,162.03 Repealed. Laws 1997, LB 495, § 16.

81-15,162.04 Repealed. Laws 1997, LB 495, § 16.

81-15,162.05 Repealed. Laws 1997, LB 495, § 16.

81-15,162.06 Repealed. Laws 1997, LB 495, § 16.

81-15,162.07 Grant recipients; reports required.

The department shall require periodic reports to be filed by grant recipients to enable the department to review and follow up on actions taken by recipients to ensure that the purposes of the Waste Reduction and Recycling Incentive Act are achieved.

Source: Laws 1994, LB 1034, § 17; Laws 1997, LB 495, § 13.

81-15,162.08 Repealed. Laws 2003, LB 143, § 15.**81-15,163 Annual waste reduction and recycling fee; amount; collection.**

There is hereby imposed an annual waste reduction and recycling fee of twenty-five dollars on all businesses engaged in business in this state with retail sales of tangible personal property of fifty thousand dollars or more, which sales are subject to the tax imposed by the Nebraska Revenue Act of 1967. For all fee periods beginning on or after July 1, 1999, the twenty-five-dollar fee shall be paid for each business location of such business in this state if the retail sales of tangible personal property for the location are fifty thousand dollars or more. Subject to section 81-15,165, the fee shall be collected by the Department of Revenue and remitted to the State Treasurer for credit to the Waste Reduction and Recycling Incentive Fund.

Source: Laws 1990, LB 163, § 5; Laws 1993, LB 203, § 21; Laws 1999, LB 59, § 1.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

81-15,164 Collection of fees; manner.

(1) Except as provided in subsections (2) and (3) of this section, the fees imposed by sections 81-15,159 to 81-15,165 shall be collected in the same manner as the sales tax under the Nebraska Revenue Act of 1967, including provisions of the act relating to interest, penalties, and collection procedures. No fees shall be charged for any permits under section 81-15,162, and no collection fees shall be allowed any retailer.

(2) The fees imposed by section 81-15,162 shall be due and payable to the Tax Commissioner monthly on or before the twenty-fifth day of the month next succeeding each monthly period.

(3) The fees imposed by section 81-15,163 shall be collected in the same manner as the litter fee under the Nebraska Litter Reduction and Recycling Act, including provisions of the act relating to due dates, interest, penalties, and collection procedures. No fees shall be charged for any permits, and no collection fees shall be allowed any retailer.

Source: Laws 1990, LB 163, § 6; Laws 1993, LB 203, § 22; Laws 1994, LB 1034, § 18; Laws 1999, LB 59, § 2; Laws 2011, LB210, § 13.

Cross References

Nebraska Litter Reduction and Recycling Act, see section 81-1534.

Nebraska Revenue Act of 1967, see section 77-2701.

81-15,165 Tax Commissioner; collection fee; Waste Reduction and Recycling Incentive Fees Collection Fund; created; investment.

The Tax Commissioner shall deduct and withhold from the fees collected pursuant to sections 81-15,159 to 81-15,165 a fee sufficient to reimburse himself or herself for the actual cost of collecting and administering such fees and shall credit such collection fee to the Waste Reduction and Recycling Incentive Fees Collection Fund which is hereby created. The Legislature shall appropriate money from the fund to the Department of Revenue to cover the actual costs of the department in administering the Waste Reduction and Recycling Incentive Act. 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 Fees Collection Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1990, LB 163, § 7; Laws 1993, LB 203, § 23; Laws 1994, LB 1034, § 19; Laws 1994, LB 1066, § 123; Laws 2009, First Spec. Sess., LB3, § 79.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(m) SOLID WASTE MANAGEMENT PLAN

81-15,166 Comprehensive plan; department; duties; legislative intent; Environmental Quality Council; duties.

The Department of Environment and Energy, with the advice and consent of the Environmental Quality Council, shall contract for the preparation of a comprehensive solid waste management plan. Such plan shall be contracted for and prepared on or before December 15, 1991.

It is the intent of the Legislature that in preparation of the plan the state consider the following hierarchy of criteria: (1) Volume reduction at the source; (2) recycling, reuse, and vegetative waste composting; (3) incineration with energy resource recovery; (4) incineration for volume reduction; and (5) land disposal.

It is the intent of the Legislature that the plan be used as a guide to assist political subdivisions in the planning and implementation of their individual, joint, or regional solid waste management systems. The comprehensive solid waste management plan shall not supersede or impair plans, agreements, or contracts initiated by political subdivisions prior to December 15, 1991.

The Environmental Quality Council shall adopt and promulgate rules and regulations for solid waste management options which comply with Environmental Protection Agency rules and guidelines, including rules and guidelines promulgated pursuant to the 1984 Hazardous and Solid Waste Amendments to Subtitle D of the federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.

Source: Laws 1990, LB 163, § 9; Laws 1991, LB 325, § 2; Laws 1993, LB 3, § 71; Laws 2019, LB302, § 133.

(n) NEBRASKA ENVIRONMENTAL TRUST ACT

81-15,167 Act, how cited.

Sections 81-15,167 to 81-15,176 shall be known and may be cited as the Nebraska Environmental Trust Act.

Source: Laws 1992, LB 1257, § 44; Laws 2000, LB 957, § 7; Laws 2002, LB 1003, § 48.

81-15,168 Legislative intent.

It is the intent of the Legislature to establish the Nebraska Environmental Trust for the purpose of conserving, enhancing, and restoring the natural

physical and biological environment in Nebraska, including the air, land, ground water and surface water, flora and fauna, prairies and forests, wildlife and wildlife habitat, and natural areas of aesthetic or scenic values. The current and future well-being of the state and its citizens is vitally dependent on a safe and clean environment and requires a dynamic, proactive approach to address environmental needs. The trust shall complement existing governmental and private efforts by encouraging and leveraging the use of private resources on environmental needs with the greatest potential impact on future environmental quality in Nebraska. The trust shall develop a long-range environmental focus which encompasses the vision of all Nebraskans regarding the future of the environment and shall join public and private efforts in achieving the collective environmental goals of Nebraska's citizens.

Source: Laws 1992, LB 1257, § 45.

81-15,169 Terms, defined.

For purposes of the Nebraska Environmental Trust Act:

- (1) Board means the Nebraska Environmental Trust Board; and
- (2) Trust means the Nebraska Environmental Trust.

Source: Laws 1992, LB 1257, § 46; Laws 2000, LB 957, § 8.

81-15,170 Nebraska Environmental Trust Board; created; membership; qualifications; executive director.

The Nebraska Environmental Trust Board is hereby created as an entity of the executive branch. The board shall consist of the Director of Environment and Energy, the Director of Natural Resources, the Director of Agriculture, the secretary of the Game and Parks Commission, the chief executive officer of the Department of Health and Human Services or his or her designee, and nine citizens appointed by the Governor with the approval of a majority of the Legislature. The citizen members shall begin serving immediately following notice of nomination and prior to approval by the Legislature. The citizen members shall represent the general public and shall have demonstrated competence, experience, and interest in the environment of the state. Two of the citizen appointees shall also have experience with private financing of public-purpose projects. Three appointees shall be chosen from each of the three congressional districts. The board shall hire an executive director who shall hire and supervise other staff members as may be authorized by the board. The executive director shall serve at the pleasure of the board and be solely responsible to it. The Game and Parks Commission shall provide administrative support, including, but not limited to, payroll and accounting functions, to the board.

Source: Laws 1992, LB 1257, § 47; Laws 1993, LB 138, § 79; Laws 1996, LB 1044, § 869; Laws 2000, LB 900, § 248; Laws 2002, LB 1003, § 49; Laws 2007, LB296, § 758; Laws 2019, LB302, § 134.

81-15,170.01 Board members; conflict of interest; treatment.

Members of the board shall comply with the conflict of interest provisions of the Nebraska Political Accountability and Disclosure Act. Any member of the

board who is also a director of a state agency shall abstain from voting on applications which would provide funding primarily to his or her agency.

Source: Laws 2002, LB 1003, § 50.

Cross References

Nebraska Political Accountability and Disclosure Act, see section 49-1401.

81-15,171 Board members; terms; vacancy; expenses.

The citizen members of the board shall be appointed for terms of six years, except that of the members first appointed, except directors of agencies, the terms of three shall expire at the end of the second year, three at the end of the fourth year, and three at the end of the sixth year, as designated at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. A vacancy on the board shall exist in the event of the death, disability, or resignation of a member. All members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1992, LB 1257, § 48; Laws 1993, LB 138, § 80; Laws 2020, LB381, § 122.

81-15,172 Board; officers; meetings.

The board shall annually elect a chairperson from among the citizen members. The board shall meet at least quarterly and may meet more often at the call of the chairperson or the request of any three members.

Source: Laws 1992, LB 1257, § 49.

81-15,173 Board; powers and duties.

The board shall have and may exercise the following powers and duties:

- (1) Adopt bylaws to govern the proceedings of the board;
- (2) Keep records, conduct hearings, and adopt and promulgate rules and regulations to carry out its duties and implement the Nebraska Environmental Trust Act;
- (3) Contract with the Game and Parks Commission for administrative support;
- (4) Contract with governmental and private agencies to receive services and technical assistance;
- (5) Contract with governmental and private agencies to provide services and technical assistance;
- (6) Establish environmental categories for use of the funds and develop an appropriate rating system for each category;
- (7) Establish ad hoc advisory boards and subcommittees;
- (8) Sponsor or assist environmental proposals pertaining to the environmental categories of the board, including issuing grants to agencies, organizations, and persons engaged in the purposes of the trust;
- (9) Cooperate with or assist any unit of the state, any political subdivision, or any private, public, or federal agency, foundation, or person in furtherance of the purposes of the trust;

(10) Acquire and dispose of personal property in furtherance of the purposes of the trust; and

(11) Apply for or accept any gift, grant, bequest, royalty, or donation, designate the fund to which it will be credited, and expend the proceeds in furtherance of the purposes of the trust.

Source: Laws 1992, LB 1257, § 50; Laws 2000, LB 957, § 9; Laws 2004, LB 832, § 1.

81-15,174 Nebraska Environmental Trust Fund; created; use; investment.

The Nebraska Environmental Trust Fund is created. The fund shall be maintained in the state accounting system as a cash fund. Except as otherwise provided in this section, the fund shall be used to carry out the purposes of the Nebraska Environmental Trust Act, including the payment of administrative costs. Money in the fund shall include proceeds credited pursuant to section 9-812 and proceeds designated by the board pursuant to section 81-15,173. Transfers may be made from the Nebraska Environmental Trust Fund to the Water Resources Cash Fund at the direction of the Legislature, and any money so transferred shall be expended in accordance with section 81-15,168. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 1992, LB 1257, § 51; Laws 1994, LB 1066, § 124; Laws 2000, LB 957, § 10; Laws 2002, Second Spec. Sess., LB 1, § 8; Laws 2003, LB 408, § 6; Laws 2004, LB 962, § 111; Laws 2006, LB 1061, § 12; Laws 2011, LB229, § 2; Laws 2023, LB818, § 33; Laws 2024, First Spec. Sess., LB3, § 42.
Effective date August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

Water Resources Cash Fund, see section 61-218.

81-15,174.01 Nebraska Environmental Endowment Fund; created; use; investment.

The Nebraska Environmental Endowment Fund is created. The fund shall be used to carry out the purposes of the Nebraska Environmental Trust Act. The fund shall include proceeds designated by the board pursuant to section 81-15,173, including grants from the Nebraska Environmental Trust Fund. Grants from the Nebraska Environmental Trust Fund to the Nebraska Environmental Endowment Fund shall be no more than twice the total of any other proceeds received by the Nebraska Environmental Endowment Fund for the same year. Such grants, considered in the aggregate, shall in no case exceed fifty percent of the total proceeds credited to the Nebraska Environmental Trust Fund pursuant to section 9-812 for that 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.

Allocations received by the Nebraska Environmental Endowment Fund from the Nebraska Environmental Trust Fund shall not be reallocated by the board, but shall remain invested. Any interest income earned by the Nebraska Environmental Endowment Fund shall be available for allocation by the board as provided in section 81-15,175.

Source: Laws 2000, LB 957, § 11.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,175 Fund allocations; board; powers and duties; grant award to Water Resources Cash Fund; payments; legislative intent; additional grant; additional reporting.

(1) The board may make an annual allocation each fiscal year from the Nebraska Environmental Trust Fund to the Nebraska Environmental Endowment Fund as provided in section 81-15,174.01. The board shall make annual allocations from the Nebraska Environmental Trust Fund and may make annual allocations each fiscal year from the Nebraska Environmental Endowment Fund for projects which conform to the environmental categories of the board established pursuant to section 81-15,176 and to the extent the board determines those projects to have merit. The board shall establish a calendar annually for receiving and evaluating proposals and awarding grants. To evaluate the economic, financial, and technical feasibility of proposals, the board may establish subcommittees, request or contract for assistance, or establish advisory groups. Private citizens serving on advisory groups shall be reimbursed for expenses pursuant to sections 81-1174 to 81-1177.

(2) The board shall establish rating systems for ranking proposals which meet the board's environmental categories and other criteria. The rating systems shall include, but not be limited to, the following considerations:

- (a) Conformance with categories established pursuant to section 81-15,176;
- (b) Amount of funds committed from other funding sources;
- (c) Encouragement of public-private partnerships;
- (d) Geographic mix of projects over time;
- (e) Cost-effectiveness and economic impact;
- (f) Direct environmental impact;
- (g) Environmental benefit to the general public and the long-term nature of such public benefit; and

(h) Applications recommended by the Director of Natural Resources and submitted by the Department of Natural Resources pursuant to subsection (7) of section 61-218 shall be awarded fifty priority points in the ranking process for the 2011 grant application if the Legislature has authorized annual transfers of three million three hundred thousand dollars to the Water Resources Cash Fund for each of fiscal years 2011-12 and 2012-13 and has stated its intent to transfer three million three hundred thousand dollars to the Water Resources Cash Fund in fiscal year 2013-14. Priority points shall be awarded if the proposed programs set forth in the grant application are consistent with the purposes of reducing consumptive uses of water, enhancing streamflows, recharging ground water, or supporting wildlife habitat in any river basin

determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713.

(3) A grant awarded under this section pursuant to an application made under subsection (7) of section 61-218 shall be paid out in the following manner:

(a) The initial three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than fifteen business days after the date that the grant is approved by the board;

(b) The second three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2013; and

(c) The third three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2014, if the Legislature has authorized a transfer of three million three hundred thousand dollars from the General Fund to the Water Resources Cash Fund for fiscal year 2013-14.

(4) It is the intent of the Legislature that the Department of Natural Resources apply for an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2014-15, a three-year grant that would begin in fiscal year 2017-18, and a three-year grant that would begin in fiscal year 2020-21 and such application shall be awarded fifty priority points in the ranking process as set forth in subdivision (2)(h) of this section if the following criteria are met:

(a) The Natural Resources Committee of the Legislature has examined options for water funding and has submitted a report electronically to the Clerk of the Legislature and the Governor by December 1, 2012, setting forth:

(i) An outline and priority listing of water management and funding needs in Nebraska, including instream flows, residential, agricultural, recreational, and municipal needs, interstate obligations, water quality issues, and natural habitats preservation;

(ii) An outline of statewide funding options which create a dedicated, sustainable funding source to meet the needs set forth in the report; and

(iii) Recommendations for legislation;

(b) The projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section have resulted in enhanced streamflows, reduced consumptive uses of water, recharged ground water, supported wildlife habitat, or otherwise contributed towards conserving, enhancing, and restoring Nebraska's ground water and surface water resources. On or before July 1, 2014, the department shall submit electronically a report to the Natural Resources Committee of the Legislature providing demonstrable evidence of the benefits accrued from such projects and activities; and

(c) In addition to the grant reporting requirements of the trust, on or before July 1, 2014, the department provides to the board a report which includes documentation that:

(i) Expenditures from the Water Resources Cash Fund made to natural resources districts have met the matching fund requirements provided in subdivision (5)(a) of section 61-218;

(ii) Ten percent or less of the matching fund requirements has been provided by in-kind contributions for expenses incurred for projects enumerated in the grant application. In-kind contributions shall not include land or land rights; and

(iii) All other projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section were matched not less than forty percent of the project or activity cost by other funding sources.

(5) The board may establish a subcommittee to rate grant applications. If the board uses a subcommittee, the meetings of such subcommittee shall be subject to the Open Meetings Act. The subcommittee shall (a) use the rating systems established by the board under subsection (2) of this section, (b) assign a numeric value to each rating criterion, combine these values into a total score for each application, and rank the applications by the total scores, (c) recommend an amount of funding for each application, which amount may be more or less than the requested amount, and (d) submit the ranked list and recommended funding to the board for its approval or disapproval.

(6) The board may commit funds to multiyear projects, subject to available funds and appropriations. No commitment shall exceed three years without formal action by the board to renew the grant or contract. Multiyear commitments may be exempt from the rating process except for the initial application and requests to renew the commitment.

(7) The board shall adopt and promulgate rules and regulations and publish guidelines governing allocations from the fund. The board shall conduct annual reviews of existing projects for compliance with project goals and grant requirements.

(8) Every five years the board may evaluate the long-term effects of the projects it funds. The evaluation may assess a sample of such projects. The board may hire an independent consultant to conduct the evaluation and may report the evaluation findings to the Legislature and the Governor. The report submitted to the Legislature shall be submitted electronically.

Source: Laws 1992, LB 1257, § 52; Laws 1993, LB 138, § 81; Laws 2000, LB 957, § 12; Laws 2002, LB 1003, § 51; Laws 2004, LB 832, § 2; Laws 2011, LB229, § 3; Laws 2011, LB366, § 1; Laws 2012, LB782, § 204; Laws 2017, LB331, § 53; Laws 2019, LB298, § 19; Laws 2020, LB381, § 123.

Cross References

Open Meetings Act, see section 84-1407.

81-15,176 Environmental categories of projects; board; establish grant criteria.

(1) Subject to subsection (3) of this section, the board shall establish environmental categories of projects eligible for funding by the trust. The board, after allowing opportunity for public comment, shall designate as categories those environmental goals which most affect the natural physical and biological environment in Nebraska, including the air, land, ground water and surface water, flora and fauna, prairies and forests, wildlife and wildlife habitat, and areas of aesthetic or scenic values. In designating environmental categories, the board shall attempt to focus on the areas which promise the greatest opportuni-

ties for effective action to achieve and preserve the future environmental quality in the state. The board shall establish categories for five-year periods beginning July 1, 1995. The board may establish annual priorities within the five-year categories. The board shall provide for public involvement in developing the categories for such five-year periods and any priorities within these categories, including, but not limited to, public meetings in each of the three congressional districts.

(2) The board shall establish criteria for determining the eligibility of projects for grant assistance, which criteria shall include the following:

(a) The grants shall not provide direct assistance to regulatory programs or to implement actions mandated by regulations except remediation;

(b) No more than sixty percent of grant allocations in any year shall assist remediation of soils or ground water, and no grants for this purpose shall occur unless all other available sources of funding are, in the opinion of the board, being substantially utilized;

(c) The grants shall not pay for projects which provide primarily private benefits or relieve private liability for environmental damage;

(d) The grants shall not pay for projects which have direct beneficiaries who could afford the costs of the benefits without experiencing serious financial hardship;

(e) The grants should assist those projects which offer the greatest environmental benefits relative to cost;

(f) The grants should assist those projects which provide clear and direct environmental benefits;

(g) The grants should assist those projects which will make a real contribution to achieving the board's environmental categories;

(h) The grants should assist those projects which offer the greatest public benefits; and

(i) The grants shall not pay for land or easements acquired without the full and express consent of the landowner.

(3) Until the first five-year categories become effective on July 1, 1995, the board shall observe the following categories for allocating grants:

(a) Critical habitat areas, including wetlands acquisition, preservation, and restoration and acquisition and easements of areas critical to rare or endangered species;

(b) Surface water quality, including actions to preserve lakes and streams from degradation;

(c) Ground water quality, including fostering best management practices as defined in section 46-706, actions to preserve ground water from degradation, and remediation of soils or ground water; and

(d) Development of recycling markets and reduction of solid waste volume and toxicity.

(4) The board may refine and clarify these initial categories.

Source: Laws 1992, LB 1257, § 53; Laws 1993, LB 138, § 82; Laws 1994, LB 1207, § 18; Laws 1996, LB 108, § 78; Laws 2000, LB 957, § 13; Laws 2002, LB 1003, § 52; Laws 2004, LB 832, § 3; Laws 2004, LB 962, § 113.

(o) SOLID WASTE LANDFILL CLOSURE ASSISTANCE FUND

81-15,177 Solid Waste Landfill Closure Assistance Fund; established; use; investment; council; grants; duties.

(1) There is hereby established the Solid Waste Landfill Closure Assistance Fund which shall be a cash fund administered by the Department of Environment and Energy. The fund shall be used:

(a) To provide grants for landfill site closing assessment, closure, monitoring, and remediation costs related to landfills existing or already closed on July 15, 1992; and

(b) To provide funds to the department for expenses incurred in carrying out its duties under sections 81-15,178 and 81-15,179.

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 Environmental Quality Council shall adopt and promulgate rules and regulations regarding the form and procedure for applications for grants from the fund, procedures for determining claims for payment or reimbursement, procedures for determining the amount and type of costs that are eligible for payment or reimbursement from the fund, procedures for determining priority among applicants, procedures for auditing persons who have received payments from the fund, and other provisions necessary to carry out sections 81-15,178 and 81-15,179.

Source: Laws 1992, LB 1257, § 54; Laws 1994, LB 1022, § 1; Laws 1994, LB 1066, § 125; Laws 1998, LB 924, § 45; Laws 2002, LB 1101, § 1; Laws 2019, LB302, § 135.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,177.01 Solid Waste Landfill Closure Assistance Fund; applicant, defined.

For purposes of sections 81-15,177 to 81-15,179, applicant shall mean any political subdivision which owns or operates or has previously owned or operated a landfill or any entity which owns or operates or has previously owned or operated a licensed landfill in the State of Nebraska.

Source: Laws 1994, LB 1022, § 2.

81-15,178 Funding from Solid Waste Landfill Closure Assistance Fund; applicant; requirements.

In order for an applicant to receive funding from the Solid Waste Landfill Closure Assistance Fund, the applicant shall:

(1) Agree to use the funds for landfill site closing assessment, closure, monitoring, or remediation costs relating to landfills existing or already closed on July 15, 1992;

(2) Provide the Department of Environment and Energy with documentation regarding the landfill closure site, including, when appropriate, information indicating that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands;

(3) Provide a plan for the proposed project, including appropriate engineering, economic, and financial feasibility data and other data and information, including estimated costs, as may be required by the department; and

(4) Demonstrate the anticipated environmental and ecological benefits resulting from the proposed project.

Source: Laws 1992, LB 1257, § 55; Laws 1994, LB 1022, § 3; Laws 2019, LB302, § 136.

81-15,179 Application for funds; department; powers and duties.

Upon receipt of an application for funds from the Solid Waste Landfill Closure Assistance Fund, the Department of Environment and Energy shall evaluate and investigate all aspects of the proposed project and the proposed schedule for completion, determine eligibility and priority of the project for funding, and make appropriate grants from the fund pursuant to rules and regulations adopted and promulgated by the Environmental Quality Council. If the department determines that an application is unsatisfactory or does not contain adequate information, the department shall return the application to the applicant and may make recommendations to the applicant which the department considers necessary to make the plan or the application satisfactory.

Source: Laws 1992, LB 1257, § 56; Laws 2019, LB302, § 137.

(p) SUPERFUND COST SHARE CASH FUND

81-15,180 Superfund Cost Share Cash Fund; created; use; investment.

The Superfund Cost Share Cash Fund is created. The Department of Environment and Energy shall remit grants and gifts received by the department for purposes of providing cost share for remediation of superfund sites to the State Treasurer for credit to the fund. The department shall administer the Superfund Cost Share Cash Fund to pay for nonfederal costs, including costs for in-kind services, required as cost share for remediation of superfund sites. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Superfund Cost Share 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 2005, LB 426, § 3; Laws 2009, First Spec. Sess., LB3, § 80; Laws 2019, LB302, § 138.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(q) REMEDIAL ACTION PLAN MONITORING ACT

81-15,181 Act, how cited.

Sections 81-15,181 to 81-15,188 shall be known and may be cited as the Remedial Action Plan Monitoring Act.

Source: Laws 1994, LB 1349, § 1; Laws 2004, LB 449, § 4.

81-15,182 Terms, defined.

For purposes of the Remedial Action Plan Monitoring Act:

(1) Land pollution means the presence upon or within the land resources of the state of one or more contaminants or combinations of contaminants, including, but not limited to, solid waste, hazardous waste, petroleum, or hazardous substances, 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; and

(2) Water pollution means the manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.

Source: Laws 1994, LB 1349, § 2; Laws 2004, LB 449, § 5.

81-15,183 Remedial Action Plan Monitoring Fund; created; use; investment.

(1) The Remedial Action Plan Monitoring Fund is created. The fund shall be administered by the Department of Environment and Energy. Revenue from the following sources shall be credited to the fund:

(a) Application fees collected under the Remedial Action Plan Monitoring Act;
 (b) Deposits for costs associated with administration of the act, including review, oversight, and guidance;

(c) Gifts, grants, reimbursements, or appropriations from any source intended to be used for purposes of the act; and

(d) Investment interest attributable to the fund.

(2) The fund shall be used by the department to:

(a) Review applications and provide technical review, oversight, guidance, and other activities associated with remedial action plans for land pollution or water pollution;

(b) Fund activities performed by the department to address immediate or emergency threats to human health and the environment related to property under the act; and

(c) Administer and enforce the act.

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

Source: Laws 1994, LB 1349, § 3; Laws 1995, LB 7, § 130; Laws 2004, LB 449, § 6; Laws 2019, LB302, § 139.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,184 Remedial action plan; application for monitoring; requirements; fees; department; duties.

(1) Any entity which voluntarily chooses to make application for monitoring of remedial action plans for property where land pollution or water pollution exists shall:

(a) Submit an application on a form approved by the Department of Environment and Energy;

(b) Provide the department with a nonrefundable application fee of two thousand dollars; and

(c) Execute a written agreement to provide reimbursement of all department direct and indirect costs related to technical review, oversight, guidance, and other activities associated with the remedial action plan. As part of the voluntary agreement, the department shall require the applicant to post a deposit of three thousand dollars to be used by the department to cover all costs. The department shall not commence technical review, oversight, guidance, or other activities associated with the remedial action plan until the voluntary agreement is executed and a complete remedial action plan has been submitted. If the costs of the department exceed the initial deposit, an additional amount agreed upon by the department and the applicant may be required prior to proceeding. After the mutual termination of the voluntary agreement, any balance of funds paid under this subdivision shall be refunded.

(2) The department shall review and approve or deny all applications and notify the applicant in writing. If the application is denied, the notification shall state the reason for the denial. If the department determines that an application does not contain adequate information, the department shall return the application to the applicant. The applicant has sixty days to resubmit the required information or the application will be deemed denied.

(3) Within ninety days of approval of the application and voluntary agreement, the applicant shall provide a complete remedial action plan for the proposed project that conforms to all federal and state environmental standards and substantive requirements, including:

(a) Documentation regarding the investigation of land pollution or water pollution including, when appropriate, information indicating that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands;

(b) A remedial action work plan which describes the remedial action measures to be taken to address the land or water pollution; and

(c) Project monitoring reports, appropriate engineering, scientific, and financial feasibility data, and other data and information as may be required by the department.

Source: Laws 1994, LB 1349, § 4; Laws 2004, LB 449, § 8; Laws 2008, LB724, § 1; Laws 2019, LB302, § 140.

81-15,185 Department of Environment and Energy; remedial action plan; approval or disapproval; notification.

Upon receipt of a voluntary remedial action plan for land pollution or water pollution pursuant to section 81-15,184, the Department of Environment and Energy shall review and approve or disapprove the plan and notify the applicant in writing. If the plan is disapproved, the notification shall state the reason for the disapproval and provide a reasonable opportunity to resubmit the plan.

Source: Laws 1994, LB 1349, § 5; Laws 2004, LB 449, § 9; Laws 2019, LB302, § 141.

81-15,185.01 Remedial action plan; notice; hearing.

The Department of Environment and Energy shall issue public notice of its intent to approve a voluntary remedial action plan pursuant to section 81-15,185 in a local newspaper of general circulation in the area affected and make the remedial action plan available to the public. The public shall have thirty days from the date of publication during which any person may submit written comments to the department regarding the proposed remedial action. Such person may also request or petition the Director of Environment and Energy, in writing, for a hearing and state the nature of the issues to be raised. The director shall hold a public hearing if the comments, request, or petition raise legal, policy, or discretionary questions of general application and significant public interest exists.

Source: Laws 2004, LB 449, § 10; Laws 2019, LB302, § 142.

81-15,185.02 Remedial action plan; termination; notification.

(1) The applicant may unilaterally terminate a voluntary remedial action plan approved pursuant to section 81-15,185 prior to completion of investigative and remedial activities if the applicant leaves the property in no worse condition, from a human health and environment perspective, than when the applicant initiated voluntary remedial action and the applicant reimburses the Department of Environment and Energy for all outstanding costs.

(2) The department may terminate a voluntary remedial action plan if the applicant:

(a) Violates any terms or conditions of the plan or fails to fulfill any obligations of the plan, including submission of an acceptable remedial action plan within a reasonable period of time;

(b) Fails to address an immediate and significant risk of harm to public health and the environment in a timely and effective manner; or

(c) Fails to initiate the plan within six months after approval by the department or to complete the plan within twenty-four months after approval by the department, excluding long-term operation, maintenance, and monitoring, unless the department grants an extension of time.

(3) The department shall notify the applicant in writing of the intention to terminate the voluntary remedial action plan and include the reason for the termination and a summary of any unreimbursed costs of the department that are due.

Source: Laws 2004, LB 449, § 11; Laws 2019, LB302, § 143.

81-15,185.03 Remedial action plan; completion; duties; enforceability.

(1) Within sixty days after completion of a voluntary remedial action plan approved pursuant to section 81-15,185, the applicant shall provide the Department of Environment and Energy with a final remedial action report and assurance that the plan has been fully implemented. Department approval of a voluntary remedial action plan shall be void upon failure to comply with the approved plan or willful submission of false, inaccurate, or misleading information by the applicant.

(2) Voluntary remedial action plans approved under section 81-15,185 are not enforceable unless the department can demonstrate that the applicant has failed to fully implement the approved plan. The department may require

further action if such action is authorized by other state statutes administered by the department.

Source: Laws 2004, LB 449, § 12; Laws 2019, LB302, § 144.

81-15,186 Department of Environment and Energy; issuance of letter; contents.

If the requirements of the Remedial Action Plan Monitoring Act are met and the applicant has remitted all applicable fees, the Department of Environment and Energy may issue to the applicant a letter stating that no further action need be taken at the site related to any contamination for which remedial action has been taken in accordance with the approved remedial action plan. Such letter shall provide that the department may require the person to conduct additional remedial action in the event that any monitoring conducted at or near the real property or other circumstances indicate that (1) contamination is reoccurring, (2) additional contamination is present which was not identified pursuant to section 81-15,184, or (3) additional contamination is present for which remedial action was not taken according to the remedial action plan. As a condition of issuance, the department may require payment of ongoing direct and indirect costs of oversight of any ongoing long-term operation, maintenance, and monitoring.

Source: Laws 1994, LB 1349, § 6; Laws 2004, LB 449, § 13; Laws 2019, LB302, § 145.

81-15,186.01 Rules and regulations.

The Environmental Quality Council may adopt and promulgate rules and regulations necessary to administer and enforce the provisions of the Remedial Action Plan Monitoring Act.

Source: Laws 2004, LB 449, § 7.

81-15,187 Act, how construed; indemnification.

The Remedial Action Plan Monitoring Act shall not be construed as an acceptance of liability by the State of Nebraska for activities conducted pursuant to such act. Entities proceeding under such act shall indemnify and hold harmless the State of Nebraska for any further action required by the federal Environmental Protection Agency relating to land pollution or water pollution by an entity.

Source: Laws 1994, LB 1349, § 7.

81-15,188 Act; supplemental to other laws; how construed.

The powers conferred by the Remedial Action Plan Monitoring Act shall be independent of and in addition and supplemental to any other provisions of the laws of the State of Nebraska with reference to the matters covered hereby, and the act shall be considered as a complete and independent act and not as amendatory of or limited by any other provision of the laws of the State of Nebraska.

Source: Laws 1994, LB 1349, § 8.

(r) TECHNICAL ADVISORY COMMITTEE

81-15,189 Repealed. Laws 2009, LB 154, § 27.

81-15,190 Repealed. Laws 2009, LB 154, § 27.

(s) NEBRASKA EMERGENCY PLANNING AND
COMMUNITY RIGHT TO KNOW ACT

81-15,191 Act, how cited.

Sections 81-15,191 to 81-15,235 shall be known and may be cited as the Nebraska Emergency Planning and Community Right to Know Act.

Source: Laws 1997, LB 374, § 1.

81-15,192 Legislative intent.

(1) It is the intent of the Legislature to adopt the Nebraska Emergency Planning and Community Right to Know Act pursuant to Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended.

(2) The Legislature finds that the release of hazardous and toxic chemicals threatens the health and safety of the public and the environment. The Legislature further finds that increased public knowledge and access to information on the presence of hazardous and toxic chemicals in communities enables the public to work with facilities, communities, state and federal agencies, and governmental bodies to improve chemical safety and protect the health and safety of the public and the environment. The Legislature further finds that the community's right to know is essential in protecting the health and safety of the public and the environment. The Legislature further finds that emergency planning and notification requirements assist the state and local communities in planning for and responding to a release of extremely hazardous substances.

(3) It is the intent of the Legislature that all state agencies involved in emergency release notification, reporting, planning, training, response, and preparedness will coordinate and collaborate in carrying out the purposes of the Nebraska Emergency Planning and Community Right to Know Act and may, to the extent possible, share resources and funding.

(4) It is the intent of the Legislature that the reporting requirements of the Nebraska Emergency Planning and Community Right to Know Act are to be no more stringent than the reporting requirements of the Emergency Planning and Community Right to Know Act pursuant to Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended.

Source: Laws 1997, LB 374, § 2.

81-15,193 Definitions, where found.

For purposes of the Nebraska Emergency Planning and Community Right to Know Act, the definitions found in sections 81-15,194 to 81-15,209 apply.

Source: Laws 1997, LB 374, § 3.

81-15,194 Administrator, defined.

Administrator means the Administrator of the United States Environmental Protection Agency.

Source: Laws 1997, LB 374, § 4.

81-15,195 Commission, defined.

Commission means the State Emergency Response Commission.

Source: Laws 1997, LB 374, § 5.

81-15,196 Director, defined.

Director means the Director of Environment and Energy.

Source: Laws 1997, LB 374, § 6; Laws 2019, LB302, § 146.

81-15,197 Environment, defined.

Environment includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

Source: Laws 1997, LB 374, § 7.

81-15,198 Extremely hazardous substance, defined.

Extremely hazardous substance means a substance which meets the threshold requirements identified on the List of Extremely Hazardous Substances under 40 C.F.R. part 355, Appendices A and B.

Source: Laws 1997, LB 374, § 8.

81-15,199 Facility, defined.

Facility means the buildings, equipment, structures, and other stationary items located on a single site or on contiguous or adjacent sites and owned or operated by the same person or by any person which controls, is controlled by, or is under common control with such person.

Source: Laws 1997, LB 374, § 9.

81-15,200 Governing body, defined.

Governing body means the governing body of a village, city, or county.

Source: Laws 1997, LB 374, § 10.

81-15,201 Hazardous chemical, defined.

Hazardous chemical has the same meaning as in 29 C.F.R. 1910.1200(c).

Source: Laws 1997, LB 374, § 11.

81-15,202 Hazardous substance, defined.

Hazardous substance has the same meaning as in 40 C.F.R. part 302, Table 302.4.

Source: Laws 1997, LB 374, § 12.

81-15,203 Inventory form, defined.

Inventory form means an emergency and hazardous chemical inventory form required to be prepared by an owner or operator of any facility required to

prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq.

Source: Laws 1997, LB 374, § 13.

81-15,204 List of chemicals, defined.

List of chemicals includes each of the following:

(1) A list of the hazardous chemicals for which a material safety data sheet is required under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq., and regulations promulgated under the act, grouped in categories of health and physical hazards as set forth under the act and regulations promulgated under the act or in such other categories as prescribed under section 311 of Title III;

(2) The chemical name or the common name of each such chemical as provided on the material safety data sheet; and

(3) Any hazardous component of each such chemical as provided on the material safety data sheet.

Source: Laws 1997, LB 374, § 14.

81-15,205 Material safety data sheet, defined.

Material safety data sheet means the sheet required to be developed under 29 C.F.R. 1910.1200(g).

Source: Laws 1997, LB 374, § 15.

81-15,206 Release, defined.

Release means to spill, leak, pump, pour, emit, empty, discharge, inject, escape, leach, dump, or dispose any hazardous chemical, extremely hazardous substance, or toxic chemical into the environment and includes the abandonment or discarding of barrels, containers, and other closed receptacles containing any such chemical or substance.

Source: Laws 1997, LB 374, § 16.

81-15,207 State Administrator, defined.

State Administrator means the director of the Nebraska Emergency Management Agency.

Source: Laws 1997, LB 374, § 17.

81-15,208 Title III, defined.

Title III means the Emergency Planning and Community Right to Know Act pursuant to Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended.

Source: Laws 1997, LB 374, § 18.

81-15,209 Toxic chemical, defined.

Toxic chemical means a substance on the list in Committee Print Number 99-169, as amended, of the Senate Committee on Environment and Public Works, titled "Toxic Chemicals Subject to Section 313 of the Emergency

Planning and Community Right-To-Know Act of 1986", including any revised version as may be made pursuant to section 313 of Title III.

Source: Laws 1997, LB 374, § 19.

81-15,210 State Administrator; State Emergency Response Commission; created; members; terms.

(1) The director of the Nebraska Emergency Management Agency shall serve as the State Administrator of the Nebraska Emergency Planning and Community Right to Know Act. The State Emergency Response Commission is created and shall be a part of the Nebraska Emergency Management Agency for administrative purposes. The membership of the commission shall include the Director of Environment and Energy or his or her designee, the Director-State Engineer or his or her designee, the Superintendent of Law Enforcement and Public Safety or his or her designee, the State Fire Marshal or his or her designee, the director of the Nebraska Emergency Management Agency or his or her designee, the chief executive officer of the Department of Health and Human Services or his or her designee, two elected officials or employees of municipal or county government, and one citizen member to represent each of the following interest groups: Firefighters, local emergency management, public or community health, environmental protection, labor, school district, small business, agricultural business, chemical industry, highway transportation, and rail transportation. The Governor shall appoint the municipal or county government officials or employees and the citizen members with the approval of the Legislature. The appointments shall be made to represent the three congressional districts as equally as possible.

(2) The members appointed by the Governor shall be appointed for terms of four years, except that of the first citizen members appointed, three members shall serve for one-year terms, three members shall serve for two-year terms, and two members shall serve for three-year terms, as designated at the time of appointment.

(3) A vacancy on the commission shall exist in the event of the death, disability, or resignation of a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed by the Governor for the remainder of such term.

Source: Laws 1997, LB 374, § 20; Laws 2007, LB296, § 760; Laws 2019, LB302, § 147.

81-15,211 Chairperson; meetings; expenses.

(1) The commission shall annually elect a chairperson from among its citizen members. The commission shall meet at least twice each year and may meet more often at the call of the chairperson or at the request of any three members.

(2) All members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1997, LB 374, § 21; Laws 2020, LB381, § 124.

81-15,212 Commission; duties; emergency planning districts.

(1) The commission shall:

(a) Appoint local emergency planning committees pursuant to section 81-15,215; and

(b) Supervise and coordinate the activities of the local emergency planning committees.

(2) The commission shall designate each county or, where appropriate, multiple counties as emergency planning districts in order to facilitate preparation and implementation of emergency plans.

Source: Laws 1997, LB 374, § 22.

81-15,213 Nebraska Emergency Management Agency; Department of Environment and Energy; duties.

(1) The Nebraska Emergency Management Agency shall supervise and coordinate emergency planning and training under section 305 of Title III and shall oversee and distribute all funds received under section 305 of Title III and section 81-15,214.

(2) The Department of Environment and Energy shall receive emergency notification and facility reports and establish procedures for receiving and processing requests from the public for information as required to be provided under the Nebraska Emergency Planning and Community Right to Know Act. The director or his or her designee shall serve as commission coordinator for information.

Source: Laws 1997, LB 374, § 23; Laws 2019, LB302, § 148.

81-15,214 Nebraska Emergency Planning and Community Right to Know Cash Fund; created; use; investment.

(1) There is hereby created the Nebraska Emergency Planning and Community Right to Know Cash 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 Nebraska Emergency Planning and Community Right to Know Act, including:

(a) The funding of specific projects as approved by the commission; and

(b) The payment of expenses incurred by the commission to administer the fund. Payment from the fund for costs of administering the fund shall not exceed fifteen percent of the total receipts of the fund during the fiscal year. The commission shall adopt and promulgate rules and regulations governing allocations from the fund and shall publish guidelines regarding allocations from the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) Entities receiving allocations from the Nebraska Emergency Planning and Community Right to Know Cash Fund shall expend the allocation in a manner expressly approved by the commission. If allocations from the fund are used for purposes other than those approved by the commission, the commission may recover by appropriate legal means any funds spent inconsistent with the terms of the allocation. Any recovered funds shall be deposited in the fund.

Source: Laws 1997, LB 374, § 24.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,215 Local emergency planning committee; members; terms.

The commission shall appoint the members of each local emergency planning committee for each emergency planning district established after September 13, 1997. Only one local emergency planning committee shall be established in each district. To the extent possible, each committee established prior to, on, or after September 13, 1997, shall include at a minimum a representative from each of the following interest groups: State and local elected officials, public health, local environmental protection, hospitals, firefighters, local emergency management, law enforcement, transportation, broadcast and print media, neighborhood and community organizations, and owners and operators of facilities which are subject to the requirements of the Nebraska Emergency Planning and Community Right to Know Act. The committee members shall be appointed for terms of two years, except that of the initial appointees, approximately one-half of the members shall serve for terms of one year as designated at the time of appointment. A vacancy on a committee shall exist in the event of the death, disability, or resignation of a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

Source: Laws 1997, LB 374, § 25.

81-15,216 Local emergency planning committee; chairperson; meetings.

Each local emergency planning committee shall annually elect a chairperson. Each committee shall meet at least annually and may meet more often at the call of the chairperson or at the request of any three members.

Source: Laws 1997, LB 374, § 26.

81-15,217 Local emergency planning committee; powers and duties.

(1) Each local emergency planning committee shall:

(a) Establish rules governing the functioning of the committee consistent with the Open Meetings Act and sections 84-712 to 84-712.09. The rules shall include provisions for public notification of committee activities, public meetings to discuss the emergency plan required under subdivision (c) of this subsection, public comments, response to such comments by the committee, and distribution of the emergency plan;

(b) Establish procedures for receiving and processing requests from the public for information required to be provided under the Nebraska Emergency Planning and Community Right to Know Act. The procedures shall include provisions to inform members of the public of the right to bring an action under federal law to enforce the act. The procedures shall include the designation of an official to serve as coordinator for information;

(c) Complete preparation of an emergency plan in accordance with the act not later than January 1, 1998, unless a plan for the emergency planning district has previously been submitted and approved by the commission. The committee shall review and update the plan once a year beginning March 1, 1999, and each March 1 thereafter, or more frequently as changed circumstances in the community or at any facility may require;

(d) Evaluate the need for resources necessary to develop, implement, and exercise the emergency plan and make recommendations with respect to additional resources that may be required and the means for providing such additional resources; and

(e) Designate a public library in each county within its district as a depository for the emergency plan, deliver the plan to the designated library, and update the plan as necessary.

(2) Each local emergency planning committee may receive gifts, bequests, grants, or other contributions or donations from public or private sources to carry out its duties and the purposes of the act, including, but not limited to, administrative costs and reimbursement to committee members for their actual and necessary travel expenses. Any gifts, bequests, grants, or other contributions or donations received from public or private sources shall be accounted for in an annual report to the commission. The commission shall adopt and promulgate rules and regulations governing the receipt and use of any gifts, bequests, grants, or other contributions or donations from public or private sources.

Source: Laws 1997, LB 374, § 27; Laws 2004, LB 821, § 32.

Cross References

Open Meetings Act, see section 84-1407.

81-15,218 Facility; notifications required.

(1) The owner or operator of each facility in which an extremely hazardous substance exceeding threshold planning quantities is present shall notify the commission that such facility is subject to the Nebraska Emergency Planning and Community Right to Know Act within sixty days after September 13, 1997, unless notification was made prior to September 13, 1997, and shall notify the commission and the local emergency planning committee of the emergency planning district in which the facility is located that such facility is subject to the act within sixty days after an extremely hazardous substance first becomes present at such facility in excess of the threshold planning quantity established for such substance. If there is a revision of the definition of extremely hazardous substances and the facility has present a substance included in the revised definition in excess of the threshold planning quantity established for such substance, the owner or operator of the facility shall notify the commission and the committee of the district in which the facility is located within sixty days after such revision that such facility is subject to the act.

(2) The commission shall notify the director and the State Administrator of facilities subject to the act. The notification shall include:

(a) Each notification received from a facility under subsection (1) of this section; and

(b) Each facility designated by the commission under subsection (3) of this section.

(3) For purposes of emergency planning, the commission may designate additional facilities which are subject to the act if such designation is made after public notice and opportunity for comment. The commission shall notify the facility concerned of any designation under this subsection.

Source: Laws 1997, LB 374, § 28.

81-15,219 Facility emergency coordinator.

Within thirty days after the establishment of a committee for the emergency planning district in which a reporting facility is located, the owner or operator of the facility shall provide to the committee the name of a facility representative who will participate in the emergency planning process as a facility emergency coordinator. The owner or operator of the facility shall promptly inform the committee of any relevant changes occurring at the facility as changes occur or are expected to occur. Upon request from the committee, the owner or operator of the facility shall promptly provide information to the committee which is necessary for developing and implementing the emergency plan.

Source: Laws 1997, LB 374, § 29.

81-15,220 Emergency plan; contents.

Each emergency plan as required in subdivision (1)(c) of section 81-15,217 shall include, but not be limited to, the following:

(1) Identification of facilities containing an extremely hazardous substance in an amount which exceeds the threshold planning quantity established for such substance that are within the emergency planning district, identification of routes likely to be used for the transportation of extremely hazardous substances, and identification of additional facilities contributing or subjected to additional risk due to their proximity to facilities subject to the requirements of this section;

(2) Methods and procedures to be followed by facility owners and operators and local emergency response and medical personnel to respond to any release of extremely hazardous substances;

(3) Designation of a community emergency coordinator and identification of facility emergency coordinators who will make determinations necessary to implement the plan;

(4) Procedures providing reliable, effective, and timely notification by the facility emergency coordinators and the community emergency coordinator to persons designated in the emergency plan and to the public that a release has occurred. Notification procedures shall be consistent with the notification requirements of section 81-15,222;

(5) Methods for determining the occurrence of a release and the area or population likely to be affected by the release;

(6) A description of emergency equipment and facilities in the community and at each facility in the community subject to the Nebraska Emergency Planning and Community Right to Know Act and an identification of the persons responsible for the equipment and facilities;

(7) Evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes;

(8) Training programs, including schedules for training of local emergency response and medical personnel; and

(9) Methods and schedules for exercising the emergency plan.

Source: Laws 1997, LB 374, § 30.

81-15,221 Emergency plan review.

Each local emergency planning committee shall provide the emergency plan to the governing bodies having jurisdiction in the emergency planning district for review prior to submitting the plan to the commission. The commission shall review the plan and make recommendations to the committee on revisions to the plan that may be necessary to ensure coordination of the plan with emergency plans of other emergency planning districts. To the maximum extent practicable, such review shall not delay implementation of the plan.

Source: Laws 1997, LB 374, § 31.

81-15,222 Release notification.

(1) An owner or operator of a facility shall immediately provide notice as described in subsection (2) of this section if:

(a) A release of an extremely hazardous substance occurs from a facility at which a hazardous chemical is produced, used, or stored and such release requires a notification under section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq.;

(b) A release of an extremely hazardous substance occurs from a facility at which a hazardous chemical is produced, used, or stored and such release is not subject to the notification requirements under section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, but only if the release:

(i) Is not a federally permitted release as defined in section 101(10) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980;

(ii) Is in an amount in excess of a quantity which the administrator has determined by regulation requires notice; and

(iii) Occurs in a manner which would require notification under section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; or

(c) A release of a substance which is not an extremely hazardous substance occurs at a facility at which a hazardous chemical is produced, used, or stored and such release requires notification under section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(2) Notice shall be given immediately after the release by the owner or operator of the facility by such means as telephone or radio or in person to the commission coordinator for information and to the community emergency coordinator for the local emergency planning committee for any area likely to be affected by the release. With respect to transportation of a substance subject to the requirements of this section or storage incident to such transportation, the notice shall be satisfied by dialing 911 or, in the absence of a 911 emergency telephone number, calling the operator.

(3) Notice required under this section shall include each of the following to the extent known at the time of the notice and so long as no delay in responding to the emergency results:

(a) The chemical name or identity of any substance involved in the release;

(b) An indication of whether the substance is an extremely hazardous substance;

(c) An estimate of the quantity of any such substance that was released into the environment;

(d) The time and duration of the release;

(e) The medium or media into which the release occurred;

(f) Any known or anticipated acute or chronic health risks associated with the emergency and, if appropriate, advice regarding medical attention necessary for exposed individuals;

(g) Proper precautions to take as a result of the release, including evacuation, unless such information is readily available to the community emergency coordinator pursuant to the emergency plan; and

(h) The name and telephone number of the person or persons to be contacted for further information.

(4) As soon as practicable after a release which requires notice and as more information becomes available, such owner or operator shall provide a written followup emergency notice or notices setting forth and updating the information required under subsection (3) of this section and including additional information with respect to:

(a) Actions taken to respond to and contain the release;

(b) Any known or anticipated acute or chronic health risks associated with the release; and

(c) If appropriate, advice regarding medical attention necessary for exposed individuals.

(5) This section does not apply to any release which results in exposure to persons solely within the site or sites on which a facility is located. The exemption provided in section 81-15,227 relating to transportation does not apply to this section.

(6) For purposes of this section, facility also includes motor vehicles, rolling stock, and aircraft.

Source: Laws 1997, LB 374, § 32.

81-15,223 Material safety data sheet.

(1) The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq., and regulations promulgated under the act shall submit a material safety data sheet for each such chemical meeting threshold quantity requirements under regulations promulgated under Title III or shall submit a list of chemicals to:

(a) The local emergency planning committee for the emergency planning district in which the facility is located;

(b) The commission coordinator for information; and

(c) The fire department with jurisdiction over the facility.

(2) An owner or operator may meet the requirements of this section with respect to a hazardous chemical which is a mixture by doing one of the following:

(a) Submitting a material safety data sheet for, or identifying on a list, each element or compound in the mixture which is a hazardous chemical. If more

than one mixture has the same element or compound, only one material safety data sheet, or one listing, of the element or compound is necessary; or

(b) Submitting a material safety data sheet for the mixture itself or identifying the mixture on a list of chemicals.

(3) Each owner or operator of a facility submitting a list of chemicals under subsection (1) of this section shall, upon request by the committee, submit the material safety data sheet for any chemical on the list to the committee.

(4) A committee, upon request by any person, shall make available a material safety data sheet to the person in accordance with section 81-15,229. If the committee does not have the requested material safety data sheet, the committee shall request the sheet from the facility owner or operator and then make the sheet available to the person in accordance with section 81-15,229.

(5) Unless provided prior to September 13, 1997, the initial material safety data sheet or list of chemicals required under this section with respect to a hazardous chemical shall be provided before the later of:

(a) January 1, 1998; or

(b) Three months after the owner or operator of a facility is required to prepare or have available a material safety data sheet for the chemical under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq., and regulations promulgated under the act.

(6) Within three months following discovery by an owner or operator of significant new information concerning an aspect of a hazardous chemical for which a material safety data sheet was previously submitted to the committee under subsection (1) of this section, a revised sheet shall be provided to the committee.

(7) For purposes of this section, hazardous chemical does not include:

(a) Any food, food additive, color additive, drug, or cosmetic regulated by the federal Food and Drug Administration;

(b) Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use;

(c) Any substance to the extent it is used for personal, family, or household purposes or is present in the same form and concentration as a product packaged for distribution and use by the general public;

(d) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual; or

(e) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate consumer.

Source: Laws 1997, LB 374, § 33.

81-15,224 Tier II inventory form.

(1) The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical meeting threshold quantity requirements under regulations promulgated under Title III shall prepare and submit annually on or before March 1 beginning in 1998 a tier II inventory form on data for the preceding calendar year to:

(a) The local emergency planning committee for the emergency planning district in which the facility is located;

(b) The commission coordinator for information; and

(c) The fire department with jurisdiction over the facility.

(2) An owner or operator may meet the requirements of this section with respect to a hazardous chemical which is a mixture by doing one of the following:

(a) Providing information on the tier II inventory form on each element or compound in the mixture which is a hazardous chemical. If more than one mixture has the same element or compound, only one listing on the tier II inventory form for the element or compound at the facility is necessary; or

(b) Providing information on the tier II inventory form on the mixture itself.

(3) A hazardous chemical subject to the requirements of this section is any hazardous chemical for which a material safety data sheet or a list of chemicals is required under section 81-15,223.

(4) A tier II inventory form shall provide the following information for each hazardous chemical present at the facility:

(a) The chemical name or the common name of the chemical as provided on the material safety data sheet;

(b) An estimate in ranges of the maximum amount of the hazardous chemical present at the facility at any time during the preceding calendar year;

(c) An estimate in ranges of the average daily amount of the hazardous chemical present at the facility during the preceding calendar year;

(d) A brief description of the manner of storage of the hazardous chemical;

(e) The location at the facility of the hazardous chemical; and

(f) An indication of whether the owner elects to withhold location information of a specific hazardous chemical from disclosure to the public under section 81-15,229.

(5) Upon request by the commission, the director, a committee, or a fire department with jurisdiction over the facility, the owner or operator of a facility shall provide tier II information, as described in subsection (4) of this section, to the person making the request. Any such request shall be with respect to a specific facility.

(6) A state or local official acting in his or her official capacity may have access to tier II information by submitting a request to the commission or a committee. Upon receipt of a request for tier II information, the commission or committee shall request such information from the facility owner or operator and make such information available to the official.

(7) Any person may make request to the commission, the director, or a committee for tier II information relating to the preceding calendar year with respect to a facility. Any such request shall be in writing and shall be with respect to a specific facility.

(8) Any tier II information which the commission, the director, or a committee has in its possession shall be made available to a person making a request under this section in accordance with section 81-15,229. If the commission, director, or committee does not have the tier II information in its possession, upon a request for the information the commission, director, or committee

shall request the facility owner or operator for the information with respect to a hazardous chemical which a facility has stored in an amount in excess of ten thousand pounds present at the facility at any time during the preceding calendar year and make such information available in accordance with section 81-15,229 to the person making the request.

(9) In the case of tier II information which is not in the possession of the commission, the director, or a committee and which is with respect to a hazardous chemical which a facility has stored in an amount less than ten thousand pounds present at the facility at any time during the preceding calendar year, a request from a person must include the general need for the information. The commission, director, or committee may request the facility owner or operator for the tier II information on behalf of the person making the request. Upon receipt of any information requested on behalf of such person, the commission, director, or committee shall make the information available to the person in accordance with section 81-15,229.

(10) The commission, the director, or a committee shall respond to a request for tier II information under this section no later than forty-five days after the date of receipt of the request.

(11) An owner or operator of a facility which files an inventory form under this section shall, upon request by the fire department with jurisdiction over the facility, allow the fire department to conduct an onsite inspection of the facility and shall provide to the fire department specific location information on hazardous chemicals at the facility.

Source: Laws 1997, LB 374, § 34.

81-15,225 Toxic chemical release form.

(1) The owner or operator of a facility subject to the requirements of this section shall complete a toxic chemical release form as published under section 313(g) of Title III for each toxic chemical that was manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold quantity established by subsection (2) of this section during the preceding calendar year at such facility. The form shall be submitted to the director annually on July 1 and shall contain data reflecting releases during the preceding calendar year.

(2) The requirements of this section apply to owners and operators of facilities that are required to file reports under section 313 of Title III and rules and regulations promulgated thereunder.

Source: Laws 1997, LB 374, § 35.

81-15,226 Owner or operator; information to health professionals; confidentiality.

(1) An owner or operator of a facility which is subject to the requirements of section 81-15,223, 81-15,224, or 81-15,225 and the requirements of Title III shall provide the specific chemical identity, if known, of a hazardous chemical, an extremely hazardous substance, or a toxic chemical to any health professional who requests such information in writing if the health professional provides a written statement of need under this subsection and a written confidentiality agreement under subsection (5) of this section. The written statement of need shall be a statement that the health professional has a reasonable basis to suspect that:

(a) The information is needed for purposes of diagnosis or treatment of an individual;

(b) The individual or individuals being diagnosed or treated have been exposed to the chemical concerned; and

(c) Knowledge of the specific chemical identity of such chemical will assist in diagnosis or treatment.

Following such a written request, the owner or operator to whom such request is made shall promptly provide the requested information to the health professional. The authority to withhold the specific chemical identity of a chemical under section 322 of Title III when such information is a trade secret shall not apply to information required to be provided under this subsection subject to subsection (5) of this section.

(2) An owner or operator of a facility which is subject to the requirements of section 81-15,223, 81-15,224, or 81-15,225 and Title III shall provide a copy of a material safety data sheet, an inventory form, or a toxic chemical release form, including the specific chemical identity, if known, of a hazardous chemical, an extremely hazardous substance, or a toxic chemical, to any treating physician or nurse who requests such information if such physician or nurse determines:

(a) A medical emergency exists;

(b) The specific chemical identity of the chemical concerned is necessary for or will assist in emergency or first-aid diagnosis or treatment; and

(c) The individual or individuals being diagnosed or treated have been exposed to the chemical concerned.

Immediately following such a request, the owner or operator to whom such request is made shall provide the requested information to the physician or nurse. The authority to withhold the specific chemical identity of a chemical under section 322 of Title III regarding trade secrets from a material safety data sheet, an inventory form, or a toxic chemical release form shall not apply to information required to be provided to a treating physician or nurse under this subsection. No written confidentiality agreement or statement of need shall be required as a precondition of such disclosure, but the owner or operator disclosing such information may require a written confidentiality agreement in accordance with subsection (5) of this section and a statement setting forth the items listed in subdivisions (2)(a) through (2)(c) of this section as soon as circumstances permit.

(3) An owner or operator of a facility which is subject to the requirements of section 81-15,223, 81-15,224, or 81-15,225 and Title III shall provide the specific chemical identity, if known, of a hazardous chemical, an extremely hazardous substance, or a toxic chemical to any health professional:

(a) Who is a local or state government employee or a person under contract with the local or state government; and

(b) Who requests such information in writing and provides a written statement of need under subsection (4) of this section and a written confidentiality agreement under subsection (5) of this section.

Following such a written request, the owner or operator to whom such request is made shall promptly provide the requested information to the local or state health professional. The authority to withhold the specific chemical identity of a chemical under section 322 of Title III when such information is a

trade secret shall not apply to information required to be provided under this subsection subject to subsection (5) of this section.

(4) The written statement of need shall be a statement that describes with reasonable detail one or more of the following health needs for the information:

(a) To assess exposure of persons living in a local community to the hazards of the chemical concerned;

(b) To conduct or assess sampling to determine exposure levels of various population groups;

(c) To conduct periodic medical surveillance of exposed population groups;

(d) To provide medical treatment to exposed individuals or population groups;

(e) To conduct studies to determine the health effects of exposure; and

(f) To conduct studies to aid in the identification of a chemical that may reasonably be anticipated to cause an observed health effect.

(5) Any person obtaining information under subsection (1) or (3) of this section shall be required to agree in a written confidentiality agreement that he or she will not use the information for any purpose other than the health needs asserted in the statement of need except as may otherwise be authorized by the terms of the agreement or by the person providing such information. Nothing in this subsection shall preclude the parties to a confidentiality agreement from pursuing any remedies to the extent permitted by law.

Source: Laws 1997, LB 374, § 36.

81-15,227 Exemption for transportation.

Except as provided in section 81-15,222, the Nebraska Emergency Planning and Community Right to Know Act does not apply to the transportation, including the storage incident to such transportation, of any substance or chemical subject to the requirements of the act, including the transportation and distribution of natural gas.

Source: Laws 1997, LB 374, § 37.

81-15,228 Local law; applicability.

(1) Nothing in the Nebraska Emergency Planning and Community Right to Know Act shall:

(a) Preempt any local law;

(b) Except as provided in subsection (2) of this section, otherwise affect any local law or the authority of any local government to adopt or enforce any local law; and

(c) Affect or modify in any way the obligations or liabilities of any person under other state or federal law.

(2) Any local law enacted after September 13, 1997, which requires the submission of a material safety data sheet from facility owners or operators shall require that the data sheet be identical in content and format to the data sheet required under section 81-15,223. In addition, a locality may require the submission of information which is supplemental to the information required on the data sheet, including information on the location and quantity of

hazardous chemicals present at the facility, through additional sheets attached to the data sheet or such other means as the locality considers appropriate.

Source: Laws 1997, LB 374, § 38.

81-15,229 Inspection of information; publication of notice.

(1) Each emergency plan, material safety data sheet, list of chemicals, inventory form, toxic chemical release form, and followup emergency notice shall be made available to the general public, consistent with section 322 of Title III, during normal working hours at the location or locations designated by the Department of Environment and Energy, the commission, or a local emergency planning committee, as appropriate. Upon request by an owner or operator of a facility subject to the requirements of section 81-15,224, the Department of Environment and Energy, the commission, or the appropriate committee shall withhold from disclosure under this section the location of any specific chemical required by section 81-15,225 to be contained in an inventory form as tier II information.

(2) Each local emergency planning committee shall annually publish a notice in local newspapers that the emergency plan, material safety data sheets, and inventory forms have been submitted under this section. The notice shall state that followup emergency notices may subsequently be issued. Such notice shall announce that members of the public who wish to review any such plan, sheet, form, or followup notice may do so at the location designated under subsection (1) of this section.

Source: Laws 1997, LB 374, § 39; Laws 2019, LB302, § 149.

81-15,230 Violations; civil actions.

(1) Any state or local government may commence a civil action against an owner or operator of a facility for failure to:

(a) Provide notification to the commission under subsection (1) of section 81-15,218;

(b) Submit a material safety data sheet or a list of chemicals under section 81-15,223;

(c) Make available information requested under subsections (3) and (4) of section 81-15,223; and

(d) Complete and submit a tier II inventory form under section 81-15,224.

(2) The commission, the director, or a local emergency planning committee may commence a civil action against an owner or operator of a facility for failure to provide information under section 81-15,219 or for failure to submit tier II information under subsection (5) of section 81-15,224.

(3) The state may commence a civil action against the administrator for failure to provide information to the state under section 322(g) of Title III.

Source: Laws 1997, LB 374, § 40.

81-15,231 Civil action; jurisdiction.

(1) Any action under section 81-15,230, except as provided in subsection (2) of this section, against an owner or operator of a facility shall be brought in the district court for the district in which the alleged violation occurred.

(2) Any action under subsection (3) of section 81-15,230 against the administrator may be brought in the United States District Court for the District of Columbia.

(3) Except as provided in subsection (2) of this section, the district court shall have jurisdiction in actions brought under section 81-15,230 against an owner or operator of a facility to enforce the requirement concerned and to impose any civil penalty provided for violation of that requirement. The district court shall have jurisdiction in actions brought under section 81-15,230 against the commission and the director to order the commission and the director to perform the act or duty concerned.

Source: Laws 1997, LB 374, § 41.

81-15,232 Civil action; restriction.

No action may be commenced under section 81-15,230 against an owner or operator of a facility if the administrator has commenced and is diligently pursuing an administrative order or civil action to enforce the requirement concerned or to impose a civil penalty under Title III with respect to the violation of the requirement.

Source: Laws 1997, LB 374, § 42.

81-15,233 Court award costs of litigation; attorney's fees.

(1) In issuing any final order in any action brought under the Nebraska Emergency Planning and Community Right to Know Act, the court may award costs of litigation, including reasonable attorney's fees and expert witness fees, to the prevailing or the substantially prevailing party if the court determines such an award is appropriate.

(2) Nothing in section 81-15,230 shall restrict or expand any right which any person or class of persons may have under any federal or state statute or common law to seek enforcement of any requirement of the act.

Source: Laws 1997, LB 374, § 43.

81-15,234 Intervention.

(1) In any action under the Nebraska Emergency Planning and Community Right to Know Act, the State of Nebraska, if not a party, may intervene as a matter of right.

(2) In any action under the act, any person may intervene as a matter of right when such person has a direct interest which is or may be adversely affected by the action and the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest.

Source: Laws 1997, LB 374, § 44.

81-15,235 Rules and regulations.

The Nebraska Emergency Management Agency shall as necessary adopt and promulgate rules and regulations to carry out its responsibilities under the Nebraska Emergency Planning and Community Right to Know Act. The Environmental Quality Council shall adopt and promulgate rules and regulations

necessary for the Department of Environment and Energy to carry out its responsibilities under the act.

Source: Laws 1997, LB 374, § 45; Laws 2019, LB302, § 150.

(t) PRIVATE ONSITE WASTEWATER TREATMENT
SYSTEM CONTRACTORS CERTIFICATION
AND SYSTEM REGISTRATION ACT

81-15,236 Act, how cited.

Sections 81-15,236 to 81-15,253 shall be known and may be cited as the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act.

Source: Laws 2003, LB 94, § 1; Laws 2007, LB333, § 1.

81-15,237 Purposes of act.

The purposes of the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act are to:

(1) Protect the air, water, and land of the state through the certification and regulation of private onsite wastewater treatment system professionals in Nebraska;

(2) Require that all siting, layout, construction, closure, reconstruction, alteration, modification, repair, inspection, or pumping of any private onsite wastewater treatment system be done by certified professionals, professional engineers licensed in Nebraska, or environmental health specialists registered in Nebraska in accordance with the act and rules and regulations adopted under the act;

(3) Provide for the registration of all private onsite wastewater treatment systems constructed, reconstructed, altered, or modified after August 31, 2003;

(4) Provide for review of plans and specifications, issuance of permits and approvals, construction standards, and requirements necessary for proper operation and maintenance of all private onsite wastewater treatment systems;

(5) Protect the health and general welfare of the citizens of Nebraska; and

(6) Protect the air, water, and land of the state from potential pollution by providing for proper siting, layout, construction, closure, reconstruction, alteration, modification, repair, and pumping of private onsite wastewater treatment systems.

Source: Laws 2003, LB 94, § 2; Laws 2007, LB333, § 2; Laws 2016, LB328, § 1.

81-15,238 Definitions, where found.

For purposes of the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act, the definitions in sections 81-15,239 to 81-15,244 shall be used.

Source: Laws 2003, LB 94, § 3.

81-15,239 Advisory committee, defined.

Advisory committee means the Private Onsite Wastewater Treatment System Advisory Committee created in section 81-15,245.

Source: Laws 2003, LB 94, § 4.

81-15,240 Certified professional, defined.

Certified professional means a private onsite wastewater treatment system professional certified under the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act to perform the tasks for which the certification has been issued.

Source: Laws 2003, LB 94, § 5.

81-15,241 Council, defined.

Council means the Environmental Quality Council.

Source: Laws 2003, LB 94, § 6.

81-15,242 Department, defined.

Department means the Department of Environment and Energy.

Source: Laws 2003, LB 94, § 7; Laws 2019, LB302, § 151.

81-15,243 Director, defined.

Director means the Director of Environment and Energy.

Source: Laws 2003, LB 94, § 8; Laws 2019, LB302, § 152.

81-15,244 Private onsite wastewater treatment system, defined.

Private onsite wastewater treatment system means any system of piping, treatment devices, or other appurtenances that convey, store, treat, or dispose of domestic or nondomestic wastewater, but not including wastewater from a livestock waste control facility, on the property where it originates or on nearby property under the control of the user, which system is not connected to a public sewer system.

Source: Laws 2003, LB 94, § 9.

81-15,245 Private Onsite Wastewater Treatment System Advisory Committee; created; members; expenses.

The Private Onsite Wastewater Treatment System Advisory Committee is created. The advisory committee shall be composed of the following eleven members:

- (1) Seven members appointed by the director as follows:
 - (a) Five private onsite wastewater treatment system professionals; and
 - (b) Two registered environmental health specialists or officials representing local public health departments which have established programs for regulating private onsite wastewater treatment systems;
- (2) The chief executive officer of the Department of Health and Human Services or his or her designee;
- (3) The Director of Environment and Energy or his or her designated representative; and

(4) One representative with experience in soils and geology and one representative with experience in biological engineering, both of whom shall be designated by the vice chancellor of the University of Nebraska Institute of Agriculture and Natural Resources.

Members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177. The department shall provide administrative support for the advisory committee.

Source: Laws 2003, LB 94, § 10; Laws 2007, LB296, § 761; Laws 2019, LB302, § 153; Laws 2020, LB381, § 125.

81-15,246 Advisory committee; duties.

The advisory committee shall:

(1) Meet not less often than annually as determined by the director. The director may call special meetings of the advisory committee;

(2) Advise the department on proposed rules and regulations relating to the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act;

(3) Advise the department on rules and regulations for the siting, layout, operation, and maintenance of private onsite wastewater treatment systems; and

(4) Advise the department on the administration of the act as requested by the director.

Source: Laws 2003, LB 94, § 11.

81-15,247 Rules and regulations.

The council shall adopt and promulgate rules and regulations to carry out the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act. Such rules and regulations shall provide for, but not be limited to:

(1) Certification of private onsite wastewater treatment system professionals;

(2) Establishing categories for such professionals to be certified under the act;

(3) Hardship certifications;

(4) Examination requirements for certification;

(5) Continuing education requirements for certification;

(6) A fee schedule which covers direct and indirect costs to administer the act. Such costs include (a) system registration, late fees for system registration, application for certification, examination, and renewal, late fees for renewal, hardship certifications, fees for continuing education classes offered or approved by the department, other continuing education costs, and administration, (b) development and enforcement of standards, and (c) investigation, inspection, and enforcement related to any private onsite wastewater treatment system;

(7) Requirements for the registration of private onsite wastewater treatment systems to be constructed, reconstructed, altered, modified, or inspected by professionals certified under the act; and

(8) Requiring that all private onsite wastewater treatment system siting, layout, construction, closure, reconstruction, alteration, modification, repair, inspection, or pumping be performed by certified professionals in accordance with the act, rules and regulations adopted under the act, and other rules and regulations adopted and promulgated by the council.

Source: Laws 2003, LB 94, § 12; Laws 2007, LB333, § 3; Laws 2016, LB328, § 2.

81-15,248 Private onsite wastewater treatment system; professional required; when; registration; inspection and registration; director; powers; waiver of fees authorized.

(1) A private onsite wastewater treatment system shall not be sited, laid out, constructed, closed, reconstructed, altered, modified, repaired, inspected, or pumped unless the siting, layout, construction, closure, reconstruction, alteration, modification, repair, inspection, or pumping is carried out or supervised by either a certified professional as required by the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act, a professional engineer licensed in Nebraska, or a registered environmental health specialist registered in Nebraska.

(2) Any private onsite wastewater treatment system constructed, reconstructed, altered, or modified by a certified professional, professional engineer licensed in Nebraska, or registered environmental health specialist registered in Nebraska shall be registered with the department by the certified professional, professional engineer, or registered environmental health specialist within forty-five days of completion of the construction, reconstruction, alteration, or modification. The certified professional, professional engineer, or registered environmental health specialist shall submit the registration on forms provided by the department and shall include the registration fee. The registration fee shall be fifty dollars until rules and regulations adopted and promulgated under the act provide a schedule of system registration fees adequate to cover direct and indirect program costs.

(3) The director by contract may delegate onsite wastewater treatment system inspection and registration to a governmental subdivision which has adopted a program at least as stringent as the requirements provided by the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act and which has demonstrated authority to administer and enforce its onsite wastewater treatment system inspection and registration program.

(4) The director may waive certification and examination fees for inspectors employed by a governmental agency or subdivision which has adopted and has the authority to enforce an inspection and compliance program at least as stringent as the standards for siting, layout, construction, closure, reconstruction, alteration, modification, repair, inspection, and pumping provided by the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act and rules and regulations under the act adopted and promulgated by the council.

Source: Laws 2003, LB 94, § 13; Laws 2004, LB 449, § 14; Laws 2007, LB333, § 4.

81-15,248.01 Fee schedule.

The council shall adopt and promulgate rules and regulations to develop a fee schedule which covers direct and indirect costs to administer requirements related to private onsite wastewater treatment systems authorized by the Environmental Protection Act. Such costs include costs related to review of submitted plans and specifications, issuance of permits and approvals, proper operation and maintenance, development and enforcement of standards, closure, administration, investigation, inspection, and enforcement.

Source: Laws 2007, LB333, § 5; Laws 2016, LB328, § 3.

Cross References

Environmental Protection Act, see section 81-1532.

81-15,249 Certificate; grounds for discipline.

The director may revoke, suspend, or refuse to grant or renew a certificate issued pursuant to the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act, following opportunity for hearing, upon any reasonable ground, including, but not limited to, the following: (1) The certificate holder has engaged in fraud or deception; (2) the certificate holder has failed to meet the requirements of the act, the Environmental Protection Act, or rules and regulations of the council; (3) the certificate holder is unable to properly perform duties required by the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act; (4) the certificate holder has failed to maintain the minimum requirements of a certificate holder under the act; (5) the certificate holder has failed to demonstrate the required continuing education proficiency under the act; or (6) the certificate holder has failed to perform any other requirements of a certificate holder in accordance with the act or the rules and regulations adopted under the act.

Source: Laws 2003, LB 94, § 14.

Cross References

Environmental Protection Act, see section 81-1532.

81-15,250 Private Onsite Wastewater Treatment System Permit and Approval Cash Fund; created; investment.

The Private Onsite Wastewater Treatment System Permit and Approval Cash Fund is created. Fees collected pursuant to section 81-15,248.01 shall be remitted to the State Treasurer for credit to the fund. The fund shall be administered by the department. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Any money remaining in the Private Onsite Wastewater Treatment System Cash Fund on March 8, 2007, shall be transferred to the Private Onsite Wastewater Treatment System Certification and Registration Cash Fund created under section 81-15,250.01 on such date.

Source: Laws 2003, LB 94, § 15; Laws 2007, LB333, § 6.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,250.01 Private Onsite Wastewater Treatment System Certification and Registration Cash Fund; created; investment.

The Private Onsite Wastewater Treatment System Certification and Registration Cash Fund is created. Fees collected pursuant to sections 81-15,247 and 81-15,248 shall be remitted to the State Treasurer for credit to the fund. The fund shall be administered by the department. 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 2007, LB333, § 7.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-15,251 Certified professionals; additional requirements.

The requirements of sections 81-1506 to 81-1511 shall apply to certified professionals.

Source: Laws 2003, LB 94, § 16.

81-15,252 Act; applicability.

The Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act does not apply to a private onsite wastewater treatment system at an electric generation facility site owned by a district organized under Chapter 70, article 6.

Source: Laws 2003, LB 94, § 17.

81-15,253 Violation; penalty.

Any person violating any provision of the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act or rules and regulations adopted and promulgated pursuant to the act shall be subject to a civil penalty of not more than ten thousand dollars for each such violation. In the case of a continuing violation, each day shall constitute a separate violation.

Source: Laws 2003, LB 94, § 18.

(u) MERGER OF STATE ENERGY OFFICE AND DEPARTMENT OF ENVIRONMENTAL QUALITY**81-15,254 Department of Environment and Energy; Director of Environment and Energy; employees of State Energy Office; transfer; how treated.**

(1) On and after July 1, 2019, the State Energy Office shall be merged into the Department of Environmental Quality which shall be renamed as the Department of Environment and Energy and the Director of Environmental Quality shall be renamed as the Director of Environment and Energy.

(2) On and after July 1, 2019, positions of employment in the State Energy Office related to the powers, duties, and functions transferred to the Department of Environment and Energy pursuant to Laws 2019, LB302, are transferred to the Department of Environment and Energy. For purposes of the transition, employees of the State Energy Office shall be considered employees

of the Department of Environment and Energy and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the department or the director from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2019, LB302, § 1.

81-15,255 Appropriation and salary limit of State Energy Office; how treated.

Any appropriation and salary limit provided in any legislative bill enacted by the One Hundred Sixth Legislature, First Session, to Agency No. 71, State Energy Office, in the following program classification, shall be null and void, and any such amounts are hereby appropriated to Agency No. 84, Department of Environment and Energy: Program No. 106, Energy Office Administration. Any financial obligations of the State Energy Office that remain unpaid as of June 30, 2019, and that are subsequently certified as valid encumbrances to the accounting division of the Department of Administrative Services pursuant to sections 81-138.01 to 81-138.04, shall be paid by the Department of Environment and Energy from the unexpended balance of appropriations existing in such program classifications on June 30, 2019.

Source: Laws 2019, LB302, § 2.

81-15,256 References to State Energy Office or Department of Environmental Quality in contracts or other documents; how construed; contracts and property; how treated.

On and after July 1, 2019, whenever the State Energy Office or the Department of Environmental Quality is referred to or designated by any contract or other document in connection with the duties and functions of the Department of Environment and Energy, such reference or designation shall apply to the Department of Environment and Energy. All contracts entered into by the State Energy Office or the Department of Environmental Quality prior to July 1, 2019, in connection with the duties and functions of the Department of Environment and Energy are hereby recognized, with the Department of Environment and Energy succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to such department for the payments of such obligations. All documents and records transferred, or copies of the same, may be authenticated or certified by such department for all legal purposes.

Source: Laws 2019, LB302, § 3.

81-15,257 Actions and proceedings; how treated.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2019, or which could have been commenced prior to that date, by or against the State Energy Office or the Department of Environmental Quality, or the director or any employee thereof in such di-

rector's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the State Energy Office to the Department of Environment and Energy or the renaming of the Department of Environmental Quality as the Department of Environment and Energy.

Source: Laws 2019, LB302, § 4.

81-15,258 Provisions of law; how construed.

On and after July 1, 2019, unless otherwise specified, whenever any provision of law refers to the State Energy Office or the Department of Environmental Quality in connection with duties and functions of the Department of Environment and Energy, such law shall be construed as referring to the Department of Environment and Energy.

Source: Laws 2019, LB302, § 5.

81-15,259 Property of State Energy Office; transfer to Department of Environment and Energy.

On July 1, 2019, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the State Energy Office pertaining to the duties and functions transferred to the Department of Environment and Energy pursuant to Laws 2019, LB302, shall become the property of such department.

Source: Laws 2019, LB302, § 6.

(v) VOLKSWAGEN SETTLEMENT CASH FUND

81-15,260 Volkswagen Settlement Cash Fund; created; use; investment.

The Volkswagen Settlement Cash Fund is created. The fund shall be administered by the Department of Environment and Energy. All sums of money received from the Volkswagen Settlement shall be deposited in the fund. The department shall expend the fund in accordance with the department use plan. 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 balance of any account established to receive and expend revenue from the Volkswagen Settlement shall be transferred to the Volkswagen Settlement Cash Fund.

Source: Laws 2019, LB298, § 22.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(w) ENVIRONMENTAL SAFETY ACT

81-15,261 Environmental Safety Act, how cited.

Sections 81-15,261 to 81-15,292 shall be known and may be cited as the Environmental Safety Act.

Source: Laws 2021, LB148, § 1.

81-15,262 Legislative findings.

The Legislature finds that:

- (1) Best practices in environmental safety and protection recognize that the regulation of water supply and disposal infrastructure are connected;
- (2) The proper design, construction, and monitoring of water and wastewater uses is critical for the safety and sustainability of communities in the State of Nebraska;
- (3) The regulation of mobile homes, recreation camps, and swimming pools provide fundamental environmental safety for persons who use them; and
- (4) Consolidating the administration of state environmental safety programs and the environmental and water programs of the United States Environmental Protection Agency delegated to the State of Nebraska into the Department of Environment and Energy will better serve the communities in the State of Nebraska.

Source: Laws 2021, LB148, § 2.

81-15,263 Environmental Safety Act; terms, defined.

For purposes of the Environmental Safety Act:

- (1) Department means the Department of Environment and Energy; and
- (2) Director means the Director of Environment and Energy.

Source: Laws 2021, LB148, § 3.

81-15,264 Swimming pool, defined.

For purposes of sections 81-15,264 to 81-15,270, unless the context otherwise requires:

- (1) Swimming pool means any artificial basin of water modified, improved, constructed, or installed solely for the purpose of public swimming, wading, diving, recreation, or instruction;
- (2) Swimming pool includes, but is not limited to, a pool serving a community, a subdivision, an apartment complex, a condominium, a club, a camp, a school, an institution, a park, a manufactured home park, a hotel, a motel, a recreational area, or a water park;
- (3) Swimming pool includes a spa, hot tub, or whirlpool or similar device which (a) is designed for recreational use and not to be drained, cleaned, and refilled after each individual use and (b) may consist of elements, including, but not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction systems, or any combination thereof; and
- (4) Swimming pool does not include an artificial lake, a pool at a private residence intended only for the use of the owner and guests, or a pool operated exclusively for medical treatment, physical therapy, water rescue training, or training of divers.

Source: Laws 1969, c. 760, § 1, p. 2875; Laws 2002, LB 1021, § 81; R.S.1943, (2018), § 71-4301; Laws 2021, LB148, § 4.

81-15,265 Swimming pools; sanitary and safety requirements.

The department shall prepare, adopt, and have available minimum sanitary and safety requirements in the form of regulations for the design, construction, equipment, and operation of swimming pools and bather preparation facilities.

Such requirements shall include, but not be limited to, provisions for waiver or variance of design standards and the circumstances under which such waiver or variance may be granted.

Source: Laws 1969, c. 760, § 2, p. 2876; Laws 1996, LB 1044, § 669; Laws 2002, LB 1021, § 82; Laws 2007, LB296, § 580; R.S.1943, (2018), § 71-4302; Laws 2021, LB148, § 5.

81-15,266 Swimming pools; construction; permit; issuance; when.

No swimming pool shall be constructed after January 1, 1970, unless and until plans, specifications, and any additional information relative to such pool as may be requested by the department shall have been submitted to the department and after review by the department found to comply with the minimum sanitary and safety requirements provided in section 81-15,265 and a permit for the construction of the pool issued by the department.

Source: Laws 1969, c. 760, § 3, p. 2876; Laws 1996, LB 1044, § 670; Laws 2007, LB296, § 581; R.S.1943, (2018), § 71-4303; Laws 2021, LB148, § 6.

81-15,267 Swimming pools; permit to operate; application; requirements.

After January 1, 1970, swimming pools shall have equipment and shall be operated so as to comply with the minimum sanitary and safety requirements provided in section 81-15,265. After such date no swimming pool shall operate until it has received a permit from the department. Application for a permit to operate shall be submitted on forms provided by the department. Swimming pools constructed prior to January 1, 1970, which do not fully comply with the minimum sanitary and safety requirements as regards design and construction may be continued in use for such period as the department may authorize if the equipment and operation of such swimming pool comply with the minimum sanitary and safety requirements.

Source: Laws 1969, c. 760, § 4, p. 2876; Laws 1996, LB 1044, § 671; Laws 2007, LB296, § 582; R.S.1943, (2018), § 71-4304; Laws 2021, LB148, § 7.

81-15,268 Swimming pools; inspection; records; classification; plans and specifications; fees; disposition; exception; existing rules, regulations, licenses, permits, forms of approval, suits, other proceedings; how treated.

(1) The department shall make at least one inspection every year of each swimming pool to determine that such swimming pool complies with the minimum sanitary and safety requirements.

(2) The owner and operator of any swimming pool shall submit such operation and analytical records as may be requested at any time by the department to determine the sanitary and safety condition of the swimming pool.

(3) The department shall adopt and promulgate rules and regulations which classify swimming pools on the basis of criteria deemed appropriate by the department. The department shall charge engineering firms, swimming pool owners, and other appropriate parties fees established by rules and regulations for the review of plans and specifications of a swimming pool, the issuance of a license or permit, the inspection of a swimming pool, and any other services

rendered at a rate which defrays no more than the actual cost of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure. Fees collected under this subsection for the review of plans and specifications shall be remitted to the State Treasurer for credit to the Engineering Plan Review Cash Fund. All other fees collected under this subsection shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund. The department shall not charge a municipal corporation an inspection fee for an inspection of a swimming pool owned by such municipal corporation.

(4) The department shall establish and collect fees for certificates of competency for swimming pool operators. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund.

(5) All rules and regulations adopted prior to July 1, 2021, under sections 81-15,264 to 81-15,270, as such sections existed prior to such date, shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148, until amended or repealed by the department.

(6) All licenses, permits, or other forms of approval issued prior to July 1, 2021, in accordance with sections 81-15,264 to 81-15,270, as such sections existed prior to such date, shall remain valid as issued for purposes of the changes made by Laws 2021, LB148, unless revoked or otherwise terminated by law.

(7) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to July 1, 2021, under sections 81-15,264 to 81-15,270, as such sections existed prior to such date, shall be subject to the provisions of such sections as they existed prior to July 1, 2021.

Source: Laws 1969, c. 760, § 5, p. 2876; Laws 1973, LB 583, § 12; Laws 1976, LB 440, § 1; Laws 1978, LB 812, § 2; Laws 1983, LB 617, § 23; Laws 1986, LB 1047, § 5; Laws 1996, LB 1044, § 672; Laws 2002, LB 1021, § 83; Laws 2003, LB 242, § 123; Laws 2007, LB296, § 583; Laws 2007, LB463, § 1217; R.S.1943, (2018), § 71-4305; Laws 2021, LB148, § 8.

81-15,269 Swimming pools; inspection; violation of sections; effect.

Whenever any duly authorized representative of the department finds that a swimming pool is being constructed, equipped, or operated in violation of any of the provisions of sections 81-15,264 to 81-15,270, the department may grant such time as in its opinion may reasonably be necessary for changing the construction or providing for the proper operation of the swimming pool to meet the provisions of sections 81-15,264 to 81-15,270. If and when the duly authorized representative of the department upon inspection and investigation of a swimming pool considers that the conditions are such as to warrant prompt closing of such swimming pool until the provisions of sections 81-15,264 to 81-15,270 are complied with, the representative of the department shall notify the owner or operator of the swimming pool to prohibit any person from using the swimming pool and upon such notification to the sheriff and the county attorney of the county in which such pool is located, such county attorney and sheriff shall cause the notice of the representative of the department to be enforced. If and when the owner or operator of the pool has, in the opinion of the department, met the provisions of sections 81-15,264 to

81-15,270, the department may in writing authorize the use again of such swimming pool.

Source: Laws 1969, c. 760, § 6, p. 2876; Laws 1996, LB 1044, § 673; Laws 2007, LB296, § 584; R.S.1943, (2018), § 71-4306; Laws 2021, LB148, § 9.

81-15,270 Swimming pools; violation; public nuisance; abatement.

Any owner or operator of a swimming pool failing to comply with any of the provisions of sections 81-15,264 to 81-15,270 shall be guilty of maintaining a public nuisance, and it shall be the duty of the county attorney of the county in which such swimming pool is located to act as provided by law for the abatement of public nuisances.

Source: Laws 1969, c. 760, § 7, p. 2877; R.S.1943, (2018), § 71-4307; Laws 2021, LB148, § 10.

81-15,271 Recreation camps; terms, defined.

For purposes of sections 81-15,271 to 81-15,277, unless the context otherwise requires:

(1) Recreation camp means one or more temporary or permanent tents, buildings, structures, or site pads, together with the tract of land appertaining thereto, established or maintained for more than a consecutive forty-eight-hour period as living quarters or sites used for purposes of sleeping or the preparation and the serving of food extending beyond the limits of a family group for children or adults, or both, for recreation, education, or vacation purposes, and including facilities located on either privately or publicly owned lands except hotels or inns; and

(2) Person means any individual or group of individuals, association, partnership, limited liability company, or corporation.

Source: Laws 1959, c. 328, § 1, p. 1193; Laws 1993, LB 121, § 432; Laws 1996, LB 1044, § 641; Laws 1997, LB 622, § 106; Laws 2007, LB296, § 556; R.S.1943, (2018), § 71-3101; Laws 2021, LB148, § 11.

81-15,272 Recreation camps; permit; application; issuance; fees; disposition.

Before any person shall directly or indirectly operate a recreation camp he or she shall make an application to the department and receive a valid permit for the operation of such camp. Application for such a permit shall be made at least thirty days prior to the proposed operation of the camp and shall be on forms supplied by the department upon request. The application shall be in such form and contain such information as the department may deem necessary to its determination that the recreation camp will be operated and maintained in such a manner as to protect and preserve the health and safety of the persons using the camp and shall be accompanied by an annual fee. The department may establish fees by regulation to defray the actual costs of issuing the permit, conducting inspections, and other expenses incurred by the department in carrying out this section. If a person operates or is seeking to operate more than one recreation camp, a separate application shall be made for each camp. Such a permit shall not be transferable or assignable. A permit shall expire on March 31 of the following year after its issuance, upon a change of

operator of the camp, or upon revocation. If the department finds, after investigation, that the camp or the proposed operation thereof conforms, or will conform, to the minimum standards for recreation camps, a permit on a form prescribed by the department shall be issued for operation of the camp. All fees shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund.

Source: Laws 1959, c. 328, § 2, p. 1193; Laws 1965, c. 419, § 7, p. 1345; Laws 1978, LB 813, § 2; Laws 1996, LB 1044, § 642; Laws 1997, LB 622, § 107; Laws 1997, LB 752, § 179; Laws 2007, LB296, § 557; R.S.1943, (2018), § 71-3102; Laws 2021, LB148, § 12.

81-15,273 Recreation camps; annual inspection; duty of department.

It shall be the duty of the department to make at least one annual inspection of each recreation camp. The duly authorized representatives of the department shall have the right of entry and access to any such camp at any reasonable time.

Where, upon inspection, it is found that there is failure to protect the health and safety of the persons using the camp, or a failure to comply with the camp regulations prescribed by the department, the department shall give notice to the camp operator of such failure, which notice shall set forth the reason or reasons for such failure.

Source: Laws 1959, c. 328, § 3, p. 1194; R.S.1943, (2018), § 71-3103; Laws 2021, LB148, § 13.

81-15,274 Recreation camps; permit; suspension; revocation; grounds.

(1) A permit may be temporarily suspended by the department for failure to protect the health and safety of the occupants of the camp or failure to comply with the camp regulations prescribed by the department.

(2) A permit may be revoked at any time, after notice and opportunity for a fair hearing held by the department, if it is found that the camp for which the permit is issued is maintained or operated in violation of law or of any regulations applicable to a camp or in violation of the conditions stated in the permit. A new permit shall not be issued until the department is satisfied that the camp will be operated in compliance with the law and regulations.

Source: Laws 1959, c. 328, § 4, p. 1194; Laws 1996, LB 1044, § 643; Laws 2007, LB296, § 558; R.S.1943, (2018), § 71-3104; Laws 2021, LB148, § 14.

81-15,275 Recreation camps; rules and regulations; existing rules, regulations, permits, forms of approval, suits, other proceedings; how treated.

(1) The department is authorized to and shall formulate, adopt, publish, promulgate, and enforce such reasonable rules and regulations as it deems necessary to enforce sections 81-15,271 to 81-15,277 and to protect the health and welfare of persons in attendance at recreation camps.

(2) All rules and regulations adopted prior to July 1, 2021, under sections 81-15,271 to 81-15,277, as such sections existed prior to such date, shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148, and until amended or repealed by the department.

(3) All permits or other forms of approval issued prior to July 1, 2021, in accordance with sections 81-15,271 to 81-15,277, as such sections existed prior to such date, shall remain valid as issued for purposes of the changes made by Laws 2021, LB148, unless revoked or otherwise terminated by law.

(4) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to July 1, 2021, under sections 81-15,271 to 81-15,277, as such sections existed prior to such date, shall be subject to the provisions of such sections as they existed prior to July 1, 2021.

Source: Laws 1959, c. 328, § 5, p. 1194; R.S.1943, (2018), § 71-3105; Laws 2021, LB148, § 15.

81-15,276 Recreation camps; plans; submit to department.

Properly prepared plans for all recreation camps which are hereafter constructed, reconstructed, or extensively altered shall be submitted to the department before such work is begun. Signed approval shall be obtained from the department.

Source: Laws 1959, c. 328, § 6, p. 1194; R.S.1943, (2018), § 71-3106; Laws 2021, LB148, § 16.

81-15,277 Recreation camps; violations; penalty.

Any person who shall violate any of the provisions of sections 81-15,271 to 81-15,277 or of the regulations or standards adopted and promulgated under such sections shall be guilty of a Class V misdemeanor.

Source: Laws 1959, c. 328, § 7, p. 1195; Laws 1977, LB 39, § 170; R.S.1943, (2018), § 71-3107; Laws 2021, LB148, § 17.

81-15,278 Uniform Standard Code for Mobile Home Parks, how cited.

Sections 81-15,278 to 81-15,291 shall be known and may be cited as the Uniform Standard Code for Mobile Home Parks.

Source: Laws 1976, LB 91, § 14; R.S.1943, (2018), § 71-4634; Laws 2021, LB148, § 18.

81-15,279 Mobile home parks; terms, defined.

As used in the Uniform Standard Code for Mobile Home Parks, unless the context otherwise requires:

(1) Mobile home means a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit. Mobile home includes a manufactured home as defined in section 71-4603;

(2) Mobile home lot means a designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants;

(3) Mobile home park means a parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile

homes for occupancy. The term mobile home park shall not be construed to include mobile homes, buildings, tents, or other structures temporarily maintained by any individual, corporation, limited liability company, company, or other entity on its own premises and used exclusively to house its own labor force; and

(4) Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity, and includes any trustee, receiver, assignee, or other legal representative thereof.

Source: Laws 1976, LB 91, § 1; Laws 1985, LB 313, § 24; Laws 1993, LB 121, § 436; Laws 1996, LB 1044, § 678; Laws 2007, LB296, § 586; R.S.1943, (2018), § 71-4621; Laws 2021, LB148, § 19.

81-15,280 Mobile home parks; license required; term; existing licenses, forms of approval, rules, regulations, suits, other proceedings; how treated.

(1) No person shall establish, conduct, operate, or maintain a mobile home park within this state without first obtaining an annual license therefor from the department. Such license shall be issued for the calendar year applied for and shall expire at midnight on December 31 of such year.

(2) All licenses, permits, or other forms of approval issued prior to July 1, 2021, in accordance with the Uniform Standard Code for Mobile Home Parks shall remain valid as issued for purposes of the changes made by Laws 2021, LB148, unless revoked or otherwise terminated by law.

(3) All rules and regulations adopted prior to July 1, 2021, under the Uniform Standard Code for Mobile Home Parks shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148, and until amended or repealed by the department.

(4) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to July 1, 2021, under the Uniform Standard Code for Mobile Home Parks shall be subject to the provisions of the code as they existed prior to July 1, 2021.

Source: Laws 1976, LB 91, § 2; R.S.1943, (2018), § 71-4622; Laws 2021, LB148, § 20.

81-15,281 Mobile home parks; license; application.

The application for such annual license to conduct, operate, and maintain a mobile home park shall be submitted in writing or by electronic format and shall include the full name and address of the applicant or applicants, the names and addresses of the partners if the applicant is a partnership, the names and addresses of the members if the applicant is a limited liability company, or the names and addresses of the officers if the applicant is a corporation, and the current or most recent occupation of the applicant at the time of the filing of the application, and such other pertinent data as the department may require by regulation.

Source: Laws 1976, LB 91, § 3; Laws 1993, LB 121, § 437; Laws 1997, LB 752, § 183; Laws 2008, LB797, § 17; R.S.1943, (2018), § 71-4623; Laws 2021, LB148, § 21.

81-15,282 Mobile home parks; license; application; fees; disposition; inspection.

(1) The application for the first or initial annual license shall be submitted with the requirements mentioned in section 81-15,281 accompanied by the appropriate fees. The department by regulation shall charge engineering firms, mobile home park owners and operators, and other appropriate parties fees established by regulation for the review of plans and specifications of a mobile home park, the issuance of a license or permit, the inspection of a mobile home park, and any other services rendered at a rate which defrays no more than the actual costs of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure.

(2) Fees collected by the department under this section for the review of plans and specifications shall be remitted to the State Treasurer for credit to the Engineering Plan Review Cash Fund. All other fees collected by the department under the Uniform Standard Code for Mobile Home Parks shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the Uniform Standard Code for Mobile Home Parks.

(3) When any application is received, the department shall cause the mobile home park and appurtenances to be inspected by representatives of the department. When such inspection has been made and the department finds that all of the provisions of the Uniform Standard Code for Mobile Home Parks and the rules, regulations, and standards of the department have been met by the applicant, the department shall issue an annual license. Inspection by the department or its authorized representatives at any time of a mobile home park shall be a condition of continued licensure.

Source: Laws 1976, LB 91, § 4; Laws 1983, LB 617, § 25; Laws 1984, LB 916, § 63; Laws 1986, LB 1047, § 6; Laws 1991, LB 703, § 51; Laws 1996, LB 1044, § 679; Laws 2007, LB296, § 587; R.S.1943, (2018), § 71-4624; Laws 2021, LB148, § 22.

81-15,283 Mobile home parks; sanitary facilities; permit; exception; application; issuance.

No person shall construct, expand, remodel, or make alterations to the sanitary facilities in a mobile home park within this state without first obtaining a permit therefor from the department, except that no such permit shall be required in the making of minor repairs or in matters of general maintenance. The application for such permit shall be made to the department in such manner as may be prescribed by regulations of the department, which shall require the applicant to supply plans and specifications and otherwise provide a description of the nature, type, location, and extent of the sanitary facilities contemplated. When the application has been approved, the department shall issue a permit to the applicant to construct, expand, remodel, or make alterations to sanitary facilities, including water and sewage disposal, upon a mobile home park and the appurtenances thereto according to the plans and specifications and other data submitted with the approved application. No approval of plans and specifications and issuance of a permit to construct, expand, remodel, or make alterations upon a mobile home park and the appurtenances thereto by the department shall be made unless such park is in compliance with the

Uniform Standard Code for Mobile Home Parks and the rules, regulations, and standards of the department. Such a permit does not relieve the applicant from obtaining building permits when located within a municipality or county having a building code or from complying with any other municipal or county resolution, ordinance, or regulation applicable thereto, and not in conflict with the Uniform Standard Code for Mobile Home Parks.

Source: Laws 1976, LB 91, § 5; R.S.1943, (2018), § 71-4625; Laws 2021, LB148, § 23.

81-15,284 Mobile home parks; sanitary facilities permit; denial; procedures; appeal.

If the application for a permit to construct, expand, remodel, or make alterations upon a mobile home park and the appurtenances thereto, pursuant to section 81-15,283, is denied by the department, it shall so state in writing, giving the reasons for denying the application. If the objection can be corrected, the applicant may amend his or her application and resubmit it for approval. No such permit shall be denied except after due notice and opportunity for a hearing before the department pursuant to the Administrative Procedure Act. Any denial of such permit may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1976, LB 91, § 6; Laws 1988, LB 352, § 135; R.S.1943, (2018), § 71-4626; Laws 2021, LB148, § 24.

Cross References

Administrative Procedure Act, see section 84-920.

81-15,285 Mobile home parks; permit or license approved; records.

When the department has approved an application for a permit to construct, expand, remodel, or make alterations upon a mobile home park or appurtenances thereto, pursuant to section 81-15,283, or a license to establish, conduct, operate, or maintain a mobile home park, it shall retain the original and keep a file thereof. One copy shall be returned to the applicant or his or her agent.

Source: Laws 1976, LB 91, § 7; R.S.1943, (2018), § 71-4627; Laws 2021, LB148, § 25.

81-15,286 Mobile home parks; utility systems and sanitary conditions; standards.

The department shall adopt, promulgate, and enforce by rules and regulations standards governing utility systems and sanitary conditions for mobile home parks. The department shall not adopt or enforce by rules and regulations any design, construction, or land-use standards for any mobile home park.

Source: Laws 1976, LB 91, § 9; Laws 1997, LB 622, § 108; R.S.1943, (2018), § 71-4629; Laws 2021, LB148, § 26.

81-15,287 Uniform Standard Code for Mobile Home Parks; applicability; certificate of exemption; procedure.

(1) The Uniform Standard Code for Mobile Home Parks shall not apply to any mobile home park located within the jurisdiction of any city, village, or county which provides for the regulation of mobile home parks by resolution, ordi-

nance, or regulation which at a minimum is not less stringent than the then current standards and specifications, and all subsequent revisions and amendments thereto, approved, adopted, and promulgated by the department, as such standards and specifications apply to mobile home parks. No such resolution, ordinance, or regulation shall become effective until a certificate of exemption has been issued by the department. Such certificate of exemption shall be available for inspection in the office of the city or county clerk as the case may be.

(2) If the department shall determine at any time after the issuance of such a certificate of exemption that such a resolution, ordinance, or regulation is being enforced in a manner contrary to or inconsistent with the standards mentioned in subsection (1) of this section or is otherwise being improperly enforced in any city, village, or county holding a certificate of exemption, the department may revoke the certificate of exemption and the Uniform Standard Code for Mobile Home Parks shall apply in such city, village, or county until such standards are met and enforced and a new certificate is issued.

(3) Any city, village, or county desiring a certificate of exemption shall make application for such certificate by filing a petition for a certificate of exemption with the department. The department shall promptly investigate such petition. If the recommendation of the department is against the granting of a certificate of exemption and the applicant requests that a formal hearing be held, a formal hearing shall be held on the questions of whether (a) the resolution, ordinance, or regulation is at a minimum as stringent as the standards mentioned in subsection (1) of this section, (b) the resolution, ordinance, or regulation is being enforced in a manner contrary to or inconsistent with such standards or is otherwise being improperly enforced, and (c) adequate provisions have been made for enforcement. The burden of proof thereof shall be upon the applicant. A like formal hearing shall be held upon any proposed revocation of a certificate of exemption upon the request of the holder thereof. The procedure governing hearings authorized by this subsection shall be in accordance with the Administrative Procedure Act. The decision to deny or revoke a certificate of exemption may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1976, LB 91, § 10; Laws 1988, LB 352, § 136; R.S.1943, (2018), § 71-4630; Laws 2021, LB148, § 27.

Cross References

Administrative Procedure Act, see section 84-920.

81-15,288 Mobile home parks; licenses; issuance; denial, refusal of renewal, suspension, or revocation; civil penalty; grounds; notice; hearing; appeal.

(1) The department shall issue licenses for the establishment, operation, and maintenance of mobile home parks which are found to comply with the Uniform Standard Code for Mobile Home Parks and such rules, regulations, and standards as are lawfully adopted and promulgated by the department pursuant thereto.

(2) The department shall deny, refuse renewal of, suspend, or revoke licenses or impose a civil penalty not to exceed two thousand dollars per day on any of the following grounds:

(a) Violation of any of the provisions of the code or the rules, regulations, and standards lawfully adopted and promulgated pursuant thereto;

(b) Permitting, aiding, or abetting the commission of any unlawful act; or

(c) Conduct or utility or sanitation practices detrimental to the health or safety of residents of a mobile home park.

(3) Should the department determine to deny, refuse renewal of, suspend, or revoke a license or impose a civil penalty, it shall send to the applicant or licensee, by either certified or registered mail, a notice setting forth the specific reasons for the determination.

(4) The denial, refusal of renewal, suspension, revocation, or imposition of a civil penalty shall become final thirty days after the mailing of the notice in all cases of failure to pay the required licensure fee if not paid by the end of such period, and in all other instances unless the applicant or licensee, within such thirty-day period, shall give written notice of a desire for a hearing. Thereupon the applicant or licensee shall be given opportunity for a formal hearing before the department and shall have the right to present evidence on his or her own behalf.

(5) The procedure governing hearings authorized by this section shall be in accordance with the Administrative Procedure Act. On the basis of the evidence presented, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the findings of facts and the specific reasons upon which it is based shall be sent by either certified or registered mail to the applicant or licensee. The applicant or licensee may appeal such decision, and the appeal shall be in accordance with the Administrative Procedure Act.

(6) The department shall remit any collected civil penalty to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1976, LB 91, § 11; Laws 1988, LB 352, § 137; Laws 2008, LB797, § 18; R.S.1943, (2018), § 71-4631; Laws 2021, LB148, § 28.

Cross References

Administrative Procedure Act, see section 84-920.

81-15,289 Mobile home parks; violations; nuisance; penalty; removal.

Any person who establishes, conducts, operates, or maintains a mobile home park without first obtaining a license therefor from the department as provided in the Uniform Standard Code for Mobile Home Parks shall be guilty of a Class IV misdemeanor, and each day such mobile home park shall operate without a license after a first conviction shall be considered a separate offense. Such person shall also be guilty of maintaining a nuisance pursuant to section 28-1321, and upon conviction thereof, in addition to payment of the fine, such nuisance shall be removed.

Source: Laws 1976, LB 91, § 12; Laws 1977, LB 41, § 61; Laws 1978, LB 748, § 38; R.S.1943, (2018), § 71-4632; Laws 2021, LB148, § 29.

81-15,290 Mobile home parks; operation without license; action by department; burden of proof.

The department may, in accordance with the laws governing injunctions and other process, maintain an action in the name of the state against any person for establishing, conducting, operating, or maintaining any mobile home park without first having a license therefor from the department as provided in the

Uniform Standard Code for Mobile Home Parks. In charging any defendant in a complaint in such action, it shall be sufficient to charge that such defendant did, upon a certain day and in a certain county, establish, conduct, operate, or maintain a mobile home park without having a license to do so without averring any further or more particular facts concerning the same.

Source: Laws 1976, LB 91, § 13; R.S.1943, (2018), § 71-4633; Laws 2021, LB148, § 30.

81-15,291 Mobile home parks; fire safety inspection; fee.

The department may request the State Fire Marshal to inspect for fire safety any mobile home park for which a license or renewal of a license is sought, pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 and payable by the licensee or applicant for a license. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502.

Source: Laws 1983, LB 498, § 4; Laws 1996, LB 1044, § 680; Laws 2007, LB296, § 588; R.S.1943, (2018), § 71-4635; Laws 2021, LB148, § 31.

81-15,292 Private water supply; private sewage disposal facilities; inspection; fees; existing rules and regulations; how treated.

(1) The department shall collect a fee of not less than sixty nor more than one hundred dollars, as determined by regulation, for each inspection of private water supply or private sewage disposal facilities requested of and made by the department in order for the person requesting the inspection to qualify for any type of commercial loan, guarantee, or other type of payment or benefit from any commercial agency or enterprise to the person applying for or receiving the same or to meet the requirements of any federal governmental agency, including, but not limited to, the Rural Development Agency of the United States Department of Agriculture, the Federal Housing Administration, and the United States Department of Veterans Affairs, that such an inspection be conducted as a condition of applying for or receiving any type of grant, loan, guarantee, or other type of payment or benefit from such agency to the person applying for or receiving the same. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund.

(2) The Director of Environment and Energy shall adopt and promulgate rules and regulations determining the fee required pursuant to this section.

(3) All rules and regulations adopted and promulgated prior to July 1, 2021, under this section shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148, until amended or repealed by the department.

Source: Laws 1973, LB 583, § 5; Laws 1978, LB 814, § 1; Laws 1983, LB 617, § 22; Laws 1991, LB 2, § 13; Laws 1996, LB 1044, § 639; Laws 2007, LB296, § 555; R.S.1943, (2018), § 71-2622; Laws 2021, LB148, § 32.

(x) TRANSFER OF POWERS, DUTIES, AND FUNCTIONS
UNDER ENVIRONMENTAL SAFETY ACT**81-15,293 Employees of Department of Health and Human Services; transfer to Department of Environment and Energy; how treated.**

On and after July 1, 2021, positions of employment in the Department of Health and Human Services related to the powers, duties, and functions transferred to the Department of Environment and Energy pursuant to Laws 2021, LB148, are transferred to the Department of Environment and Energy. For purposes of the transition, employees of the Department of Health and Human Services shall be considered employees of the Department of Environment and Energy and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the Department of Environment and Energy or the Director of Environment and Energy from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2021, LB148, § 33.

81-15,294 Appropriation and salary limit; financial obligations; how treated.

Any appropriation and salary limit provided in any legislative bill enacted by the One Hundred Seventh Legislature, First Session, to Agency No. 25, Department of Health and Human Services, regarding the powers, duties, and functions transferred to the Department of Environment and Energy by Laws 2021, LB148, shall be reduced, and any such amounts are hereby appropriated to Program No. 513, Administration, in Agency No. 84, Department of Environment and Energy. Any financial obligations of the Department of Health and Human Services regarding the powers, duties, and functions transferred to the Department of Environment and Energy that remain unpaid as of June 30, 2021, and that are subsequently certified as valid encumbrances to the accounting division of the Department of Administrative Services pursuant to sections 81-138.01 to 81-138.04, shall be paid by the Department of Environment and Energy from the unexpended balance of appropriations existing in such program classification on June 30, 2021.

Source: Laws 2021, LB148, § 34.

81-15,295 References to Department of Health and Human Services in contracts and other documents; how construed; contracts and property; how treated.

On and after July 1, 2021, whenever the Department of Health and Human Services is referred to or designated by any contract or other document in connection with the duties and functions transferred to the Department of Environment and Energy, such reference or designation shall apply to the Department of Environment and Energy. All contracts entered into by the Department of Health and Human Services prior to July 1, 2021, in connection with the duties and functions transferred to the Department of Environment and Energy are hereby recognized, with the Department of Environment and Energy succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds

from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to such department for the payments of such obligations. All documents and records transferred, or copies of the same, may be authenticated or certified by such department for all legal purposes.

Source: Laws 2021, LB148, § 35.

81-15,296 Actions and proceedings; how treated.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2021, or which could have been commenced prior to that date, by or against the Department of Health and Human Services, or the director or any employee thereof in such director's or employee's official capacity or in relation to the discharge of such person's official duties, shall abate by reason of the transfer of duties and functions from the Department of Health and Human Services to the Department of Environment and Energy.

Source: Laws 2021, LB148, § 36.

81-15,297 Provisions of law; how construed.

On and after July 1, 2021, unless otherwise specified, whenever any provision of law refers to the Department of Health and Human Services in connection with duties and functions transferred to the Department of Environment and Energy, such law shall be construed as referring to the Department of Environment and Energy.

Source: Laws 2021, LB148, § 37.

81-15,298 Property of Department of Health and Human Services; transfer to Department of Environment and Energy.

On July 1, 2021, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Health and Human Services pertaining to the duties and functions transferred to the Department of Environment and Energy pursuant to Laws 2021, LB148, shall become the property of such department.

Source: Laws 2021, LB148, § 38.

(y) ENVIRONMENTAL SAFETY CASH FUND

81-15,299 Environmental Safety Cash Fund; created; use; investment.

There is hereby created the Environmental Safety Cash Fund which shall be used to pay the expenses of the Department of Environment and Energy related to issuance and renewal of licenses and permits and annual inspections, including sections 81-15,268, 81-15,272, 81-15,282, and 81-15,292. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the Health and Human Services Cash Fund pursuant to sections 81-15,268, 81-15,272, 81-15,282, and 81-15,292, as such sections existed prior to July 1, 2021, to the Environmental Safety Cash Fund on July 1, 2021.

Source: Laws 2021, LB148, § 83.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(z) ENGINEERING PLAN REVIEW CASH FUND

81-15,300 Engineering Plan Review Cash Fund; created; use; investment.

There is hereby created the Engineering Plan Review Cash Fund which shall be used to pay the expenses of the Department of Environment and Energy related to engineering reviews of plans and specifications, including those under subsection (3) of section 81-15,268 and subsection (2) of section 81-15,282. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the Health and Human Services Cash Fund pursuant to subsection (3) of section 81-15,268 and subsection (2) of section 81-15,282, as such sections existed prior to July 1, 2021, to the Engineering Plan Review Cash Fund on July 1, 2021.

Source: Laws 2021, LB148, § 84.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(aa) NEBRASKA ENVIRONMENTAL RESPONSE ACT

81-15,301 Act, how cited.

Sections 81-15,301 to 81-15,311 shall be known and may be cited as the Nebraska Environmental Response Act.

Source: Laws 2022, LB1102, § 1.

81-15,302 Terms, defined.

For purposes of the Nebraska Environmental Response Act:

(1) Cleanup means all actions necessary to contain, collect, secure, control, identify, prevent, mitigate, analyze, treat, disperse, remove, or dispose of a pollutant necessary to restore the environment to the extent practicable and to minimize the harmful effects from the release in conformance with applicable federal and state environmental standards and substantive requirements;

(2) Cleanup costs means all costs incurred by the state, a political subdivision of the state, an agent of the state, or any other person participating, with the approval of the department, in the prevention, mitigation, or cleanup of a release of a pollutant, including a proportionate share of those costs necessary to maintain the services authorized in the act. Costs include oversight of the cleanup, staff time, and materials and supplies used to secure and mitigate the release of pollutants;

(3) Department means the Department of Environment and Energy;

(4) Director means the Director of Environment and Energy;

(5) Environmental lien means a lien for cleanup costs;

(6) Person has the same meaning as provided in section 81-1502;

(7) Pollutant means one or more substances or combinations of substances that alter the natural physical, chemical, or biological properties of any air, land, or waters of the state in such quantities that are harmful, detrimental, or injurious to plant or animal life, property, or the public health, safety, or welfare;

(8) Release means any emission, discharge, spill, leak, pumping, pouring, escaping, emptying, or dumping of a pollutant into or onto the air, land, or waters of the state, except when performed in compliance with the conditions of a federal or state environmental permit; and

(9) Waters of the state has the same meaning as provided in section 81-1502.

Source: Laws 2022, LB1102, § 2.

81-15,303 Nebraska Environmental Response Cash Fund; created; use; investment.

The Nebraska Environmental Response Cash Fund is created. The fund shall consist of transfers authorized by the Legislature, grants, contributions designated for the purpose of the fund, and money recovered under the Nebraska Environmental Response Act. The fund shall be administered by the department and used for control, abatement, analysis, cleanup, prevention, mitigation, investigation, and other reasonable costs incurred when responding to a release. All other costs of the department necessary to carry out the Nebraska Environmental Response Act shall be paid from the fund. The fund shall not be used to pay for the costs of releases for which costs are paid under the Petroleum Release Remedial Action Act. On or before June 30, 2023, the State Treasurer shall transfer three hundred thousand dollars from the General Fund to the Nebraska Environmental Response Cash Fund on such date as directed by the budget administrator of the budget division of the Department of Administrative Services. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2022, LB1102, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

Petroleum Release Remedial Action Act, see section 66-1501.

81-15,304 Director; powers.

For purposes of cleanup under the Nebraska Environmental Response Act, the director may:

(1) Issue orders requiring a person responsible for a release to clean up the release;

(2) Take necessary action to clean up or terminate the release of a pollutant if a person responsible for a release fails or refuses to take reasonable actions required by the director;

(3) Take those actions necessary to clean up a release if a person responsible for a release cannot be identified or contacted within a reasonable amount of time;

(4) Issue orders requiring a person responsible for a release to take such corrective actions as may be reasonably required to prevent a recurrence of a release;

(5) Take necessary action, including issuing orders for corrective action or cleanup of any release of a pollutant;

(6) Issue orders to a responsible person to pay cleanup costs assessed with documentation due thirty days after receipt of the director's order unless the payment period is extended by the director for good cause shown; and

(7) Assess an administrative penalty under section 81-15,310.

Source: Laws 2022, LB1102, § 4.

81-15,305 Rules and regulations.

The director may adopt and promulgate rules and regulations necessary to carry out the Nebraska Environmental Response Act.

Source: Laws 2022, LB1102, § 5.

81-15,306 Authorized representative; access to property; obstruction; prohibited.

No person shall refuse entry to, or access by, an authorized representative of the department to property for the purpose of responding to a release of a pollutant or cleanup of a release if such authorized representative presents appropriate credentials. No person shall hamper or obstruct an authorized representative of the department that is responding, or taking action, to clean up a release of a pollutant.

Source: Laws 2022, LB1102, § 6.

81-15,307 Release of pollutant; cleanup; responsibility; liability; administrative penalty; director; powers and duties.

(1) Whenever a pollutant is released, a person responsible for the release shall be responsible for the cleanup of the release.

(2) If the state responds to a release, a person responsible for the release shall be liable to the state for the reasonable cleanup costs incurred by the state.

(3) Prompt and good faith notification to the director by a person responsible for a release that such person does not have the resources or managerial capability to begin or continue cleanup activities, or make a good faith effort to clean up, does not relieve a person of liability for the cleanup costs.

(4) In determining whether to assess an administrative penalty, the director may consider any good faith efforts made by a responsible person to clean up a release or to pay cleanup costs in a timely manner.

(5) The director shall keep a record of all expenses incurred in carrying out any project or activity authorized by the Nebraska Environmental Response Act.

(6) If a responsible person fails to pay an assessment or administrative penalty ordered pursuant to section 81-15,304 or 81-15,310, the amount owed shall be recoverable in an action brought by the Attorney General in the district court of Lancaster County. An action for recovery of the amount owed may be commenced at any time after the amount owed has been incurred or becomes due, but no later than six years after completion of a cleanup. An action to

enforce any other order of the director under section 81-15,304 or 81-15,310 may be commenced at any time.

(7) A person otherwise liable under the provisions of the Nebraska Environmental Response Act is not liable if the release occurred solely as the result of an act of God, an act of war, or an act of an independent third party not affiliated with or controlled by a person otherwise liable. For purposes of the Nebraska Environmental Response Act, no employee, agent, or independent contractor employed by a person otherwise liable shall be considered a third party. If multiple persons are liable under the act, liability shall be joint and several.

Source: Laws 2022, LB1102, § 7.

81-15,308 Voluntary remediation.

In lieu of issuing an order under section 81-15,304, the director may allow the responsible person or any other person to voluntarily remediate site conditions under the Remedial Action Plan Monitoring Act. A person that voluntarily chooses to apply under section 81-15,184 must meet all requirements of such section. Based on the nature of the release, the director may require such person to pay for a contractor to oversee remedial work hired or approved by the department.

Source: Laws 2022, LB1102, § 8.

Cross References

Remedial Action Plan Monitoring Act, see section 81-15,181.

81-15,309 Cleanup costs; environmental lien.

(1) All cleanup costs for which a person is liable to the state under section 81-15,307 shall constitute a lien in favor of the state upon any real property that is owned by such person and subject to or affected by the cleanup.

(2) An environmental lien attaches when:

- (a) Cleanup costs are first incurred by the state;
- (b) Such person is provided written notice by certified or registered mail of potential liability; and
- (c) A lien notice is filed in compliance with this section.

(3) An environmental lien notice shall state:

- (a) The name of the record owner of the real property to which the environmental lien is attached;
- (b) The legal description of the real property to which the environmental lien is attached;
- (c) If the real property against which the lien is attached is not the property where the cleanup occurred, the legal description of the property where the cleanup occurred;
- (d) An itemized statement detailing the cleanup costs incurred by the state; and
- (e) A statement that an environmental lien has attached to the described real property.

(4) The environmental lien notice shall be filed with the register of deeds in each county in Nebraska where the responsible person owns or holds an interest in real property.

(5) An environmental lien is subject to the rights of any other person whose interest is perfected before an environmental lien notice has been filed.

(6) A person shall be relieved from an environmental lien when liability for cleanup costs is satisfied.

Source: Laws 2022, LB1102, § 9.

81-15,310 Violations; enforcement; procedure; appeal.

Whenever the director has reason to believe that a violation has occurred of any provision of the Nebraska Environmental Response Act, an order issued under the act, or any rule or regulation adopted and promulgated under the act, the director may cause an administrative order to be served upon the violator. Such order shall specify the violation and the facts alleged to constitute a violation and may assess an administrative penalty to be paid within thirty days or as otherwise stated in the order. The order shall set forth the circumstances and factors considered in assessing the administrative penalty which may include the severity of the violation, good faith efforts of the violator, and any other factors deemed relevant by the director. Administrative penalties assessed under this section shall not exceed five thousand dollars per day per violation. Each day a violation continues shall constitute a separate violation. An order under this section imposing an administrative penalty may be appealed to the director. The appeal shall be in the manner provided in the Administrative Procedure Act. Any administrative penalty paid pursuant to the Nebraska Environmental Response Act shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. An action may be brought in the district court of Lancaster County to collect any unpaid administrative penalty and costs incurred directly in the collection of the penalty plus any statutory interest rate applicable to judgments, which shall run from the date the administrative penalty accrued.

Source: Laws 2022, LB1102, § 10.

Cross References

Administrative Procedure Act, see section 84-920.

81-15,311 Act, how construed.

Nothing in the Nebraska Environmental Response Act precludes the director or department from taking any other action allowed by law, including seeking enforcement for injunctive relief or seeking civil or criminal penalties for any violation that may have occurred.

Source: Laws 2022, LB1102, § 11.

(bb) REAL-TIME NITRATE SENSORS

81-15,312 Real-time nitrate sensors; legislative intent to appropriate.

It is the intent of the Legislature to appropriate one million dollars for fiscal year 2024-25 from the General Fund to the Department of Environment and Energy to fund the installation of real-time nitrate sensors in monitoring wells statewide to prioritize nitrate management and reduction.

Source: Laws 2024, LB1317, § 104.

Operative date July 19, 2024.

STATE ENERGY OFFICE

ARTICLE 16

STATE ENERGY OFFICE

Cross References

State buildings, review of plans and specifications, see section 72-805.

Utility energy conservation loans, see section 66-1009.

(a) STATE ENERGY OFFICE

Section

- 81-1601. Repealed. Laws 2019, LB302, § 181.
- 81-1602. Repealed. Laws 2019, LB302, § 181.
- 81-1603. Repealed. Laws 2019, LB302, § 181.
- 81-1604. Legislative findings; strategic state energy plan; development; advisory committee; contents of plan.
- 81-1605. Repealed. Laws 2019, LB302, § 181.
- 81-1606. Department of Environment and Energy; energy statistics and information; develop and maintain; report.
- 81-1607. Director of Environment and Energy; comprehensive report; contents.
- 81-1607.01. State Energy Cash Fund; created; use; investment.

(b) LIGHTING AND THERMAL EFFICIENCY STANDARDS

- 81-1608. Uniform energy efficiency standards; legislative findings.
- 81-1609. Terms, defined.
- 81-1610. Repealed. Laws 2000, LB 1135, § 34.
- 81-1611. Nebraska Energy Code; adoption; alternative standards; used; when.
- 81-1612. Director of Environment and Energy; adopt rules and regulations.
- 81-1613. Department; produce manuals; contents.
- 81-1614. Nebraska Energy Code; applicability.
- 81-1615. Nebraska Energy Code; exemptions.
- 81-1616. Procedures for insuring compliance with Nebraska Energy Code; costs; appeal.
- 81-1617. Nebraska Energy Code; inspections and investigations necessary to enforce.
- 81-1618. Local energy code; fees; waiver; procedure.
- 81-1619. Repealed. Laws 1983, LB 124, § 26.
- 81-1620. Department; establish technical assistance program.
- 81-1621. Repealed. Laws 1983, LB 124, § 26.
- 81-1622. No local energy code; contractor, architect, engineer; duties.
- 81-1623. Repealed. Laws 2009, LB 316, § 29.
- 81-1624. Repealed. Laws 1983, LB 124, § 26.
- 81-1625. Building; failure to comply with Nebraska Energy Code or equivalent standard; liability.
- 81-1626. Lighting and thermal efficiency; violation; penalty.

(c) ENERGY AUDITS

- 81-1627. Repealed. Laws 1985, LB 27, § 1.
- 81-1628. Repealed. Laws 1985, LB 27, § 1.
- 81-1629. Repealed. Laws 1985, LB 27, § 1.
- 81-1630. Repealed. Laws 1985, LB 27, § 1.
- 81-1631. Repealed. Laws 1985, LB 27, § 1.

(d) SCHOOL DISTRICT ENERGY EFFICIENCY LOANS AND GRANTS

- 81-1632. Repealed. Laws 1998, LB 892, § 3.
- 81-1633. Repealed. Laws 1998, LB 892, § 3.
- 81-1634. Repealed. Laws 2012, LB 708, § 1.

(e) PETROLEUM OVERCHARGES

- 81-1635. Nebraska Energy Settlement Fund; established; source of funds; investment.
- 81-1636. Fund; plan for disbursement.
- 81-1637. Predisbursement plan; contents; hearing.

§ 81-1601

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-1638. Department of Environment and Energy; duties; political subdivision; application for disbursement.
- 81-1639. Disbursement of funds; requirements.
- 81-1640. Fund; proposed uses; hearing.
- 81-1641. Disbursement of funds; sections applicable.

(f) STATE GOVERNMENT RECYCLING MANAGEMENT ACT

- 81-1642. Transferred to section 81-1183.
- 81-1643. Transferred to section 81-1184.
- 81-1644. Transferred to section 81-1185.
- 81-1645. Transferred to section 81-1186.
- 81-1646. Transferred to section 81-1187.
- 81-1647. Transferred to section 81-1188.
- 81-1648. Transferred to section 81-1189.

(a) STATE ENERGY OFFICE

81-1601 Repealed. Laws 2019, LB302, § 181.

81-1602 Repealed. Laws 2019, LB302, § 181.

81-1603 Repealed. Laws 2019, LB302, § 181.

81-1604 Legislative findings; strategic state energy plan; development; advisory committee; contents of plan.

(1) The Legislature finds that:

(a) Comprehensive planning enables the state to address its energy needs, challenges, and opportunities and enhances the state's ability to prioritize energy-related policies, activities, and programs; and

(b) Meeting the state's need for clean, affordable, and reliable energy in the future will require a diverse energy portfolio and a strategic approach, requiring engagement of all energy stakeholders in a comprehensive planning process.

(2) The Department of Environment and Energy shall develop an integrated and comprehensive strategic state energy plan and review such plan periodically as the department deems necessary. The department may organize technical committees of individuals with expertise in energy development for purposes of developing the plan. If the department forms an advisory committee pursuant to subdivision (58) of section 81-1504 for purposes of such plan, the chairperson of the Appropriations Committee of the Legislature, the chairperson of the Natural Resources Committee of the Legislature, and three members of the Legislature selected by the Executive Board of the Legislative Council shall be nonvoting, ex officio members of such advisory committee.

(3) The strategic state energy plan shall include short-term and long-term objectives that will ensure a secure, reliable, and resilient energy system for the state's residents and businesses; a cost-competitive energy supply and access to affordable energy; the promotion of sustainable economic growth, job creation, and economic development; and a means for the state's energy policy to adapt to changing circumstances.

(4) The strategic state energy plan shall include, but not be limited to:

(a) A comprehensive analysis of the state's energy profile, including all energy resources, end-use sectors, and supply and demand projections;

- (b) An analysis of other state energy plans and regional energy activities which identifies opportunities for streamlining and partnerships; and
- (c) An identification of goals and recommendations related to:
 - (i) The diversification of the state's energy portfolio in a way that balances the lowest practicable environmental cost with maximum economic benefits;
 - (ii) The encouragement of state and local government coordination and public-private partnerships for future economic and investment decisions;
 - (iii) The incorporation of new technologies and opportunities for energy diversification that will maximize Nebraska resources and support local economic development;
 - (iv) The interstate and intrastate promotion and marketing of the state's renewable energy resources;
 - (v) A consistent method of working with and marketing to energy-related businesses and developers;
 - (vi) The advancement of transportation technologies, alternative fuels, and infrastructure;
 - (vii) The development and enhancement of oil, natural gas, and electricity production and distribution;
 - (viii) The development of a communications process between energy utilities and the department for responding to and preparing for regulations having a statewide impact; and
 - (ix) The development of a mechanism to measure the plan's progress.

Source: Laws 2015, LB469, § 11; Laws 2019, LB302, § 154.

81-1605 Repealed. Laws 2019, LB302, § 181.

81-1606 Department of Environment and Energy; energy statistics and information; develop and maintain; report.

The Department of Environment and Energy shall develop and maintain a program of collection, compilation, and analysis of energy statistics and information. Existing information reporting requests, maintained at the state and federal levels, shall be utilized whenever possible in any data collection required regarding state energy policy pursuant to this section, subdivisions (35) through (58) of section 81-1504, or section 81-1604 or 81-1607. A central state repository of energy data shall be developed and coordinated with other governmental data-collection and record-keeping programs. The department shall, on at least an annual basis, with monthly compilations, submit to the Governor and the Clerk of the Legislature a report identifying state energy consumption by fuel type and by use to the extent that such information is available. The report submitted to the Clerk of the Legislature shall be submitted electronically. Nothing in this section shall be construed as permitting or authorizing the revealing of confidential information. For purposes of this section confidential information shall mean any process, formula, pattern, decision, or compilation of information which is used, directly or indirectly, in the business of the producer, refiner, distributor, transporter, or vendor, and which gives such producer, refiner, distributor, transporter, or vendor an

advantage or an opportunity to obtain an advantage over competitors who do not know or use it.

Source: Laws 1980, LB 954, § 57; Laws 1983, LB 124, § 9; Laws 2012, LB782, § 205; Laws 2015, LB469, § 13; Laws 2019, LB302, § 155.

81-1607 Director of Environment and Energy; comprehensive report; contents.

(1) On or before February 15 of each year, the Director of Environment and Energy shall transmit to the Governor and the Clerk of the Legislature a comprehensive report designed to identify emerging trends related to energy supply, demand, and conservation and to specify the level of statewide energy need within the following sectors: Agricultural, commercial, residential, industrial, transportation, utilities, government, and any other sector that the director determines to be useful. The report submitted to the Clerk of the Legislature shall be submitted electronically.

(2) The report shall include, but not be limited to:

(a) An assessment of the state's energy resources, including examination of the current energy supplies and any feasible alternative sources;

(b) The estimated reduction in annual energy consumption resulting from various energy conservation measures;

(c) The status of the ongoing studies of the Department of Environment and Energy pursuant to subdivisions (35) through (58) of section 81-1504;

(d) Recommendations to the Governor and the Legislature for administrative and legislative actions to accomplish the purposes of this section and section 81-1606; and

(e) The use of funds disbursed during the previous year under sections 81-1635 to 81-1641. The use of such funds shall be reported each year until the funds are completely disbursed and all contractual obligations have expired or otherwise terminated.

Source: Laws 1980, LB 954, § 59; Laws 1987, LB 23, § 3; Laws 1988, LB 764, § 1; Laws 2012, LB782, § 206; Laws 2019, LB302, § 156.

81-1607.01 State Energy Cash Fund; created; use; investment.

The State Energy Cash Fund is hereby created. The fund shall consist of funds received pursuant to section 57-705. The fund shall be used for the administration of subdivisions (35) through (58) of section 81-1504 and sections 81-1604 to 81-1607, for energy conservation activities, and for providing technical assistance to communities in the area of natural gas other than assistance regarding ownership of regulated utilities, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the State Energy Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the State Energy Office Cash Fund to the State Energy Cash Fund on July 1, 2019.

Source: Laws 1989, LB 727, § 3; Laws 1994, LB 1066, § 126; Laws 2009, First Spec. Sess., LB3, § 81; Laws 2015, LB469, § 14; Laws 2019, LB302, § 157.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(b) LIGHTING AND THERMAL EFFICIENCY STANDARDS

81-1608 Uniform energy efficiency standards; legislative findings.

The Legislature finds that consumers have an expectation that newly built houses or buildings they buy meet uniform energy efficiency standards. Therefore, the Legislature finds that there is a need to adopt the 2018 International Energy Conservation Code, published by the International Code Council, in order (1) to ensure that a minimum energy efficiency standard is maintained throughout the state, (2) to harmonize and clarify energy building code statutory references, (3) to ensure compliance with the federal Energy Policy Act of 1992, (4) to increase energy savings for all Nebraska consumers, especially low-income Nebraskans, (5) to reduce the cost of state programs that provide assistance to low-income Nebraskans, (6) to reduce the amount of money expended to import energy, (7) to reduce the growth of energy consumption, (8) to lessen the need for new power plants, and (9) to provide training for local code officials and residential and commercial builders who implement the 2018 International Energy Conservation Code.

Source: Laws 1980, LB 954, § 32; Laws 2004, LB 888, § 4; Laws 2011, LB329, § 4; Laws 2019, LB405, § 6.

81-1609 Terms, defined.

As used in sections 81-1608 to 81-1626, unless the context otherwise requires:

- (1) Department means the Department of Environment and Energy;
- (2) Contractor means the person or entity responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building;
- (3) Architect or engineer means any person licensed as an architect or professional engineer under the Engineers and Architects Regulation Act;
- (4) Building means any new structure, renovated building, or addition which is used or intended for supporting or sheltering any use or occupancy, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of three and four-tenths British Thermal Units per hour or one watt per square foot;
- (5) Residential building means a building three stories or less that is used primarily as one or more dwelling units;
- (6) Renovation means alterations on an existing building which will cost more than fifty percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included;
- (7) Addition means an extension or increase in the height, conditioned floor area, or conditioned volume of a building or structure;
- (8) Floor area means the total area of the floor or floors of a building, expressed in square feet, which is within the exterior faces of the shell of the structure which is heated or cooled;

(9) Nebraska Energy Code means the 2018 International Energy Conservation Code published by the International Code Council;

(10) Traditional energy sources means electricity, petroleum-based fuels, uranium, coal, and all nonrenewable forms of energy; and

(11) Equivalent or equivalent code means standards that meet or exceed the requirements of the Nebraska Energy Code.

Source: Laws 1980, LB 954, § 33; Laws 1982, LB 799, § 6; Laws 1983, LB 124, § 10; Laws 1997, LB 622, § 126; Laws 2000, LB 1135, § 25; Laws 2004, LB 888, § 5; Laws 2011, LB329, § 5; Laws 2019, LB302, § 158; Laws 2019, LB405, § 7.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

81-1610 Repealed. Laws 2000, LB 1135, § 34.

81-1611 Nebraska Energy Code; adoption; alternative standards; used; when.

The Legislature hereby adopts the 2018 International Energy Conservation Code published by the International Code Council as the Nebraska Energy Code. The Director of Environment and Energy may adopt regulations specifying alternative standards for building systems, techniques, equipment designs, or building materials that shall be deemed equivalent to the Nebraska Energy Code. Regulations specifying alternative standards may be deemed equivalent to the Nebraska Energy Code and may be approved for general or limited use if the use of such alternative standards would not result in energy consumption greater than would result from the strict application of the Nebraska Energy Code.

Source: Laws 1980, LB 954, § 35; Laws 1983, LB 124, § 12; Laws 2000, LB 1135, § 26; Laws 2004, LB 888, § 6; Laws 2011, LB329, § 6; Laws 2019, LB302, § 159; Laws 2019, LB405, § 8.

81-1612 Director of Environment and Energy; adopt rules and regulations.

The Director of Environment and Energy may adopt and promulgate rules and regulations for implementation and administration of sections 81-1608 to 81-1626. Rules, regulations, or amendments thereto shall be adopted pursuant to the Administrative Procedure Act.

Source: Laws 1980, LB 954, § 36; Laws 1981, LB 2, § 1; Laws 1983, LB 124, § 13; Laws 2000, LB 1135, § 27; Laws 2019, LB302, § 160.

Cross References

Administrative Procedure Act, see section 84-920.

81-1613 Department; produce manuals; contents.

The department shall produce manuals for use by architects, engineers, prime contractors, and owners. Such manuals shall be furnished upon request at a price sufficient to cover the costs of production. Such manuals shall contain, but not be limited to:

(1) The Nebraska Energy Code;

(2) Forms, charts, tables, and other data to assist architects, engineers, and prime contractors in meeting the Nebraska Energy Code; and

(3) Any other information which the department determines will assist local code officials in enforcing the code.

Source: Laws 1980, LB 954, § 37; Laws 1983, LB 124, § 14; Laws 2004, LB 888, § 7; Laws 2019, LB302, § 161.

81-1614 Nebraska Energy Code; applicability.

The Nebraska Energy Code shall apply to all new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after July 1, 2020.

Source: Laws 1980, LB 954, § 38; Laws 1981, LB 2, § 2; Laws 1983, LB 124, § 15; Laws 2004, LB 888, § 8; Laws 2011, LB329, § 7; Laws 2019, LB405, § 9.

81-1615 Nebraska Energy Code; exemptions.

The following shall be exempt from sections 81-1608 to 81-1626:

(1) Any building which has a peak design rate of energy usage for all purposes of less than one watt, or three and four-tenths British Thermal Units per hour, per square foot of floor area;

(2) Any building which is neither heated nor cooled;

(3) Any building or portion thereof which is owned by the United States of America;

(4) Any manufactured home as defined by section 71-4603;

(5) Any modular housing unit as defined by subdivision (1) of section 71-1557; and

(6) Any building or structure (a) that is listed on the state or National Register of Historic Places, (b) that is designated as a historic property under local or state designation law or survey, (c) that is certified as a contributing resource with a National Register-listed or locally designated historic district, or (d) with an opinion or certification that the property is eligible to be listed on the state or National Register of Historic Places either individually or as a contributing building to a historic district by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places.

Source: Laws 1980, LB 954, § 39; Laws 1983, LB 124, § 16; Laws 1985, LB 313, § 30; Laws 2004, LB 888, § 9; Laws 2011, LB329, § 8.

81-1616 Procedures for insuring compliance with Nebraska Energy Code; costs; appeal.

For purposes of insuring compliance with section 81-1614:

(1) The department, or its authorized agent, may conduct such inspections and investigations as are necessary to make a determination pursuant to section 81-1625 and may issue an order containing and resulting from the findings of such inspections and investigations; and

(2) A building owner may submit a written request that the department undertake a determination pursuant to subdivision (1) of this section. Such request shall include a list of reasons why the building owner believes such a determination is necessary.

A building owner aggrieved by the determination, or refusal to make such determination, under this section may appeal such determination or refusal, and the appeal shall be in accordance with the Administrative Procedure Act.

The department may charge an amount sufficient to recover the costs of providing such determinations.

Source: Laws 1980, LB 954, § 40; Laws 1981, LB 799, § 7; Laws 1983, LB 124, § 17; Laws 2000, LB 1135, § 28; Laws 2004, LB 888, § 10; Laws 2011, LB329, § 9; Laws 2019, LB302, § 162.

Cross References

Administrative Procedure Act, see section 84-920.

81-1617 Nebraska Energy Code; inspections and investigations necessary to enforce.

The department and any local code authority may conduct inspections and investigations necessary to enforce the Nebraska Energy Code or equivalent code and may, at reasonable hours, enter into any building and upon any premises within its jurisdiction for the purpose of examination to determine compliance with sections 81-1608 to 81-1626. Inspections shall be conducted only after permission has been granted by the owner or occupant or after a warrant has been issued pursuant to sections 29-830 to 29-835.

Source: Laws 1980, LB 954, § 41; Laws 1981, LB 2, § 3; Laws 1983, LB 124, § 18; Laws 2004, LB 888, § 11; Laws 2019, LB302, § 163.

81-1618 Local energy code; fees; waiver; procedure.

Any county, city, or village may adopt and enforce a local energy code. Such local energy code shall be deemed equivalent to the Nebraska Energy Code if it does not result in energy consumption greater than would result from the strict application of the Nebraska Energy Code and is reasonably consistent with the intent of sections 81-1608 to 81-1626. Any building or portion thereof subject to the jurisdiction of and inspected by such county, city, or village shall be deemed to comply with sections 81-1608 to 81-1626 if it meets the standards of such local energy code. Such county, city, or village may by ordinance or resolution prescribe a schedule of fees sufficient to pay the costs incurred pursuant to sections 81-1608 to 81-1626.

Any county, city, or village which adopts and enforces a local energy code may waive a specific requirement of the Nebraska Energy Code when meeting such requirement is not economically justified. The local code authority shall submit to the department its analysis for determining that a specific requirement is not justified. The department shall review such analysis and transmit its findings and conclusions to the local code authority within a reasonable time. The local code authority shall submit to the department its explanation as to how the original code or any revised code addresses the issues raised by the department. After a local code authority has submitted such explanation, the authority may proceed to enforce its local energy code.

Source: Laws 1980, LB 954, § 42; Laws 1981, LB 2, § 4; Laws 1983, LB 124, § 19; Laws 2004, LB 888, § 12; Laws 2019, LB302, § 164; Laws 2019, LB405, § 10.

81-1619 Repealed. Laws 1983, LB 124, § 26.

81-1620 Department; establish technical assistance program.

The department shall establish a training program to provide initial technical assistance to local code officials and residential and commercial builders upon adoption and implementation of a new Nebraska Energy Code. The program shall include the training of local code officials in building technology and local enforcement procedure related to implementation of the Nebraska Energy Code and the development of training programs suitable for presentation by local governments, educational institutions, and other public or private entities. Subsequent requests for training shall be fulfilled at a fee that pays for the department's costs for such training.

Source: Laws 1980, LB 954, § 44; Laws 1983, LB 124, § 20; Laws 2004, LB 888, § 13; Laws 2011, LB329, § 10; Laws 2019, LB302, § 165.

81-1621 Repealed. Laws 1983, LB 124, § 26.**81-1622 No local energy code; contractor, architect, engineer; duties.**

Prior to the construction, renovation, or addition to any existing building after the dates specified in section 81-1614 the following requirements shall be met where a county, city, or village has not adopted a local energy code pursuant to section 81-1618:

(1) When no architect or engineer is retained, the prime contractor shall build or cause to be built, to the best of his or her knowledge, according to the Nebraska Energy Code; and

(2) When an architect or engineer is retained: (a) The architect or engineer shall place his or her state registration seal on all construction drawings which shall indicate that the design meets the Nebraska Energy Code and (b) the prime contractor responsible for the actual construction shall build or cause to be built in accordance with the construction documents prepared by the architect or engineer.

Source: Laws 1980, LB 954, § 46; Laws 1983, LB 124, § 21; Laws 2004, LB 888, § 14; Laws 2019, LB405, § 11.

81-1623 Repealed. Laws 2009, LB 316, § 29.**81-1624 Repealed. Laws 1983, LB 124, § 26.****81-1625 Building; failure to comply with Nebraska Energy Code or equivalent standard; liability.**

If the Director of Environment and Energy or the local code authority finds, within two years from the date a building is first occupied, that the building, at the time of construction, did not comply with the Nebraska Energy Code or equivalent code adopted by a county, city, or village in effect at such time, the director or code authority may order the owner or prime contractor to take those actions necessary to bring the building into compliance. This section does not limit the right of the owner to bring civil action against the contractor, architect, or engineer for the cost of bringing the building into compliance.

Source: Laws 1980, LB 954, § 49; Laws 1983, LB 124, § 23; Laws 2004, LB 888, § 15; Laws 2019, LB302, § 166.

81-1626 Lighting and thermal efficiency; violation; penalty.

Failure to comply with sections 81-1608 to 81-1626 or ordering, instructing, or directing another not to comply with sections 81-1608 to 81-1626 shall be a Class IV misdemeanor.

Source: Laws 1980, LB 954, § 50.

(c) ENERGY AUDITS

81-1627 Repealed. Laws 1985, LB 27, § 1.

81-1628 Repealed. Laws 1985, LB 27, § 1.

81-1629 Repealed. Laws 1985, LB 27, § 1.

81-1630 Repealed. Laws 1985, LB 27, § 1.

81-1631 Repealed. Laws 1985, LB 27, § 1.

(d) SCHOOL DISTRICT ENERGY EFFICIENCY LOANS AND GRANTS

81-1632 Repealed. Laws 1998, LB 892, § 3.

81-1633 Repealed. Laws 1998, LB 892, § 3.

81-1634 Repealed. Laws 2012, LB 708, § 1.

(e) PETROLEUM OVERCHARGES

81-1635 Nebraska Energy Settlement Fund; established; source of funds; investment.

There is hereby established in the state treasury a fund, to be known as the Nebraska Energy Settlement Fund and referred to in sections 81-1635 to 81-1641 as the fund, to be administered by the Department of Environment and Energy as the representative of the Governor. The fund shall consist of (1) money received by the State of Nebraska after February 15, 1986, from awards or allocations to the State of Nebraska on behalf of consumers of petroleum products as a result of judgments or settlements for overcharges to consumers of petroleum products sold during the period of time in which federal price controls on such products were in effect and (2) any investment interest 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. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. No money shall be transferred or disbursed from the fund except pursuant to sections 81-1635 to 81-1641.

Source: Laws 1987, LB 683, § 1; Laws 1995, LB 7, § 131; Laws 2019, LB302, § 167.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1636 Fund; plan for disbursement.

The Governor or the Department of Environment and Energy as representative of the Governor shall develop a plan for the disbursement of the money credited to the fund for submission to the United States Department of Energy. The plan shall be in accordance with the specifications and guidelines of the applicable federal court order and any applicable federal law or regulations.

Source: Laws 1987, LB 683, § 2; Laws 1988, LB 764, § 2; Laws 2019, LB302, § 168.

81-1637 Predisbursement plan; contents; hearing.

(1) The Governor shall submit electronically a predisbursement plan to the Legislature if in session or the Executive Board of the Legislative Council if the Legislature is not in session.

(2) The predisbursement plan shall generally outline the uses and beneficiaries of proposed disbursements from the fund, as well as the expected benefits to the state as a whole.

(3) The predisbursement plan shall also include a policy statement which shall indicate (a) a perception of the current and anticipated trends regarding energy availability, costs, and needs in the state, (b) assumptions regarding the impacts on energy needs of the state of current and anticipated state and federal policies and market forces affecting energy use, and (c) generally, how the types of projects to be selected will address those trends and assumptions.

(4) The Legislature may hold a public hearing within thirty days after receipt of the predisbursement plan to solicit testimony on such plan. The Legislature may, no later than fifteen days following such hearing, make recommendations to the Department of Environment and Energy concerning the plan. No disbursement of or obligation to disburse any money in the fund shall be made after July 9, 1988, until forty-five days after the predisbursement plan referring to such disbursement has been submitted to the Legislature or the Executive Board of the Legislative Council, as the case may be.

Source: Laws 1987, LB 683, § 3; Laws 1988, LB 764, § 3; Laws 2012, LB782, § 207; Laws 2019, LB302, § 169.

81-1638 Department of Environment and Energy; duties; political subdivision; application for disbursement.

(1) The Department of Environment and Energy shall, as the representative of and under the direction of the Governor, be the administrative agency for the selection of projects pursuant to section 81-1636, allocation of funds to the projects, and monitoring of the uses of the funds so allocated.

(2) The department shall contract with any and all grantees of funds in and recipients of loans from the fund. The contracts shall include provisions for reporting on and accounting for the use of the funds by the grantee or loan recipient to the department, and any contracts or agreements entered into before appropriations are made by the Legislature shall recite that they are subject to appropriations of the fund by the Legislature.

(3) Any political subdivision of this state may apply for, and shall be eligible to receive, a disbursement for a project pursuant to section 81-1636, including a disbursement of loan proceeds.

Source: Laws 1987, LB 683, § 4; Laws 1993, LB 479, § 4; Laws 2019, LB302, § 170.

81-1639 Disbursement of funds; requirements.

No money shall be disbursed or expended from the fund unless:

- (1) The disbursement is pursuant to an appropriation by the Legislature;
- (2) The provisions of section 81-1636 have been complied with in regard to the project for which funds are being disbursed; and
- (3) The use for which funds are being disbursed meets any applicable federal law, regulation, or court order and has been approved by any and all state and federal authorities as may be required to meet the applicable court order and any applicable federal law or regulations.

Source: Laws 1987, LB 683, § 5; Laws 1988, LB 764, § 4.

81-1640 Fund; proposed uses; hearing.

The Department of Environment and Energy shall conduct a public hearing on the proposed uses of the fund in the manner and to the extent required by specifications and guidelines of the applicable federal court order and any applicable federal law or regulations.

Source: Laws 1987, LB 683, § 6; Laws 1988, LB 764, § 5; Laws 2019, LB302, § 171.

81-1641 Disbursement of funds; sections applicable.

Sections 81-1635 to 81-1641 shall apply to the disbursement of all funds which are subject to sections 81-1635 to 81-1641 except for funds appropriated by Legislative Bill 432, Ninetieth Legislature, First Session, 1987.

Sections 81-1636 and 81-1637 shall not apply to any funds which are the subject of any written agreement or contract entered into prior to April 9, 1987, for the awarding of any funds received by the state from United States v. Exxon Corporation.

Source: Laws 1987, LB 683, § 7; Laws 1988, LB 764, § 6; Laws 2019, LB302, § 172.

(f) STATE GOVERNMENT RECYCLING MANAGEMENT ACT

81-1642 Transferred to section 81-1183.

81-1643 Transferred to section 81-1184.

81-1644 Transferred to section 81-1185.

81-1645 Transferred to section 81-1186.

81-1646 Transferred to section 81-1187.

81-1647 Transferred to section 81-1188.

81-1648 Transferred to section 81-1189.

ARTICLE 17**NEBRASKA CONSULTANTS' COMPETITIVE NEGOTIATION ACT****Cross References**

Engineers and Architects Regulation Act, see section 81-3401.

Geologists Regulation Act, see section 81-3501.
Regulation of land surveyors, see sections 81-8,108 to 81-8,127.

Section

- 81-1701. Act; purpose; applicability.
- 81-1702. Act, how cited.
- 81-1703. Definitions; sections applicable.
- 81-1704. Professional services, defined.
- 81-1705. Agency, defined.
- 81-1706. Firm, defined.
- 81-1707. Compensation, defined.
- 81-1708. Agency official, defined.
- 81-1709. Project, defined.
- 81-1710. Continuing contract, defined.
- 81-1711. Department of Administrative Services; Department of Transportation; project; procedures.
- 81-1712. Project; professional services required; notice; qualifications and performance data; statements; certification; procedures; Department of Administrative Services; adopt.
- 81-1713. Project; professional services; qualifications; agency; evaluation; selection; considerations.
- 81-1714. Sections, how construed.
- 81-1715. Professional services; agency; negotiate contract; procedure; failure to contract; effect.
- 81-1716. Professional services; contract; contingent fees; prohibited; penalty.
- 81-1717. Agency contract for professional services; prohibited acts; penalty.
- 81-1718. Professional services; contract; improper action; penalty.
- 81-1719. Professional services; contract; agency official; conflict of interest; penalty.
- 81-1720. Professional services; selection process; notice; when not required.
- 81-1721. Existing contracts; validity; unaffected.

81-1701 Act; purpose; applicability.

The purpose of the Nebraska Consultants' Competitive Negotiation Act is to provide managerial control over competitive negotiations by the state for acquisition of professional architectural, engineering, landscape architecture, or land surveying services. The act does not apply to (1) contracts under section 57-1503, (2) contracts under subsection (6) of section 39-1349, (3) contracts under sections 39-2808 to 39-2823 except as provided in section 39-2810, or (4) contracts under the State Park System Construction Alternatives Act except as provided in section 37-1719.

Source: Laws 1978, LB 715, § 1; Laws 2011, First Spec. Sess., LB4, § 6; Laws 2015, LB312, § 7; Laws 2016, LB960, § 30; Laws 2018, LB775, § 36; Laws 2019, LB616, § 2.

Cross References

State Park System Construction Alternatives Act, see section 37-1701.

81-1702 Act, how cited.

Sections 81-1701 to 81-1721 shall be known and may be cited as the Nebraska Consultants' Competitive Negotiation Act.

Source: Laws 1978, LB 715, § 2.

81-1703 Definitions; sections applicable.

For purposes of sections 81-1701 to 81-1721, unless the context otherwise requires, the definitions found in sections 81-1704 to 81-1710 shall be used.

Source: Laws 1978, LB 715, § 3.

81-1704 Professional services, defined.

Professional services shall mean those services within the scope of the practice of architecture, professional engineering, landscape architecture, or professional land surveying as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or professional land surveyor in connection with his or her professional employment practice.

Source: Laws 1978, LB 715, § 4; Laws 2024, LB102, § 47.
Operative date September 1, 2024.

81-1705 Agency, defined.

Agency shall mean each board, commission, bureau, council, department, officer, division, the University of Nebraska, the Nebraska state colleges, or other administrative office or unit of state government.

Source: Laws 1978, LB 715, § 5.

81-1706 Firm, defined.

Firm shall mean any individual, partnership, limited liability company, corporation, association, or other legal entity permitted by law to practice architecture, engineering, landscape architecture, or land surveying in the state.

Source: Laws 1978, LB 715, § 6; Laws 1993, LB 121, § 543.

81-1707 Compensation, defined.

Compensation shall mean the total amount paid by the agency for professional services.

Source: Laws 1978, LB 715, § 7.

81-1708 Agency official, defined.

Agency official shall mean any elected or appointed officeholder, employee, consultant, person in the category of other personal service, or any other person receiving compensation from a state agency.

Source: Laws 1978, LB 715, § 8.

81-1709 Project, defined.

Project shall mean that fixed capital outlay, study, or planning activity, except renewal work as defined in section 81-173, described in the public notice of a state agency.

Source: Laws 1978, LB 715, § 9.

81-1710 Continuing contract, defined.

Continuing contract shall mean a contract for professional services entered into in accordance with the procedures of sections 81-1701 to 81-1721 between an agency and a firm whereby the firm provides professional services to the agency for work of a specified nature as outlined in the contract required by the

agency with no time limitation. Any such contract shall provide a termination clause.

Source: Laws 1978, LB 715, § 10.

81-1711 Department of Administrative Services; Department of Transportation; project; procedures.

The Department of Administrative Services shall, with the advice of each agency, prescribe by administrative rules procedures for the determination of a project under its jurisdiction. The Department of Transportation shall prescribe such procedures for highway construction projects. Such procedures may include:

- (1) Determination of a project which constitutes a grouping of minor construction, rehabilitation, or renovation activities; and
- (2) Determination of a project which constitutes a grouping of substantially similar construction, rehabilitation, or renovation activities.

Source: Laws 1978, LB 715, § 11; Laws 2017, LB339, § 289.

81-1712 Project; professional services required; notice; qualifications and performance data; statements; certification; procedures; Department of Administrative Services; adopt.

(1) Public notice shall be given by each agency, in a uniform and consistent manner, when professional services are required to be contracted for a project whose basic construction cost is estimated by the agency to be more than four hundred thousand dollars and for professional services when the estimated fee for such professional services exceeds forty thousand dollars, except in cases of public emergencies so certified by the agency head. The Department of Administrative Services shall adjust the dollar amounts in this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustments shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, as selected by the department. The public notice shall include a general description of the project and shall indicate how interested firms can apply for consideration for such contract.

(2) Each agency shall encourage firms engaged in the lawful practice of their profession who desire to provide professional services to the agency to submit annually a statement of qualifications and performance data. The agency may request a firm to update the file statement before the anniversary date to reflect changed conditions of the firm.

(3) Any firm desiring to provide professional services to an agency must first be certified by the agency as qualified pursuant to law and the regulations of the agency. The agency shall make a finding that the firm to be employed is fully qualified to render the required service. Factors to be considered in making this finding shall include capabilities to perform, adequacy of personnel, past record and performance, and experience.

(4) The Department of Administrative Services shall, with the advice of each agency, adopt administrative procedures for the evaluation of professional services, including capabilities to perform, adequacy of personnel, past record and performance, experience, and such other factors as may be determined by the agency to be applicable to its particular requirements.

(5) The public shall not be excluded from the meetings or proceedings under this section in accordance with the Open Meetings Act.

Source: Laws 1978, LB 715, § 12; Laws 1998, LB 1129, § 25; Laws 2004, LB 821, § 33.

Cross References

Open Meetings Act, see section 84-1407.

81-1713 Project; professional services; qualifications; agency; evaluation; selection; considerations.

(1) For each proposed project, the agency or a committee designated by the agency shall evaluate current statements of qualifications and performance data of firms as are on file with the agency, together with those that may be submitted by firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by no less than three firms, regarding their qualifications, approach to the project, and ability to furnish the required service.

(2) Any committee designated by the agency shall have among its membership at least one person whose profession represents that particular field of endeavor being considered.

(3) The agency or committee designated by the agency shall select, in order of preference, no less than three firms deemed to be most highly qualified to perform the required services after considering such factors as the ability of professional personnel, past performance, willingness to meet time and budget requirements, location, recent, current and projected workloads of the firms, and the volume of work previously awarded to the firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, as long as such distribution does not violate the principle of selection of the most highly qualified firms.

(4) This section shall not apply to professional service contracts for (a) a project whose basic construction cost is estimated by the agency to be four hundred thousand dollars or less or (b) a planning or study activity when the estimated fee for professional services is forty thousand dollars or less. The Department of Administrative Services shall adjust the dollar amounts in this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustments shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, as selected by the department.

Source: Laws 1978, LB 715, § 13; Laws 1998, LB 1129, § 26.

81-1714 Sections, how construed.

Nothing in sections 81-1701 to 81-1721 shall be construed to prohibit continuing contracts between firm and agency.

Source: Laws 1978, LB 715, § 14.

81-1715 Professional services; agency; negotiate contract; procedure; failure to contract; effect.

(1) The agency or the committee designated by the agency shall negotiate a contract with the most qualified firm for professional services at compensation which the agency determines is fair and reasonable. In making such determina-

tion, the agency or committee designated by the agency shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For all lump-sum or cost-plus-a-fixed-fee professional service contracts, the agency or committee designated by the agency shall require the firm receiving the award to execute a certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract under which such a certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the agency or committee designated by the agency determines the contract price had been increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(2) Should the agency or committee designated by the agency be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the agency or committee designated by the agency determines to be fair and reasonable, negotiations with that firm shall be formally terminated. The agency or committee designated by the agency shall then undertake negotiations with the second most qualified firm. Failing to reach an agreement with the second most qualified firm, the agency or committee designated by the agency shall terminate negotiations with such firm. The agency or committee designated by the agency shall then undertake negotiations with the third most qualified firm.

(3) Should the agency or committee designated by the agency be unable to negotiate a satisfactory contract with any of the selected firms, the agency or committee designated by the agency shall either select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached or review the agreement under negotiation to determine the possible cause for failure to achieve a negotiated agreement.

Source: Laws 1978, LB 715, § 15.

81-1716 Professional services; contract; contingent fees; prohibited; penalty.

(1) Each contract for professional services entered into by the agency shall contain a prohibition against contingent fees as follows: The architect, or professional land surveyor, professional engineer, or landscape architect, as applicable, warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for him or her, to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for him or her, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or the making of this agreement.

(2) Upon violation of this section, the agency shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, or consideration.

Source: Laws 1978, LB 715, § 16; Laws 2024, LB102, § 48.
Operative date September 1, 2024.

81-1717 Agency contract for professional services; prohibited acts; penalty.

Any firm, other than a bona fide employee working solely for an architect, professional engineer, professional land surveyor, or landscape architect, who offers, agrees, or contracts to solicit or secure agency contracts for professional services for any other company or firm for or who is paid any fee, commission, percentage, gift, or any other consideration contingent upon, or resulting from, the award or the making of a contract for professional services shall, upon conviction, be guilty of a Class I misdemeanor.

Source: Laws 1978, LB 715, § 17; Laws 2024, LB102, § 49.
Operative date September 1, 2024.

81-1718 Professional services; contract; improper action; penalty.

Any architect, professional engineer, professional land surveyor, or landscape architect, or any group, company, or firm who shall offer to pay, or pay, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services shall, upon conviction, be guilty of a Class I misdemeanor.

Source: Laws 1978, LB 715, § 18; Laws 2024, LB102, § 50.
Operative date September 1, 2024.

81-1719 Professional services; contract; agency official; conflict of interest; penalty.

Any agency official who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, any fee, commission, percentage, gift, or any other consideration contingent upon the award or making of such a contract for professional services between the agency and any company or firm shall, upon conviction, be guilty of a Class I misdemeanor.

Source: Laws 1978, LB 715, § 19.

81-1720 Professional services; selection process; notice; when not required.

Notwithstanding any other provision of sections 81-1701 to 81-1721, there shall be no public notice requirement or utilization of the selection process as provided in sections 81-1701 to 81-1721 for projects in which the agency is able to reuse existing drawings, specifications, and other documents from a prior project.

Source: Laws 1978, LB 715, § 20.

81-1721 Existing contracts; validity; unaffected.

Nothing in sections 81-1701 to 81-1721 shall affect the validity of any contracts in existence on July 22, 1978.

Source: Laws 1978, LB 715, § 21.

ARTICLE 18**CRIME VICTIMS AND WITNESSES****Cross References****Constitutional provisions:**

Crime victims rights enumerated, see Article I, section 28, Constitution of Nebraska.

Children, promoting, facilitating, and preserving testimony, see sections 29-1925 and 29-1926.

Restitution, procedures, effect, see sections 29-2280 to 29-2289.

CRIME VICTIMS AND WITNESSES

(a) CRIME VICTIM'S REPARATIONS

Section	
81-1801.	Terms, defined.
81-1801.01.	Legislative intent.
81-1801.02.	Community Trust; authorized; powers and duties; board of directors; create separate funds; distribution committee.
81-1802.	Crime Victim's Reparations Committee; created; members.
81-1803.	Committee; members; terms.
81-1804.	Committee; members; vacancy.
81-1805.	Committee; members; expenses.
81-1806.	Committee; hearing officers; appointment.
81-1807.	Victim; compensation; health care provider; reimbursement; application.
81-1808.	Victim; compensation; health care provider; reimbursement; submit medical reports; hearing officer; order.
81-1809.	Application; hearing officer; decision; hearing; procedure; review.
81-1810.	Committee or hearing officer; proceedings; powers; applicants; rights.
81-1811.	Offense; proof of conviction; how treated.
81-1812.	Hearing officer or committee; order; determine and allow attorney's fees.
81-1813.	Commission; adopt rules and regulations; forms and materials; provide.
81-1814.	Compensation; committee; formulate standards for uniform application.
81-1815.	Compensation; to whom paid.
81-1816.	Committee or hearing officer; order; considerations; suspend proceedings; when.
81-1817.	Compensation awarded; collateral compensation; how treated.
81-1818.	Personal injury or death; situations for which compensation is permitted.
81-1819.	Payment of compensation; order; losses covered.
81-1820.	Hearing officer; emergency award of compensation; when; conditions; review.
81-1821.	Payment of compensation; application; requirements; deadlines; exceptions.
81-1822.	Compensation; situations when not awarded.
81-1823.	Award; limitation; how paid.
81-1824.	Excluded incidents.
81-1825.	Committee; subrogation rights.
81-1826.	Department of Correctional Services; confined persons; provide for employment.
81-1827.	Business enterprise; employment of persons committed to the department.
81-1828.	Repealed. Laws 1980, LB 319, § 12.
81-1829.	Department of Correctional Services; establish and maintain farms.
81-1830.	False claim; penalty.
81-1831.	Right of action; abate; exception.
81-1832.	Appeal; procedure.
81-1833.	Committee; report; powers and duties.
81-1834.	Repealed. Laws 2013, LB 99, § 9.
81-1835.	Victim's Compensation Fund; created; use; investment.
81-1836.	Person convicted of crime; payments received; deposited in fund.
81-1837.	Money in Victim's Compensation Fund; returned; when.
81-1838.	Five-year period; when commenced.
81-1839.	Committee; payments for legal representation; when.
81-1840.	Action to defeat purpose of sections; null and void.
81-1840.01.	State or political subdivision; failure to act; effect.
81-1841.	Act, how cited.
81-1842.	Sexual assault victim; records; confidential.

(b) CRIME VICTIMS AND WITNESSES ASSISTANCE

81-1843.	Legislative findings.
81-1844.	Crime Victim and Witness Assistance Fund; created; administration; use.
81-1844.01.	Pamphlet on rights and procedures; distribution.
81-1845.	Victim and witness assistance center; selection and establishment; Nebraska Commission on Law Enforcement and Criminal Justice; duties; funding.

§ 81-1801

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-1846. Victim and witness assistance centers; purposes.
- 81-1847. Victim and witness assistance centers; services provided.
- 81-1848. Victims and witnesses of crimes; rights; enumerated.
- 81-1848.01. Appeal; notification required.
- 81-1848.02. Escape; notification required.
- 81-1848.03. Victim's rights; waiver.
- 81-1849. Victim; duty.
- 81-1850. County attorney; Board of Parole; Department of Correctional Services; county corrections agency; Department of Health and Human Services; Board of Pardons; duties; notification of victim.
- 81-1851. Legislative intent.

(a) CRIME VICTIM'S REPARATIONS

81-1801 Terms, defined.

For purposes of the Nebraska Crime Victim's Reparations Act, unless the context otherwise requires:

- (1) Child abuse means an offense under section 28-707;
- (2) Commission shall mean the Nebraska Commission on Law Enforcement and Criminal Justice;
- (3) Committee shall mean the Crime Victim's Reparations Committee;
- (4) Dependent shall mean a relative of a deceased victim who was dependent upon the victim's income at the time of death, including a child of a victim born after a victim's death;
- (5) Domestic assault means an offense under section 28-323;
- (6) Executive director shall mean the executive director of the commission;
- (7) Health care provider means any person licensed or certified by the State of Nebraska to deliver health care under the Uniform Credentialing Act and any health care facility licensed under the Health Care Facility Licensure Act. Health care provider includes any professional corporation or other professional entity comprised of such health care providers;
- (8) Personal injury shall mean actual bodily harm;
- (9) Relative shall mean spouse, parent, grandparent, stepparent, natural born child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse's parent;
- (10) Sexual assault has the same meaning as in section 29-4309; and
- (11) Victim shall mean a person who is injured or killed as a result of conduct specified in section 81-1818.

Source: Laws 1978, LB 910, § 1; Laws 1981, LB 328, § 4; Laws 1986, LB 540, § 2; Laws 1991, LB 186, § 1; Laws 2009, LB598, § 2; Laws 2011, LB390, § 21; Laws 2021, LB497, § 1.

Cross References

Health Care Facility Licensure Act, see section 71-401.
Uniform Credentialing Act, see section 38-101.

81-1801.01 Legislative intent.

It is the intent of the Legislature that the Nebraska Crime Victim's Reparations Act be construed as enabling the rights set forth in Article I, section 28, of the Constitution of Nebraska.

Source: Laws 2004, LB 270, § 5.

81-1801.02 Community Trust; authorized; powers and duties; board of directors; create separate funds; distribution committee.

(1) A nonprofit organization, to be known as the Community Trust, may be created. After a tragedy, the Community Trust shall accept contributions from the public, manage such funds, and make distributions to help individuals, families, and communities in Nebraska that have suffered from a tragedy of violence or natural disaster. The committee shall oversee the Community Trust. The committee shall require at least annual reports from the Community Trust.

(2) The Community Trust shall be a qualified organization under section 501(c)(3) of the Internal Revenue Code thereby enabling contributions to the Community Trust to be tax deductible for the donor if the donor itemizes deductions for income tax purposes and distributions to be tax-free to the extent allowed under applicable sections of the Internal Revenue Code.

(3) The Community Trust shall be governed by a board of directors. A director may be represented by the Attorney General in the same manner as a state officer or employee under sections 81-8,239.05 and 81-8,239.06 in any civil action that arises as a result of any alleged act or omission occurring in the course and scope of the director's duties. A director shall also be indemnified for liability in the same manner as a state officer or employee under section 81-8,239.05.

(4) The Community Trust shall create a separate fund for each tragedy and shall begin accepting contributions immediately after a tragedy. The Community Trust shall report the distributions made for each tragedy to the committee, and the Community Trust shall acknowledge all contributions as soon as reasonably possible after receipt.

(5) The Community Trust may use up to ten percent of the contributions received for administrative costs of the Community Trust.

(6) The board of directors of the Community Trust shall establish procedures for receiving contributions and making distributions from the Community Trust. The board of directors shall establish a distribution committee for the tragedy within one week after the tragedy, establish eligible recipient criteria and eligible uses of the fund, and complete all distributions as soon as reasonably possible after the tragedy.

(7) In the event that the Community Trust receives contributions for a tragedy and the volume and size of claims, along with the amount of contributions, make it impractical for the Community Trust to follow its normal procedures for the distribution of the funds, the board of directors, at its sole discretion, may elect to forward such funds, in their entirety, to another nonprofit organization that is also serving individuals who are affected by the tragedy. In such case, the Community Trust shall designate such contributions to be for the specific individuals who are affected by the tragedy.

Source: Laws 2009, LB598, § 1; Laws 2011, LB390, § 22.

81-1802 Crime Victim's Reparations Committee; created; members.

A Crime Victim's Reparations Committee is hereby created. The committee shall consist of five members of the commission and three public members to be appointed by the Governor subject to approval by the Legislature. One public member shall represent charitable organizations, one public member shall represent businesses, and one public member, who has training and relevant work experience with victims and survivors of crime, shall represent crime victims. The members of the committee shall select a chairperson who is a member of the commission.

Source: Laws 1978, LB 910, § 2; Laws 1981, LB 328, § 5; Laws 1986, LB 540, § 3; Laws 2009, LB598, § 3; Laws 2015, LB605, § 88.

81-1803 Committee; members; terms.

Members of the committee shall serve for terms of four years.

Source: Laws 1978, LB 910, § 3; Laws 1986, LB 540, § 4; Laws 2009, LB598, § 4; Laws 2015, LB605, § 89.

81-1804 Committee; members; vacancy.

When a vacancy occurs on the committee, appointment to fill the vacancy shall be made for the balance of the term. As the terms of the initial appointees to the committee expire, succeeding appointees shall be appointed to four-year terms. Members whose terms have expired shall continue to serve until their successors have been appointed.

Source: Laws 1978, LB 910, § 4; Laws 1986, LB 540, § 5.

81-1805 Committee; members; expenses.

Members of the committee shall receive no reimbursement for the performance of their duties as members of the committee, except that such members shall receive reimbursement for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1978, LB 910, § 5; Laws 1981, LB 204, § 199; Laws 1986, LB 540, § 6; Laws 2009, LB598, § 5; Laws 2020, LB381, § 126.

81-1806 Committee; hearing officers; appointment.

The executive director may serve as a hearing officer pursuant to this section and in addition the committee, with the approval of the commission, shall appoint one or more additional hearing officers, who shall be licensed to practice law in the state, to conduct hearings, take testimony in proceedings under the Nebraska Crime Victim's Reparations Act, and make determinations of any matter subject to such act.

Source: Laws 1978, LB 910, § 6; Laws 1981, LB 328, § 6; Laws 1986, LB 540, § 7; Laws 1991, LB 186, § 2.

81-1807 Victim; compensation; health care provider; reimbursement; application.

(1) Any person who may be eligible for compensation under the Nebraska Crime Victim's Reparations Act may make application to the committee on forms provided by the committee. Such application need not be signed and acknowledged before a notary public. If the person entitled to make application is a minor or mentally incompetent, the application may be made on his or her

behalf by his or her parent, guardian, or any other individual authorized to administer his or her estate. Residents and nonresidents of Nebraska who are victims of crimes committed in Nebraska shall be treated similarly in determining compensation awards under the act. A resident of Nebraska who is the victim of a crime committed in another state shall be eligible for compensation if (a) the crime would be compensable had it occurred in Nebraska and (b) the crime occurred in a state which does not have a crime victim compensation program for which the person is eligible.

(2)(a) Beginning on August 28, 2021, a health care provider may, with the permission of the victim, apply for reimbursement for health care costs incurred by the provider that are otherwise to be paid for by a victim of sexual assault, domestic assault, or child abuse and for which the provider will not otherwise receive reimbursement from private insurance, the medical assistance program established pursuant to the Medical Assistance Act, the Sexual Assault Payment Program, or any other entity, source, or fund, whether public or private.

(b) To be eligible for reimbursement under this section, such health care costs must have been incurred by the health care provider in treating or examining injuries of the victim arising out of the sexual assault, domestic assault, or child abuse. The provider shall apply to the committee on forms provided by the committee.

Source: Laws 1978, LB 910, § 7; Laws 1986, LB 540, § 8; Laws 1990, LB 87, § 4; Laws 2021, LB372, § 1; Laws 2021, LB497, § 2.

Cross References

Medical Assistance Act, see section 68-901.

81-1808 Victim; compensation; health care provider; reimbursement; submit medical reports; hearing officer; order.

In order to be eligible for compensation the applicant, including a health care provider as described in section 81-1807, shall, prior to any hearing on an application, submit available reports from any physician or surgeon who has treated or examined the victim in relation to the injury for which compensation is claimed at the time of or subsequent to the victim's injury or death. If, in the opinion of the hearing officer or the committee, reports on the previous medical history of the victim, a report on the examination of the injured victim, or a report on the cause of death of the victim by an impartial medical expert would be of material aid to its determination, the hearing officer or the committee shall order the reports and examination.

Source: Laws 1978, LB 910, § 8; Laws 1986, LB 540, § 9; Laws 2021, LB497, § 3.

81-1809 Application; hearing officer; decision; hearing; procedure; review.

(1) A hearing officer shall consider and rule upon any application made under the Nebraska Crime Victim's Reparations Act within one hundred eighty days after receipt of all required information related to the crime.

(2) If the hearing officer denies an award of compensation or awards an amount less than or equal to the amount requested by the applicant, the hearing officer shall furnish the applicant with a written statement of the reason for the ruling. The applicant may request a hearing on his or her

application within thirty days after receipt of the statement. If the applicant requests a hearing, the hearing officer shall furnish the committee with his or her findings of fact and conclusions of law together with the reasons for the findings and conclusions. The committee shall specify a time and place for a hearing and shall give written notice to the applicant. The hearing shall be held within one hundred twenty days after receipt of the request for a hearing. If no request for a hearing is made within the specified time, the decision of the hearing officer shall be final.

(3) If the hearing officer awards an amount to the applicant greater than the amount requested by the applicant, the hearing officer shall furnish the committee with his or her findings of fact and conclusions of law together with the reasons for granting the applicant more than he or she requested. The committee shall review the decision of the hearing officer taking into consideration the availability of funds appropriated for the purposes of the act and other standards formulated pursuant to section 81-1814. The committee may approve the same amount awarded by the hearing officer, may increase or decrease the amount, or may deny an award of compensation.

Source: Laws 1978, LB 910, § 9; Laws 1986, LB 540, § 10; Laws 1990, LB 87, § 5.

81-1810 Committee or hearing officer; proceedings; powers; applicants; rights.

(1) The committee or a hearing officer may hold hearings, sit and act at the times and places and take the testimony that the committee or the hearing officer considers advisable, and administer oaths or affirmations to witnesses. The hearing officer or the committee shall have full powers by subpoena to compel the appearance of witnesses and the production of any relevant evidence, but no subpoena shall be issued unless signed by a member of the committee. Application to a court for aid in enforcing the subpoena may be made in the name of the committee by any committee member.

(2) The applicant and any other person having a substantial interest in the proceeding may appear and be heard, produce evidence, and cross-examine witnesses in person or by an attorney. The committee or a hearing officer may hear other persons who in its or his or her judgment may have relevant evidence to submit.

(3) The committee or a hearing officer shall have access to criminal history record information, as defined in section 29-3506, and investigative information of the law enforcement agency which handled the offense which is the basis for the victim's application for compensation.

Source: Laws 1978, LB 910, § 10; Laws 1980, LB 319, § 1; Laws 1986, LB 540, § 11.

81-1811 Offense; proof of conviction; how treated.

If a person has been convicted of an offense on which a claim under the Nebraska Crime Victim's Reparations Act is based, proof of that conviction shall be taken as conclusive evidence that the offense occurred and that such person committed the offense, unless an appeal or a proceeding with regard to it is pending.

Source: Laws 1978, LB 910, § 11; Laws 1986, LB 540, § 12.

81-1812 Hearing officer or committee; order; determine and allow attorney's fees.

The hearing officer or the committee may, as part of an order entered under the Nebraska Crime Victim's Reparations Act, determine and allow reasonable attorney's fees not to exceed five percent of any compensation awarded. If the decision of a hearing officer or the committee is appealed, the court shall determine reasonable attorney's fees.

Source: Laws 1978, LB 910, § 12; Laws 1986, LB 540, § 13.

81-1813 Commission; adopt rules and regulations; forms and materials; provide.

The commission shall adopt and promulgate rules and regulations prescribing the procedures to be followed in the filing of applications and proceedings under the Nebraska Crime Victim's Reparations Act and any other matters the commission considers appropriate, including special circumstances, such as when expenses of job retraining or similar employment-related rehabilitative services are involved, under which an award from the Victim's Compensation Fund may exceed twenty-five thousand dollars. If the rules and regulations authorize awards in excess of twenty-five thousand dollars for special circumstances, the amount of an award in excess of twenty-five thousand dollars shall only be used for such special circumstances. The committee shall make available all forms and educational materials necessary to promote the existence of the programs to persons throughout the state.

Source: Laws 1978, LB 910, § 13; Laws 1981, LB 328, § 7; Laws 1986, LB 540, § 14; Laws 2009, LB598, § 6; Laws 2015, LB605, § 90.

81-1814 Compensation; committee; formulate standards for uniform application.

For the purpose of determining the amount of compensation payable under the Nebraska Crime Victim's Reparations Act, the committee shall formulate standards for uniform application of the act and take into consideration rates and amounts of compensation payable for injuries and death under other laws of this state and of the United States and the availability of funds appropriated for the purposes of the act. Victims of crimes subject to federal jurisdiction shall be awarded compensation on the same basis as victims of all other compensable crimes.

Source: Laws 1978, LB 910, § 14; Laws 1986, LB 540, § 15.

Discretion of board to eliminate an award to dependent children of victim regarding the availability of funds appropriated must be supported by record. Lambert v. Nebraska Cr. Vict. Rep. Bd., 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1815 Compensation; to whom paid.

In a case in which a person is injured or killed as a result of conduct specified in the Nebraska Crime Victim's Reparations Act, or by any act of any other person which is within the description of offenses listed in such act, the committee or a hearing officer may order the payment of compensation:

- (1) To or for the benefit of the injured person;
- (2) In the case of personal injury or death of the victim, to a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury;

(3) In the case of death of the victim, to or for the benefit of any one or more of the dependents of the victim; or

(4) To a health care provider for costs incurred in treating or examining injuries of the victim arising out of the sexual assault, domestic assault, or child abuse as described in section 81-1807. Compensation paid to a victim shall not include such costs paid to a health care provider.

Source: Laws 1978, LB 910, § 15; Laws 1986, LB 540, § 16; Laws 2021, LB497, § 4.

Children who were supported by their mother were entitled to recover under Crime Victim's Reparations Act for pecuniary losses incurred due to crime, including financial support of their

mother for the remainder of minority, up to the statutory limit. Lambert v. Nebraska Cr. Vict. Rep. Bd., 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1816 Committee or hearing officer; order; considerations; suspend proceedings; when.

(1) In determining whether to make an order under the Nebraska Crime Victim's Reparations Act, the committee or hearing officer shall consider all circumstances determined to be relevant, including, but not limited to, provocation, consent, or any other behavior of the victim which directly or indirectly contributed to his or her injury or death.

(2) An order may be made under the Nebraska Crime Victim's Reparations Act whether or not any person is prosecuted for or convicted of an offense arising out of the act which caused the injury or death involved in the application. Upon application made by an appropriate prosecuting authority, the committee may suspend proceedings under the Nebraska Crime Victim's Reparations Act for such period as it considers appropriate on the ground that a prosecution for an offense arising out of the act which caused the injury or death involved in the application has been commenced or is imminent.

Source: Laws 1978, LB 910, § 16; Laws 1986, LB 540, § 17; Laws 1990, LB 87, § 6.

Social Security payment to aid dependent children who lost support of their mother not treated as form of collateral compensation when the board considers all relevant circumstances.

Lambert v. Nebraska Cr. Vict. Rep. Bd., 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1817 Compensation awarded; collateral compensation; how treated.

(1) The committee or a hearing officer may award compensation for losses and expenses allowable under the Nebraska Crime Victim's Reparations Act for which the applicant is not compensated by the offender or a person on behalf of the offender, by the United States, by a state or any of its subdivisions or agencies, or by a private source of emergency awards under section 81-1820, for injury or death compensable under such act. Life insurance proceeds and social security payments shall not be treated as forms of such collateral compensation.

(2) If compensation is awarded under the act and the person receiving it also receives a collateral sum under the act which has not been deducted from it, he or she shall refund to the committee either the amount of the collateral sum or the amount of compensation paid to him or her under the act, whichever is less.

Source: Laws 1978, LB 910, § 17; Laws 1986, LB 540, § 18.

Social Security payment to aid dependent children who lost support of their mother not treated as form of collateral com-

pensation when the board considers all relevant circumstances.

Lambert v. Nebraska Cr. Vict. Rep. Bd., 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1818 Personal injury or death; situations for which compensation is permitted.

The committee or hearing officer may order the payment of compensation from the Victim's Compensation Fund for personal injury or death which resulted from:

- (1) An attempt on the part of the applicant to prevent the commission of crime, to apprehend a suspected criminal, to aid or attempt to aid a police officer in the performance of his or her duties, or to aid a victim of a crime; or
- (2) The commission or attempt on the part of one other than the applicant of an unlawful criminal act committed or attempted in the State of Nebraska.

Source: Laws 1978, LB 910, § 18; Laws 1986, LB 540, § 19; Laws 2009, LB598, § 7; Laws 2011, LB390, § 23.

81-1819 Payment of compensation; order; losses covered.

The committee or hearing officer may order the payment of compensation to victims of crime and survivors of victims of crime for:

- (1) Expenses actually and reasonably incurred as a result of the personal injury or death of the victim, including expenses for mental health counseling and care;
- (2) Loss of wages and future earning capacity as a result of total or partial incapacity of the victim and reasonable expenses of job retraining or similar employment-oriented rehabilitative services for the victim;
- (3) Pecuniary loss to the dependents of the deceased victim;
- (4) Funeral and burial expenses actually and reasonably incurred as a result of the death of the victim; and
- (5) Any other loss resulting from the personal injury or death of the victim which the committee determines to be reasonable.

Source: Laws 1978, LB 910, § 19; Laws 1986, LB 540, § 20.

Children of murdered woman were not entitled to recover for loss of mother's love and affection under Crime Victim's Repa-

rations Act. Lambert v. Nebraska Cr. Vict. Rep. Bd., 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1820 Hearing officer; emergency award of compensation; when; conditions; review.

(1) Prior to the hearing officer taking action on an application for compensation from the Victim's Compensation Fund, the applicant may request that a hearing officer make an emergency award of compensation to the applicant. If it appears to the hearing officer that the claim is one for which compensation is probable and undue hardship will result to the applicant if immediate payment is not made, the hearing officer may make an emergency award of compensation to the applicant pending a final decision in the case, except that:

- (a) The amount of the emergency compensation shall not exceed five hundred dollars;
- (b) The amount of the emergency compensation shall be deducted from the final compensation made to the applicant; and
- (c) The excess amount of the emergency compensation over the final amount shall be repaid by the applicant to the committee.

(2) If the hearing officer refuses to make an emergency award of compensation to the applicant, the applicant may request an emergency hearing before the committee which may be conducted by means of teleconference. The committee shall forthwith specify a time and place for an emergency hearing and shall give written notice to the applicant. If it appears to the committee that the claim is one for which compensation is probable and undue hardship will result to the applicant if immediate payment is not made, the committee may make an emergency award of compensation to the applicant pending a final decision in the case, subject to the conditions and limitations stated in subsection (1) of this section.

Source: Laws 1978, LB 910, § 20; Laws 1986, LB 540, § 21; Laws 2009, LB598, § 8.

81-1821 Payment of compensation; application; requirements; deadlines; exceptions.

(1) Except as provided in subsections (3) and (4) of this section, no order for the payment of compensation shall be entered under the Nebraska Crime Victim's Reparations Act unless:

(a) The application has been submitted to the committee within the deadline provided in subsection (2) of this section; and

(b) The personal injury or death was the result of an incident or offense which had been reported to the police within five days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within five days of the time when a report could reasonably have been made.

(2) An application shall be submitted to the committee:

(a) For a victim who was nineteen years of age or older at the time of the personal injury or death, within two years after the date of the personal injury or death;

(b) For a victim who was under nineteen years of age at the time of death, within three years after the date of death; and

(c) For a victim who was under nineteen years of age at the time of the personal injury, on or before the victim's twenty-second birthday.

(3) The committee may evaluate applications submitted beyond the deadline established in this section if the committee finds that good cause existed for missing such deadline.

(4) An application submitted by or for a victim of sexual assault, domestic assault, child abuse, or sex trafficking is not subject to the five-day reporting requirement in subsection (1) of this section if, prior to submitting the application the:

(a) Applicant or victim has reported such crime to the police;

(b) Applicant or victim has obtained a protection order related to such incident or offense; or

(c) Victim has presented for a forensic medical exam.

Source: Laws 1978, LB 910, § 21; Laws 1986, LB 540, § 22; Laws 2021, LB372, § 2; Laws 2023, LB157, § 15.

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 conformance 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.

81-1823 Award; limitation; how paid.

Except as provided in section 81-1813, no compensation shall be awarded under the Nebraska Crime Victim's Reparations Act from the Victim's Compensation Fund in an amount in excess of twenty-five thousand dollars for each applicant per incident. Each award shall be paid in installments unless the hearing officer or committee decides otherwise.

Source: Laws 1978, LB 910, § 23; Laws 1986, LB 540, § 24; Laws 2009, LB598, § 10; Laws 2015, LB605, § 91.

Children who have lost the financial support of their mother for at least the remainder of their minority are limited to single award of \$10,000 each by act, even though lost support would total more than \$10,000. Lambert v. Nebraska Cr. Vict. Rep. Bd., 214 Neb. 817, 336 N.W.2d 320 (1983).

81-1824 Excluded incidents.

No order for payment of compensation under the Nebraska Crime Victim's Reparations Act shall be made for injuries or death resulting from incidents or offenses occurring prior to January 1, 1979, or outside the state.

Source: Laws 1978, LB 910, § 24; Laws 1986, LB 540, § 25.

81-1825 Committee; subrogation rights.

When an order for the payment of compensation for personal injury or death is made from the Victim's Compensation Fund, the committee shall be subrogated to the cause of action of the applicant against the person responsible for the injury or death and shall be entitled to bring an action against such person for the amount of the damages sustained by the applicant. If an amount greater than that paid under the order is recovered and collected in the action, the committee shall pay the balance to the applicant.

Source: Laws 1978, LB 910, § 25; Laws 1986, LB 540, § 26; Laws 2009, LB598, § 11.

81-1826 Department of Correctional Services; confined persons; provide for employment.

The Department of Correctional Services shall, as far as possible, provide for the employment, eight hours per day, of confined persons by private businesses. The employment may be provided under section 81-1827, 83-183, or 83-184.

Source: Laws 1978, LB 910, § 26; Laws 1980, LB 319, § 3; Laws 1994, LB 988, § 29.

81-1827 Business enterprise; employment of persons committed to the department.

(1) The Director of Correctional Services may enter into such contracts as may be necessary to fully implement the Nebraska Crime Victim's Reparations Act. Such contractual arrangements may include, but not be limited to, rental or lease agreements for such buildings or portions thereof on the grounds of any Department of Correctional Services facilities, together with the real estate needed for reasonable access to and egress from the leased buildings, with a private corporation for the purpose of establishing and operating a factory for the manufacture and processing of goods, wares, or merchandise or any other business or commercial enterprise deemed by the director to be consistent with the proper training and rehabilitation of persons committed to the department.

(2) Nothing in this section shall operate to limit the director's authority to enter into contractual arrangements as may be provided elsewhere in law.

(3) Any corporation operating a factory or other business or commercial enterprise under this section may employ offenders committed to the Department of Correctional Services and persons conditionally released subject to the provisions of section 83-184.

Source: Laws 1978, LB 910, § 27; Laws 1980, LB 319, § 4; Laws 1986, LB 540, § 27.

81-1828 Repealed. Laws 1980, LB 319, § 12.**81-1829 Department of Correctional Services; establish and maintain farms.**

The Department of Correctional Services may establish and maintain farms to provide food for the institutions under the jurisdiction of the department and also to provide opportunity for all inmates to work eight hours per day.

Source: Laws 1978, LB 910, § 29; Laws 1980, LB 319, § 5.

81-1830 False claim; penalty.

Any person who knowingly makes a false claim under the Nebraska Crime Victim's Reparations Act shall be guilty of a Class I misdemeanor and shall forfeit any benefit received and shall repay the state for any payment of compensation made under the act.

Source: Laws 1978, LB 910, § 30; Laws 1986, LB 540, § 28.

81-1831 Right of action; abate; exception.

The rights to compensation created under the Nebraska Crime Victim's Reparations Act are personal and shall not survive the death of a victim or dependent entitled to them, except that if the death occurs after an application

for compensation has been filed with the committee the proceeding shall not abate, but may be continued by the legal representative of the decedent's estate.

Source: Laws 1978, LB 910, § 31; Laws 1986, LB 540, § 29.

81-1832 Appeal; procedure.

All determinations, decisions, and awards made by the committee or any hearing officer may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1978, LB 910, § 32; Laws 1986, LB 540, § 30; Laws 1988, LB 352, § 180.

Cross References

Administrative Procedure Act, see section 84-920.

This section covers appeal to district court by the children of a crime victim from a denial of their application to the Nebraska Crime Victim's Reparations Board. *Lambert v. Nebraska Cr. Vict. Rep. Bd.*, 214 Neb. 817, 336 N.W.2d 320 (1983).

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.

81-1834 Repealed. Laws 2013, LB 99, § 9.

81-1835 Victim's Compensation Fund; created; use; investment.

The Victim's Compensation Fund is created. The fund shall be used to pay awards or judgments under the Nebraska Crime Victim's Reparations Act other than distributions from the Community Trust. The fund shall include deposits pursuant to sections 29-2286, 33-157, 81-1836, 83-183.01, and 83-184 and donations or contributions from public or private sources and shall be in such amount as the Legislature shall determine to be reasonably sufficient to meet anticipated claims. When the amount of money in the fund is not sufficient to pay any awards or judgments under the act, the Director of Administrative Services shall immediately advise the Legislature and request an emergency appropriation to satisfy such awards and judgments. 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 1978, LB 910, § 35; Laws 1986, LB 540, § 33; Laws 1987, LB 353, § 2; Laws 1995, LB 7, § 132; Laws 2009, LB598, § 14; Laws 2010, LB510, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1836 Person convicted of crime; payments received; deposited in fund.

Every person, firm, corporation, partnership, limited liability company, association, or other legal entity contracting with any person or the representative or assignee of any person accused of a crime in this state with respect to the reenactment of such crime, by way of a movie, book, magazine article, radio, or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions, or emotions regarding such crime, shall pay over to the committee any money which would otherwise, by terms of such contract, be owing to the person so convicted or his or her representatives. The committee shall deposit such money in the Victim's Compensation Fund.

Source: Laws 1978, LB 910, § 36; Laws 1986, LB 540, § 34; Laws 1993, LB 121, § 544.

81-1837 Money in Victim's Compensation Fund; returned; when.

Upon disposition of charges favorable to any person accused of committing a crime or upon a showing by such person that five years have elapsed from the deposit of money into the Victim's Compensation Fund by the accused pursuant to section 81-1836 and further that no actions are pending against such person pursuant to the Nebraska Crime Victim's Reparations Act, the committee shall immediately pay the money deposited pursuant to such section by the accused to such person.

Source: Laws 1978, LB 910, § 37; Laws 1986, LB 540, § 35; Laws 1990, LB 87, § 8.

81-1838 Five-year period; when commenced.

Notwithstanding any other provision of law with respect to the timely bringing of an action, the five-year period provided for in section 81-1837 shall not begin to run until the accused has deposited money into the Victim's Compensation Fund.

Source: Laws 1978, LB 910, § 38.

81-1839 Committee; payments for legal representation; when.

Notwithstanding the provisions of sections 81-1836 to 81-1838, the committee shall make payments from the Victim's Compensation Fund to any person accused of crime upon the order of a court of competent jurisdiction after a showing by such person that such money shall be used for the exclusive

purpose of retaining legal representation at any stage of the proceedings against such person, including the appeals process.

Source: Laws 1978, LB 910, § 39; Laws 1986, LB 540, § 36; Laws 2009, LB598, § 15.

81-1840 Action to defeat purpose of sections; null and void.

Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of sections 81-1836 to 81-1839 shall be null and void as against the public policy of this state.

Source: Laws 1978, LB 910, § 40; Laws 2009, LB598, § 16.

81-1840.01 State or political subdivision; failure to act; effect.

Nothing in the Nebraska Crime Victim's Reparations Act or sections 81-1843 to 81-1851 requiring an act by the state or a political subdivision is deemed to create any liability if the state or political subdivision fails to act as required under the Nebraska Crime Victim's Reparations Act or such sections. Such failure to act also shall not invalidate any legal process or proceeding.

Source: Laws 2004, LB 270, § 7.

81-1841 Act, how cited.

Sections 81-1801 to 81-1842 shall be known and may be cited as the Nebraska Crime Victim's Reparations Act.

Source: Laws 1978, LB 910, § 41; Laws 2004, LB 270, § 6; Laws 2009, LB598, § 17.

81-1842 Sexual assault victim; records; confidential.

The name of any victim of a sexual assault appearing in information or records of the Crime Victim's Reparations Committee when the victim is applying for compensation under the Nebraska Crime Victim's Reparations Act shall not be made public.

Source: Laws 1980, LB 319, § 2; Laws 1986, LB 540, § 37.

(b) CRIME VICTIMS AND WITNESSES ASSISTANCE

81-1843 Legislative findings.

(1) The Legislature finds and declares:

(a) That there is a need to develop methods to reduce the trauma and discomfort that victims of a crime and witnesses to a crime may experience because often such victims or witnesses are further victimized by the criminal justice system;

(b) That when crime strikes, the chief concern of the criminal justice system is apprehending and dealing with the criminal and the victim's needs are frequently forgotten;

(c) That victims often become isolated and receive little practical advice or necessary care;

(d) That witnesses must make arrangements to appear in court regardless of their own schedules, child care responsibilities, or transportation problems;

(e) That witnesses often endure long waits before testifying, are subjected to confusing circumstances while testifying, and receive no information as to the ultimate disposition of the case;

(f) That a large number of victims and witnesses are unaware of both their rights and obligations;

(g) That unreported crimes occur at a rate that is more than twice the rate of reported crimes and that the reasons people give for not reporting crimes indicate that they are disenchanting with the criminal justice system;

(h) That the single most important factor determining whether or not a case will be solved is the information that the victim supplies to the responding police officer; and

(i) That although the State of Nebraska has the Crime Victim's Reparations Committee and compensation is available for medical expenses, lost earning power, and reasonable rehabilitation costs, the application process is difficult, complex, and time consuming and few victims are aware that the compensation provisions exist.

(2) It is therefore the intent of the Legislature to provide ways of improving the attitudes of victims and witnesses toward the criminal justice system and to provide for faster and more complete recovery by the victim from the effects of the crime through the establishment of pilot project centers for victim and witness assistance.

Source: Laws 1981, LB 477, § 1; Laws 1986, LB 540, § 38.

81-1844 Crime Victim and Witness Assistance Fund; created; administration; use.

There is hereby created a fund to be known as the Crime Victim and Witness Assistance Fund. Such fund shall contain such amounts as may be appropriated by the Legislature and shall be used only for the purposes set forth in sections 81-1843 to 81-1851. Such fund shall be administered by the Nebraska Commission on Law Enforcement and Criminal Justice.

Source: Laws 1981, LB 477, § 2; Laws 2004, LB 270, § 8.

81-1844.01 Pamphlet on rights and procedures; distribution.

(1) The Nebraska Commission on Law Enforcement and Criminal Justice shall create a pamphlet or document that contains the following information:

(a) A brief statement of the procedural steps of a criminal case;

(b) The rights and procedures under sections 81-1843 to 81-1851;

(c) Suggested procedures if the victim or the victim's immediate family is subjected to acts or threats of physical violence or intimidation by the defendant or at the direction of the defendant; and

(d) The availability of victim's compensation awards and the address of the Crime Victim's Reparations Committee.

(2) Not later than seventy-two hours after arraignment of the defendant for the crime, the county attorney shall distribute to the victim, as defined in section 29-119, the pamphlet or document of victim's rights created by the commission pursuant to this section.

Source: Laws 2004, LB 270, § 9.

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.

81-1846 Victim and witness assistance centers; purposes.

The centers shall be designed to:

- (1) Assist criminal justice agencies in giving more consideration and personal attention to victims and witnesses through the delivery of services to victims and witnesses of crimes;
- (2) Provide a model for other community-based efforts to aid victims and witnesses;
- (3) Sensitize law enforcement officials, communications technicians, and supervisors to the needs of victims of crime and encourage a concerned approach to such victims;
- (4) Attempt to decrease the incidence of unreported crimes; and
- (5) Assure that victims and witnesses are informed of the progress of the case in which they are involved.

Source: Laws 1981, LB 477, § 4.

81-1847 Victim and witness assistance centers; services provided.

Services provided by the centers shall include, but not be limited to:

- (1) Providing assistance to victims in preparing claims for submission to the Crime Victim's Reparations Committee;

- (2) Establishing a means for volunteers to work with criminal justice agencies to promote greater sensitivity to the needs of victims and witnesses;
- (3) Providing followup support services to victims of violent crime and their families to insure that they receive necessary assistance through available community resources;
- (4) Providing elderly victims of crime with services appropriate to their special needs;
- (5) Providing liaison and referral systems to special counseling facilities and community service agencies for victims;
- (6) Providing transportation and household assistance to those victims and witnesses participating in the criminal justice process;
- (7) Notifying friends, relatives, and the employer of a victim, if requested;
- (8) Arranging for verification of medical benefits and assistance when applying for compensation from the Crime Victim's Reparations Committee;
- (9) Notifying witnesses prior to their being subpoenaed in criminal cases; and
- (10) Notifying witnesses of changes in the court calendar to avoid unnecessary trips to the court or spending unnecessary time in court.

Source: Laws 1981, LB 477, § 5; Laws 1986, LB 540, § 39.

81-1848 Victims and witnesses of crimes; rights; enumerated.

- (1) Victims as defined in section 29-119 shall have the following rights:
 - (a) To examine information which is a matter of public record and collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of issuance of arrest warrants, arrests, detentions, indictments, charges by information, and other formal criminal charges. Such information shall include any disposition arising from such arrests, charges, sentencing, correctional supervision, and release, but shall not include intelligence or investigative information;
 - (b) To receive from the county attorney advance reasonable notice of any scheduled court proceedings and notice of any changes in that schedule;
 - (c) To be present throughout the entire trial of the defendant, unless the victim is to be called as a witness or the court finds sequestration of the victim necessary for a fair trial. If the victim is to be called as a witness, the court may order the victim to be sequestered;
 - (d) To be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the following:
 - (i) The crimes for which the defendant is charged, the defendant's bond, and the time and place of any scheduled court proceedings;
 - (ii) The final disposition of the case;
 - (iii) The crimes for which the defendant was convicted;
 - (iv) The victim's right to make a written or oral impact statement to be used in the probation officer's preparation of a presentence investigation report concerning the defendant;
 - (v) The address and telephone number of the probation office which is to prepare the presentence investigation report;

(vi) That a presentence investigation report and any statement by the victim included in such report will be made available to the defendant unless exempted from disclosure by order of the court; and

(vii) The victim's right to submit a written impact statement at the sentencing proceeding or to read his or her impact statement submitted pursuant to subdivision (1)(d)(iv) of this section at the sentencing proceeding;

(e) To be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the time and place of any subsequent judicial proceedings if the defendant was acquitted on grounds of insanity;

(f) To be notified as provided in section 81-1850, to testify before the Board of Parole or submit a written statement for consideration by the board, and to be notified of the decision of and any action taken by the board;

(g) To submit a written statement for consideration at any conditional release proceedings, Board of Parole proceedings, pardon proceedings, or commutation proceedings. Conditional release proceeding means a proceeding convened pursuant to a Department of Correctional Services' decision to grant a furlough from incarceration for twenty-four hours or longer or a release into community-based programs, including educational release and work release; and

(h) To have any personal identifying information, other than the victim's name, not be disclosed on pleadings and documents filed in criminal actions that may be available to the public. The Supreme Court shall adopt and promulgate rules to implement this subdivision.

(2) Victims and witnesses of crimes shall have the following rights:

(a) To be informed on all writs of subpoena or notices to appear that they are entitled to apply for and may receive a witness fee;

(b) To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled in order to save the person an unnecessary trip to court;

(c) To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts and to be provided with information as to the level of protection available;

(d) To be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services;

(e) To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled;

(f) To be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants;

(g) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, shall be returned to the person within ten days after being taken;

(h) To be provided with appropriate employer intercession services to insure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(i) To be entitled to a speedy disposition of the case in which they are involved as a victim or witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter;

(j) To be informed by the county attorney of the final disposition of a felony case in which they were involved and to be notified pursuant to section 81-1850 whenever the defendant in such case is released from custody; and

(k) To have the family members of all homicide victims afforded all of the rights under this subsection and services analogous to those provided under section 81-1847.

Source: Laws 1981, LB 477, § 6; Laws 1990, LB 87, § 9; Laws 1991, LB 186, § 3; Laws 2004, LB 270, § 11; Laws 2015, LB605, § 92.

Victims are permitted to both offer a written statement for a presentence report under subdivision (1)(d)(iv) of this section and offer a written impact statement at the time of sentencing under subdivision (1)(d)(vii) of this section. *State v. Hurd*, 307 Neb. 393, 949 N.W.2d 339 (2020).

not abuse its discretion in allowing the sister to read her impact statement at sentencing where the parents were elderly, lived out of state, and did not want to participate in the resentencing. *State v. Thieszen*, 300 Neb. 112, 912 N.W.2d 696 (2018).

Although the victim's parents, and not the victim's sister, were statutorily defined "victims" under section 29-119, the court did

81-1848.01 Appeal; notification required.

(1) Upon the filing of an appeal by the defendant, the county attorney upon whom notice of appeal was served shall notify the Attorney General in writing of the name and last-known address of any victim as defined in section 29-119.

(2) The Attorney General shall notify the victim of the following:

- (a) That the defendant has filed an appeal of the conviction;
- (b) A brief explanation of the appeal process, including possible dispositions;
- (c) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal;
- (d) The time and place of any appellate proceedings and any changes in the time or place of those proceedings;
- (e) The result of the appeal; and
- (f) The final disposition of the case within thirty days after the final disposition.

(3) In the event the defendant's conviction is reversed and the case is remanded to the trial court for further proceedings, the victim has the same rights as he or she had during the previous proceedings which led to the appeal.

Source: Laws 2004, LB 270, § 12.

81-1848.02 Escape; notification required.

(1) As provided in subsections (2) and (3) of this section, the victim, as defined in section 29-119, and the prosecuting attorney shall be immediately notified of an escape by a prisoner confined and accused of, convicted of, or sentenced for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice to the victim and the prosecuting attorney.

(2) If the escape occurs before the sentence is executed or before the prisoner is delivered to the custody of the Department of Correctional Services or the county corrections agency, the chief law enforcement officer of the agency in

charge of the prisoner's detention shall notify the victim and the prosecuting attorney of the escape.

(3) If the prisoner is confined pursuant to a sentence, the chief administrator of the facility where the prisoner was confined shall notify the victim and the prosecuting attorney.

Source: Laws 2004, LB 270, § 13.

81-1848.03 Victim's rights; waiver.

Victim's rights under sections 81-1843 to 81-1851 may be waived by the victim at any time by (1) written consent, in person or by attorney, filed with the clerk of the court or (2) oral consent in open court entered on the record.

Source: Laws 2004, LB 270, § 14; Laws 2018, LB193, § 92.

81-1849 Victim; duty.

To receive the notices provided for in sections 81-1848 to 81-1848.02, a victim shall keep the county attorney informed of his or her current address and telephone number.

Source: Laws 1990, LB 87, § 10; Laws 2002, LB 1105, § 510; Laws 2004, LB 270, § 15.

81-1850 County attorney; Board of Parole; Department of Correctional Services; county corrections agency; Department of Health and Human Services; Board of Pardons; duties; notification of victim.

(1) For purposes of this section:

(a) Covered offense means:

(i) Murder in the first degree pursuant to section 28-303;

(ii) Murder in the second degree pursuant to section 28-304;

(iii) Kidnapping pursuant to section 28-313;

(iv) Assault in the first degree pursuant to section 28-308;

(v) Assault in the second degree pursuant to section 28-309;

(vi) Sexual assault in the first degree pursuant to section 28-319;

(vii) Sexual assault in the second degree pursuant to section 28-320;

(viii) Sexual assault of a child in the first degree pursuant to section 28-319.01;

(ix) Sexual assault of a child in the second or third degree pursuant to section 28-320.01;

(x) Stalking pursuant to section 28-311.03; or

(xi) An attempt, solicitation, or conspiracy to commit an offense listed in this subdivision (a); and

(b) Victim has the same meaning as in section 29-119.

(2)(a) Except as provided in subdivision (2)(b) of this section, when a person is convicted of a felony, the county attorney shall forward the name and address of any victim of such convicted person to the Board of Parole, the Department of Correctional Services, the county corrections agency, the Department of Health and Human Services, and the Board of Pardons, as applicable.

(b) A victim may waive the right to notification under this section by notifying the county attorney, in which case the county attorney is not required to comply with subdivision (2)(a) of this section.

(c) The Board of Parole, the Department of Correctional Services, the county corrections agency, the Department of Health and Human Services, and the Board of Pardons shall include the victim's name in the file of the convicted person, but the name shall not be part of the public record of any parole or pardons hearings of the convicted person.

(d) Any victim, including a victim who has waived his or her right to notification, may request the notification prescribed in this section, as applicable, by sending a written request to the Board of Parole, the Department of Correctional Services, the county corrections agency, the Department of Health and Human Services, or the Board of Pardons any time after the convicted person is incarcerated and until the convicted person is no longer under the jurisdiction of the Board of Parole, the county corrections agency, the Department of Correctional Services, or the Board of Pardons or, if the convicted person is under the jurisdiction of the Department of Health and Human Services, within the three-year period after the convicted person is no longer under the jurisdiction of the Board of Parole, the county corrections agency, the Department of Correctional Services, or the Board of Pardons.

(3) A victim whose name appears in the file of the convicted person shall be notified by the Board of Parole:

(a) Within ninety days after conviction of an offender, of the tentative date of release and the earliest parole eligibility date of such offender;

(b) Of any parole hearings or proceedings;

(c) Of any decision of the Board of Parole;

(d) When a convicted person who is on parole is returned to custody because of parole violations; and

(e) If the convicted person has been adjudged a mentally disordered sex offender or is a convicted sex offender, when such convicted person is released from custody or treatment.

Such notification shall be given in person, by telecommunication, or by mail.

(4) A victim whose name appears in the file of the convicted person shall be notified by the Department of Correctional Services or a county corrections agency:

(a) When a convicted person is granted a furlough or release from incarceration for twenty-four hours or longer or any transfer of the convicted person to community status;

(b) When a convicted person is released into community-based programs, including educational release and work release programs. Such notification shall occur at the beginning and termination of any such program;

(c) When a convicted person escapes or does not return from a granted furlough or release and again when the convicted person is returned into custody;

(d) When a convicted person is discharged from custody upon completion of his or her sentence. Such notice shall be given at least thirty days before discharge, when practicable;

(e) Of the (i) department's calculation of the earliest parole eligibility date of the prisoner with all potential good time or disciplinary credits considered if the sentence exceeds ninety days or (ii) county corrections agency's calculation of the earliest release date of the prisoner. The victim may request one notice of the calculation described in this subdivision. Such information shall be mailed not later than thirty days after receipt of the request;

(f) Of any reduction in the prisoner's minimum sentence; and

(g) Of the victim's right to submit a statement as provided in section 81-1848.

(5) A victim whose name appears in the file of a convicted person shall be notified by the Department of Health and Human Services:

(a) When a person described in subsection (6) of this section becomes the subject of a petition pursuant to the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act prior to his or her discharge from custody upon the completion of his or her sentence or within thirty days after such discharge. The county attorney who filed the petition shall notify the Department of Correctional Services of such petition. The Department of Correctional Services shall forward the names and addresses of victims appearing in the file of the convicted person to the Department of Health and Human Services; and

(b) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection:

(i) Escapes from an inpatient facility providing board-ordered treatment and again when the person is returned to an inpatient facility;

(ii) Is discharged or has a change in disposition from inpatient board-ordered treatment;

(iii) Is granted a furlough or release for twenty-four hours or longer; and

(iv) Is released into educational release programs or work release programs. Such notification shall occur at the beginning and termination of any such program.

(6) Subsection (5) of this section applies to a person convicted of a covered offense which is also alleged to be the recent act or threat underlying the commitment of such person as mentally ill and dangerous or as a dangerous sex offender as defined in section 83-174.01.

(7) A victim whose name appears in the file of a person convicted of a covered offense shall be notified, via certified mail, by the Board of Pardons:

(a) Of any pardon or commutation proceedings at least thirty calendar days prior to the proceedings; and

(b) If a pardon or commutation has been granted, within ten days after such granting.

(8) The Board of Parole, the Department of Correctional Services, the Department of Health and Human Services, and the Board of Pardons shall adopt and promulgate rules and regulations as needed to carry out this section.

(9) The victim's address and telephone number maintained by the Department of Correctional Services, the Department of Health and Human Services, the county corrections agency, the Board of Parole, and the Board of Pardons pursuant to subsection (2) of this section shall be exempt from disclosure under

public records laws and federal freedom of information laws, as such laws existed on January 1, 2004.

Source: Laws 1991, LB 186, § 4; Laws 1992, LB 523, § 16; Laws 1997, LB 325, § 1; Laws 2004, LB 270, § 16; Laws 2004, LB 1083, § 127; Laws 2006, LB 1199, § 85; Laws 2023, LB50, § 43.

Cross References

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

Sex Offender Commitment Act, see section 71-1201.

81-1851 Legislative intent.

It is the intent of the Legislature that sections 81-1843 to 81-1851 shall be construed as enabling the rights set forth in Article I, section 28, of the Constitution of Nebraska.

Source: Laws 2004, LB 270, § 17.

ARTICLE 19

TRUTH AND DECEPTION EXAMINERS

Section

- 81-1901. Act, how cited.
- 81-1902. Sections; purpose; how construed.
- 81-1903. Definitions, where found.
- 81-1904. Secretary, defined.
- 81-1905. Examinee, defined.
- 81-1906. Person, defined.
- 81-1907. Polygraph, defined.
- 81-1908. Polygraph examiner, defined.
- 81-1909. Voice stress analyzer, defined.
- 81-1910. Voice analysis examiner, defined.
- 81-1911. Examiner, defined.
- 81-1912. Private examiner, defined.
- 81-1913. Public examiner, defined.
- 81-1914. Truthfulness or deception; detection; license required.
- 81-1915. License; application.
- 81-1916. Polygraph; license to operate; applicant; qualifications; affidavit; contents.
- 81-1917. Voice stress analysis; license to operate; applicant; qualifications; affidavit; contents.
- 81-1918. Course of study or training; certified facility; proof of completion.
- 81-1919. Intern's license; qualifications.
- 81-1920. Application; investigated by Secretary of State.
- 81-1921. Examiner's licenses; fees; expiration.
- 81-1922. Intern licenses; fees; expiration.
- 81-1923. License; not assignable or transferable.
- 81-1924. License; fee; duplicate license; place of business; displayed.
- 81-1925. Licenses; revenue placed in General Fund.
- 81-1926. Public examiner; fee; private examination; second license required; violation; penalty.
- 81-1927. Licensee; change of address; notify Secretary of State.
- 81-1928. License; denied, suspended, revoked; grounds; hearing.
- 81-1929. License; revoked, suspended; surrendered; when.
- 81-1930. Licensee; service of process.
- 81-1931. Appeal; procedure.
- 81-1932. Employee; use of truth and deception examination; when; limitation.
- 81-1933. Employer; violation; penalty.
- 81-1934. Secretary of State; rules and regulations; adopt; forms.
- 81-1935. Act; violation; penalty.
- 81-1936. Examiner's license; reciprocity; requirements.

81-1901 Act, how cited.

Sections 81-1901 to 81-1936 shall be known and may be cited as the Licensing of Truth and Deception Examiners Act.

Source: Laws 1980, LB 485, § 1.

81-1902 Sections; purpose; how construed.

It is the purpose of sections 81-1901 to 81-1936 to regulate all persons who purport to be able to detect deception or to verify truth of statements through the use of instrumentation, such as lie detectors, polygraphs, deceptographs, psychological stress evaluators, or voice analyzers. Sections 81-1901 to 81-1936 shall be liberally construed to regulate all such persons using such instruments. No person who purports to be able to detect deception or to verify the truth of statements through instrumentation shall be exempt from sections 81-1901 to 81-1936 because of the terminology which he or she may use to refer to himself or herself, to an instrument used, or to services provided. Sections 81-1901 to 81-1936 shall not be interpreted to prohibit the legitimate use of any of the instruments listed in this section for research purposes.

Source: Laws 1980, LB 485, § 2.

81-1903 Definitions, where found.

For the purpose of sections 81-1901 to 81-1936, unless the context otherwise requires, the definitions found in sections 81-1904 to 81-1913 shall be used.

Source: Laws 1980, LB 485, § 3.

81-1904 Secretary, defined.

Secretary shall mean the Secretary of State for the State of Nebraska.

Source: Laws 1980, LB 485, § 4.

81-1905 Examinee, defined.

Examinee shall mean the individual who is being examined, tested, or questioned by an examiner or intern for the purpose of verifying truthfulness or detecting deception.

Source: Laws 1980, LB 485, § 5.

81-1906 Person, defined.

Person shall mean any individual, firm, partnership, limited liability company, association, or corporation.

Source: Laws 1980, LB 485, § 6; Laws 1993, LB 121, § 545.

81-1907 Polygraph, defined.

Polygraph shall mean any mechanical or electronic instrument which uses attached sensors to record psychophysiological responses for the purpose of attempting to determine truth or deception and which records permanently and simultaneously at least three physiological responses. The physiological re-

sponses recorded shall include, but not be limited to, respiratory pattern, cardiovascular pattern, and galvanic skin response.

Source: Laws 1980, LB 485, § 7.

81-1908 Polygraph examiner, defined.

Polygraph examiner shall mean any person, other than an intern, who uses an approved polygraph to test or question an examinee for the purpose of attempting to determine truth or deception.

Source: Laws 1980, LB 485, § 8.

81-1909 Voice stress analyzer, defined.

A voice stress analyzer shall mean a mechanical or electronic instrument capable of recording the human voice, which detects and measures pitch, amplitude, frequency, and other components of the human voice for the purpose of attempting to determine truth or deception, and whose records are permanently and simultaneously recorded.

Source: Laws 1980, LB 485, § 9.

81-1910 Voice analysis examiner, defined.

Voice analysis examiner shall mean any person, other than an intern, who uses an instrument capable of permanently recording on a graph one or more psychophysiological reactions present in the voice of an examinee for the purpose of attempting to determine truth or deception.

Source: Laws 1980, LB 485, § 10.

81-1911 Examiner, defined.

Examiner shall mean any polygraph examiner, voice analysis examiner, or any other person, other than an intern, who does any of the following:

(1) Purports to verify truthfulness or to detect deception or to provide a diagnostic opinion regarding such truthfulness or deception through instrumentation or the use of a mechanical device;

(2) Represents that he or she can or does offer the service of attempting to verify truthfulness or detect deception or providing a diagnostic opinion regarding such truthfulness or deception through instrumentation or the use of a mechanical device; or

(3) Uses instrumentation or a mechanical device to measure or record an individual's body responses or psychophysiological activities to enable or assist in the attempted verification of truthfulness or detection of deception or the providing of a diagnostic opinion regarding such truthfulness or deception.

Source: Laws 1980, LB 485, § 11.

81-1912 Private examiner, defined.

Private examiner shall mean any examiner who performs or purports to perform the service of attempting to verify truthfulness or detect deception or providing a diagnostic opinion regarding such truthfulness or deception under any circumstances other than as a public examiner.

Source: Laws 1980, LB 485, § 12.

81-1913 Public examiner, defined.

Public examiner shall mean an examiner who performs or purports to perform the service of attempting to verify truthfulness or detect deception or providing a diagnostic opinion regarding such truthfulness or deception exclusively in his or her official capacity as a salaried employee of some agency or political subdivision of the state.

Source: Laws 1980, LB 485, § 13.

81-1914 Truthfulness or deception; detection; license required.

No person shall, after January 1, 1981, by any means, use or attempt to use any instrument or device for the purpose of attempting to verify truthfulness or detect deception, or reporting or assisting in the reporting of a diagnostic opinion regarding such truthfulness or deception unless such person is duly licensed and holds a valid license under sections 81-1901 to 81-1936. No person shall falsely represent that he or she is employed by or represents a person licensed under sections 81-1901 to 81-1936.

Source: Laws 1980, LB 485, § 14.

81-1915 License; application.

A person, including a municipal, county, or state employee, who wishes to engage in the use of instrumentation which is designed to attempt to detect truth or deception and any other person desiring to be licensed under sections 81-1901 to 81-1936 shall file an application for a license with the Secretary of State. If the applicant is an individual, the application shall include the applicant's social security number. The Secretary of State shall issue a non-transferable license to each qualified applicant. Such license shall authorize the holder to engage in the use of instrumentation designed to detect truth or deception and each license shall specify the instrument the holder is licensed to operate.

Source: Laws 1980, LB 485, § 15; Laws 1997, LB 752, § 227.

81-1916 Polygraph; license to operate; applicant; qualifications; affidavit; contents.

(1) Each applicant for a truth and deception examiner's license to operate a polygraph instrument shall submit to the Secretary of State a sworn affidavit that the applicant:

- (a) Is at least nineteen years of age;
- (b) Is a citizen of the United States and a resident of the State of Nebraska;
- (c) Has not been under sentence for the commission of a felony within five years prior to such application, including parole, probation, or actual incarceration, and has never been convicted of a felony or a misdemeanor involving moral turpitude;
- (d) Has an academic degree at the baccalaureate level from an accredited college or university, has at least four years of investigative experience at the federal, state, political subdivision, or private licensed investigator level immediately prior to application, or has had at least four years experience administering polygraph examinations;

(e) Has satisfactorily completed a minimum of two hundred fifty classroom hours of formal polygraph instructions from an institution recognized and approved by the secretary and satisfactorily completed not less than one year of internship training or its equivalent as approved by the secretary; and

(f) Has not previously had an examiner's license or its equivalent refused, revoked, or suspended, or otherwise invalidated for any cause which would also represent lawful grounds for revoking or denying the applicant's license under sections 81-1901 to 81-1936.

(2) Each applicant shall also:

(a) Furnish the secretary with satisfactory proof that he or she has had suitable experience in the personal administration of polygraph examinations during his or her internship or its equivalent;

(b) Furnish the secretary with completed fingerprint cards, in duplicate, bearing the applicant's fingerprints and such other identifying information or certification as to the authenticity thereof as the secretary may reasonably require; and

(c) After satisfying all of the other requirements of this section, be required to satisfactorily pass a written examination regarding the polygraph, conducted by the secretary or under his or her supervision, given to determine competency to practice as an examiner.

Source: Laws 1980, LB 485, § 16.

81-1917 Voice stress analysis; license to operate; applicant; qualifications; affidavit; contents.

(1) Each applicant for a truth and deception examiner's license to operate a voice stress analysis instrument shall submit to the Secretary of State a sworn affidavit that the applicant:

(a) Is at least nineteen years of age;

(b) Is a citizen of the United States and a resident of the State of Nebraska;

(c) Has not been under sentence for the commission of a felony within five years prior to application, including parole, probation, or actual incarceration, and has never been convicted of a felony or a misdemeanor involving moral turpitude;

(d) Has an academic degree at the baccalaureate level from an accredited college or university, has at least four years of investigative experience at the federal, state, political subdivision, or private licensed investigator level immediately prior to application, or has had at least four years experience administering voice stress examinations;

(e) Has satisfactorily completed a minimum of sixty classroom hours of formal voice stress analysis instruction recognized and approved by the secretary and has satisfactorily completed at least one year of internship training or its equivalent as approved by the secretary; and

(f) Has not previously had an examiner's license or its equivalent refused or revoked, or otherwise invalidated for cause duly shown which would also represent lawful grounds for revoking or denying the applicant's license under the Licensing of Truth and Deception Examiners Act.

(2) Each applicant shall also:

(a) Provide the secretary with proof that the applicant has completed a course of study at a training facility approved pursuant to subdivision (e) of subsection (1) of this section;

(b) Furnish the secretary with satisfactory proof that he or she has had suitable experience in the personal administration of voice stress analysis examinations during his or her training course;

(c) Furnish the secretary with completed fingerprint cards, in duplicate, bearing the applicant's fingerprints and such other identifying information or certification as to the authenticity thereof as the secretary may reasonably require; and

(d) After satisfying all of the other requirements of this section, be required to satisfactorily pass a written examination regarding the voice stress analysis instruments, conducted by the secretary or under his or her supervision, given to determine competency to practice as an examiner.

Source: Laws 1980, LB 485, § 17; Laws 2012, LB860, § 1.

81-1918 Course of study or training; certified facility; proof of completion.

For purposes of sections 81-1916 and 81-1917, the secretary shall accept as proof of completion of a course of study or training a copy of a diploma or certificate attesting to the applicant's completion of a training course at an approved or certified training facility or institution, including, but not limited to, those training facilities or institutions which have been certified by (1) the American Polygraph Association as a course of study and training in the use of the polygraph instrument or (2) the National Institute for Truth Verification and the National Association of Computer Voice Stress Analysts as a course of study and training in the use of voice stress instruments.

Source: Laws 1980, LB 485, § 18; Laws 2012, LB860, § 2.

81-1919 Intern's license; qualifications.

A person may apply for and receive an intern's license authorizing such person to use a polygraph or voice analysis instrument if such person is in compliance with subdivisions (1)(a), (1)(b), (1)(c), (1)(e), (1)(f), and (2)(b) of section 81-1916 or subdivisions (1)(a), (1)(b), (1)(c), (1)(e), (1)(f), and (2)(c) of section 81-1917 respectively. A person shall apply for an intern's license ten days prior to the commencement of his or her internship.

Source: Laws 1980, LB 485, § 19.

81-1920 Application; investigated by Secretary of State.

The secretary shall investigate or cause to be investigated each application for an examiner or intern's license in order to determine that all information and statements in the application are correct. If the applicant is an individual, the application shall include the applicant's social security number. The secretary shall not issue the license until the investigation is complete. The investigation shall be completed within ninety days after receipt of the application.

Source: Laws 1980, LB 485, § 20; Laws 1997, LB 752, § 228.

81-1921 Examiner's licenses; fees; expiration.

The fee for all initial examiner's licenses shall be fifty dollars. The license shall expire on December 31 following its issuance. An examiner's license may be renewed from year to year upon payment of a fee of twenty-five dollars. Additional provisions for licenses may be provided for by rules and regulations adopted and promulgated by the secretary. The secretary shall remit the fees received pursuant to this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Source: Laws 1980, LB 485, § 21; Laws 1982, LB 928, § 73; Laws 2020, LB910, § 33.

81-1922 Intern licenses; fees; expiration.

The fee for all intern licenses shall be fifteen dollars. The license shall expire twelve months following its issuance. The secretary may renew or extend an intern's license upon a showing of good cause for any period not to exceed six months for a fee of fifteen dollars. The secretary shall remit the fees received pursuant to this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Source: Laws 1980, LB 485, § 22; Laws 1982, LB 928, § 74; Laws 2020, LB910, § 34.

81-1923 License; not assignable or transferable.

A license issued pursuant to sections 81-1901 to 81-1936 shall not be assignable or transferable.

Source: Laws 1980, LB 485, § 23.

81-1924 License; fee; duplicate license; place of business; displayed.

A license issued under sections 81-1901 to 81-1936 is the property of the state and shall be loaned to the licensee. A license or duplicate license shall be prominently displayed at each place of business of every examiner and the address of the licensee's place of business shall appear on the face of the license. The fee for a duplicate license is ten dollars.

If a licensee maintains more than one place of business, the licensee shall obtain a duplicate license from the secretary with the address of the additional business location appearing on the face of the duplicate license. The duplicate license must be prominently displayed at the address indicated on the face of the license. This section is not to be interpreted as prohibiting a truth and deception examiner from administering examinations at locations other than that prescribed on the license.

Source: Laws 1980, LB 485, § 24; Laws 1982, LB 928, § 75.

81-1925 Licenses; revenue placed in General Fund.

The revenue derived from all licenses issued pursuant to sections 81-1901 to 81-1936 shall be placed in the General Fund.

Source: Laws 1980, LB 485, § 25.

81-1926 Public examiner; fee; private examination; second license required; violation; penalty.

Any public examiner license fee shall be paid by the agency or political subdivision employing the examiner or intern. Any public examiner whose license indicates the address of the public institution employing the examiner shall, prior to performing any private examination, obtain a second truth and deception examiner's license. The public examiner shall meet the requirements prescribed in sections 81-1916, 81-1917, and 81-1921 to 81-1924 and shall pay the annual renewal fee prescribed by section 81-1921 when applying for a second license. Failure to obtain a second license when administering truth and deception examinations as a private examiner shall, except upon a showing of good cause, result in suspension of the first license for a period of three months after a hearing held upon ten days' notice by the secretary or his representative. At such hearing the public examiner may present evidence and call witnesses.

Source: Laws 1980, LB 485, § 26.

81-1927 Licensee; change of address; notify Secretary of State.

A licensee shall notify the secretary in writing within ten days after any change in address of a licensee's office or business location. The secretary shall issue a new license for the remainder of the license period which contains the new address.

Source: Laws 1980, LB 485, § 27.

81-1928 License; denied, suspended, revoked; grounds; hearing.

The secretary may deny, suspend, or revoke any license, after a hearing held in accordance with the Administrative Procedure Act, for any one or more of the following grounds:

- (1) Failure to inform a subject to be examined as to the nature of the examination;
- (2) Failure to inform a subject to be examined that participation is voluntary;
- (3) Asking questions during a polygraph or voice stress examination regarding the examinee's sexual practices, labor union, political or religious affiliations, or marital relationship, except when such questions have a bearing on the areas or issues under examination;
- (4) Material misstatement in the application for the original license or in the application for any renewal of license under sections 81-1901 to 81-1936;
- (5) Willful disregard or violation of sections 81-1901 to 81-1936 or any regulation or rule issued pursuant thereto including, but not limited to, willfully making a false report concerning an examination for polygraph or voice stress examination purposes;
- (6) Conviction of professionally related felony or any crime involving moral turpitude including, but not limited to, dishonesty, fraud, or unauthorized divulging or selling of information or evidence;
- (7) Making any willful misrepresentation or false promise or causing to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or interns;
- (8) Having demonstrated incompetency to act as a polygraph or voice stress examiner;
- (9) Allowing a license under sections 81-1901 to 81-1936 to be used by any unlicensed person in violation of the provisions of sections 81-1901 to 81-1936;

(10) Willfully aiding or abetting another in the violation of sections 81-1901 to 81-1936 or any rule or regulation issued pursuant thereto;

(11) Adjudication of mental illness;

(12) Failure, within a reasonable time, to provide information requested by the secretary as a result of a formal complaint in writing to the secretary or as a result of substantive information otherwise received by the secretary which would reasonably indicate a violation of sections 81-1901 to 81-1936 or any rule or regulation issued pursuant thereto; or

(13) Failing to inform the subject of the results of the examination if so required.

A license that is suspended shall be suspended for a definite period of time, not to exceed a period of two years. If a license is revoked it shall be revoked for not less than two years except as otherwise provided for in section 81-1921. Any person who has had his or her license revoked for cause may, after a period of two years, reapply to the board for reinstatement.

Source: Laws 1980, LB 485, § 28.

Cross References

Administrative Procedure Act, see section 84-920.

81-1929 License; revoked, suspended; surrendered; when.

Upon the revocation or suspension of any license, the licensee shall surrender the license to the secretary within thirty days after notification of such revocation or suspension. If the licensee fails to do so, the secretary may seize the license.

Source: Laws 1980, LB 485, § 29.

81-1930 Licensee; service of process.

Obtaining a license under sections 81-1901 to 81-1936 shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such licensee in any action arising out of the licensee's activity in this state.

Source: Laws 1980, LB 485, § 30; Laws 1983, LB 447, § 100.

81-1931 Appeal; procedure.

Any person aggrieved by final action of the secretary under the Licensing of Truth and Deception Examiners Act may appeal the final action, and such appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1980, LB 485, § 31; Laws 1988, LB 352, § 181.

Cross References

Administrative Procedure Act, see section 84-920.

81-1932 Employee; use of truth and deception examination; when; limitation.

No employer or prospective employer may require as a condition of employment or as a condition for continued employment that a person submit to a truth and deception examination unless such employment involves public law enforcement. This shall not be construed to prohibit such employer from asking an employee or applicant to submit to a truth and deception examination if:

- (1) No questions are asked during the truth and deception examination concerning the examinee's sexual practices, labor union, political or religious affiliations, or marital relationships;
- (2) The examinee is given written and oral notice that the examination is voluntary and that the examinee may discontinue the examination at any time;
- (3) The employer or prospective employer has the employee or applicant sign a form stating that the examination is being taken voluntarily;
- (4) Questions that are asked prospective employees are job related;
- (5) Prospective employees are not preselected for a truth and deception examination in a discriminatory manner;
- (6) An employee is only requested to submit to a truth and deception examination if such examination concerns itself with a specific investigation;
- (7) The results of a truth and deception examination are not the sole determinant in the termination of employment; and
- (8) All questions that are asked during a truth and deception examination and the responses of the examinee are kept on file by the employer for a period of one year.

Source: Laws 1980, LB 485, § 32.

Mandatory use of polygraph tests by employers are statutorily prohibited in Nebraska except for those engaged in public law enforcement. This section does not purport to make the results of polygraph examinations admissible in any proceeding. *Mathes v. City of Omaha*, 254 Neb. 269, 576 N.W.2d 181 (1998).

This section clearly sets forth a public policy prohibiting the use of a polygraph examination by an employer to deny employment. This section is a criminal statute and must be narrowly

construed. *White v. State*, 248 Neb. 977, 540 N.W.2d 354 (1995).

The plain language of subsection (7) requires that the employee be terminated if this section is to form the basis for further action against the employer. *Collins v. Baker's Supermarkets*, 223 Neb. 365, 389 N.W.2d 774 (1986).

This statute is a criminal statute and must be strictly construed. *Collins v. Baker's Supermarkets*, 223 Neb. 365, 389 N.W.2d 774 (1986).

81-1933 Employer; violation; penalty.

Any employer or prospective employer who violates the provisions of section 81-1932 shall be guilty of a Class II misdemeanor.

Source: Laws 1980, LB 485, § 33.

81-1934 Secretary of State; rules and regulations; adopt; forms.

The secretary shall adopt and promulgate any rules and regulations and provide such forms as are necessary to carry out sections 81-1901 to 81-1936.

Source: Laws 1980, LB 485, § 34.

81-1935 Act; violation; penalty.

Except as provided in section 81-1932, any person who violates the provisions of sections 81-1901 to 81-1936 or who falsely states or represents that he or she is or has been an examiner or intern shall be guilty of a Class II misdemeanor.

Source: Laws 1980, LB 485, § 35.

81-1936 Examiner's license; reciprocity; requirements.

An applicant who is a truth and deception examiner licensed under laws of another state or territory of the United States may be issued an appropriate license by the secretary without examination if the secretary, in his or her discretion, determines the applicant has produced satisfactory proof that:

- (1) He or she is at least nineteen years of age;
- (2) He or she is of good moral character;
- (3) The requirements for licensing of a truth and deception examiner in such state or territory of the United States were at the date of the applicant's licensing therein substantially equivalent to the requirements of sections 81-1901 to 81-1936;
- (4) The applicant has lawfully engaged in the administration of truth and deception examinations under the laws of such state or territory for at least six months prior to the application for license;
- (5) The other state or territory grants similar reciprocity to the license holders of this state;
- (6) The applicant has complied with section 81-1930; and
- (7) The applicant has paid the required fee.

Source: Laws 1980, LB 485, § 36.

ARTICLE 20

NEBRASKA STATE PATROL

Cross References

Law enforcement, training and reserves, see Chapter 81, article 14.
Ticket quota requirements, prohibited, see section 48-235.

(a) GENERAL PROVISIONS

- | | |
|-------------|--|
| Section | |
| 81-2001. | Nebraska State Patrol; established; chief officer. |
| 81-2002. | State patrol; superintendent; how designated; subordinate officers; employees; appointment; salaries; expense allowance; bond or insurance; premium, how paid. |
| 81-2002.01. | Officers appointed to carrier enforcement division; status and training. |
| 81-2003. | Superintendent; power to adopt rules and regulations; seal; maintenance of office. |
| 81-2004. | State patrol; duties in general; Nebraska State Patrol Criminal Investigation Cash Fund; created; use; investment. |
| 81-2004.01. | Carrier Enforcement Cash Fund; created; use; investment. |
| 81-2004.02. | Nebraska State Patrol Cash Fund; created; use; investment. |
| 81-2004.03. | Investigation Petty Cash Fund; authorized. |
| 81-2004.04. | Funds and accounts; records; report; accounting. |
| 81-2004.05. | Public Safety Cash Fund; created; use; investment. |
| 81-2004.06. | Capitol Security Revolving Fund; created; use; investment. |
| 81-2004.07. | Nebraska State Patrol Vehicle Replacement Cash Fund; created; use; investment. |
| 81-2004.08. | Nebraska Public Safety Communication System Cash Fund; created; use; investment. |
| 81-2004.09. | Combined Law Enforcement Information Network Cash Fund; created; use; investment. |
| 81-2004.10. | Treasury Agency Forfeitures Cash Fund; created; use; investment. |
| 81-2005. | State patrol; powers and duties enumerated. |
| 81-2006. | State patrol; patrolling highways; cooperation; duties; extension to freeways. |
| 81-2007. | Uniform; badge. |
| 81-2008. | Rules, orders of state patrol; failure to obey; penalty. |
| 81-2009. | State patrol; officers, members; actions against; duty of Attorney General to defend; limitation; agency legal counsel; powers and duties. |
| 81-2010. | Criminalistics laboratory; establish; services included; accreditation. |
| 81-2010.01. | Child abuse and neglect; legislative findings. |
| 81-2010.02. | Child abuse and neglect; investigator; qualifications; duties. |
| 81-2010.03. | Transferred to section 81-1429.03. |

NEBRASKA STATE PATROL

Section

- 81-2011. George Amos, Jr.; sympathy; financial assistance.
- 81-2012. George Amos, Jr.; appropriation; amount; payees.
- 81-2013. Michael B. Amos Educational Trust Fund; James M. Amos Educational Trust Fund; created; purposes; investment.
- 81-2013.01. Missing Native American women and children; Nebraska State Patrol; duties; report.
- 81-2013.02. Repealed. Laws 2004, LB 940, § 4.
- 81-2013.03. Repealed. Laws 2004, LB 940, § 4.
- 81-2013.04. Repealed. Laws 2004, LB 940, § 4.

(b) RETIREMENT SYSTEM

- 81-2014. Terms, defined.
- 81-2014.01. Act, how cited.
- 81-2015. Nebraska State Patrol Retirement System; creation.
- 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; actuarial valuation; powers and duties.
- 81-2018. State Patrol Retirement Fund; State Patrol Retirement Act Expense Fund; created; use.
- 81-2019. Retirement system; administration; Public Employees Retirement Board; duties; rules and regulations.
- 81-2019.01. Board; power to adjust contributions and benefits; overpayment of benefits; investigatory powers; subpoenas.
- 81-2020. State Treasurer; duties; warrants.
- 81-2021. Retirement system; director; records; employer education program.
- 81-2022. Retirement system; funds; investment; charges; report.
- 81-2023. Auditor of Public Accounts; annual audit; report to Clerk of the Legislature.
- 81-2024. Retirement system; powers.
- 81-2025. Retirement; conditions; deferment of payment; board; duties.
- 81-2026. Retirement; annuity; officers; surviving spouse; children; benefit; disability or death in line of duty; benefit; maximum benefit; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.
- 81-2027. Retirement benefit; adjusted by increase in cost of living.
- 81-2027.01. Repealed. Laws 1998, LB 1191, § 85.
- 81-2027.02. Repealed. Laws 1998, LB 1191, § 85.
- 81-2027.03. Repealed. Laws 2011, LB 509, § 55.
- 81-2027.04. Repealed. Laws 1999, LB 674, § 12.
- 81-2027.05. Repealed. Laws 2011, LB 509, § 55.
- 81-2027.06. Repealed. Laws 2011, LB 509, § 55.
- 81-2027.07. Repealed. Laws 2011, LB 509, § 55.
- 81-2027.08. Officer who became member prior to July 1, 2016; annual benefit adjustment; cost-of-living adjustment calculation method.
- 81-2027.09. Officer who became member on or after July 1, 2016; annual benefit adjustment.
- 81-2027.10. Officer who became member on or after July 1, 2016; lump-sum cost-of-living payment.
- 81-2028. Retirement; disability; exceptions.
- 81-2029. Retirement; disability; proof.
- 81-2030. Retirement; disability; medical examinations; expense.
- 81-2031. Termination of employment; return of contributions, when; rejoining system; deferred annuity.
- 81-2031.01. Retirement system; reemployment; election to repay system; amount; status; exception.
- 81-2031.02. Retirement system; current employee; participation in another governmental plan; how treated.
- 81-2031.03. Direct rollover; terms, defined; distributee; powers; board; powers.

§ 81-2001

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-2031.04. Retirement system; accept payments and rollovers; limitations; board; powers.
- 81-2031.05. Retired officer; reemployment; how treated.
- 81-2031.06. Termination of employment prior to eligibility to retire; rejoining system; effect.
- 81-2031.07. Retirement system; accept transfers; limitations; how treated.
- 81-2032. Retirement system; funds; exemption from legal process; exception.
- 81-2033. Retirement; total service credit.
- 81-2034. Retirement; method of crediting for military service; effect; applicability.
- 81-2035. Annuity; adjustment; amount.
- 81-2036. Annuity; additional adjustment; changes in family unit.
- 81-2037. Limitation of actions.
- 81-2038. False or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 81-2039. Retirement system contributions, property, and rights; how treated.
- 81-2040. Termination of system or contributions; effect.
- 81-2041. DROP participation authorized; requirements; fees.

(a) GENERAL PROVISIONS

81-2001 Nebraska State Patrol; established; chief officer.

There is hereby established a department to be known as the Nebraska State Patrol. The chief officer of the Nebraska State Patrol shall be the Superintendent of Law Enforcement and Public Safety, who shall have had at least four years' experience as a law enforcement officer prior to his or her appointment.

Source: Laws 1937, c. 141, § 2, p. 507; Laws 1941, c. 176, § 4, p. 690; C.S.Supp.,1941, § 60-417; R.S.1943, § 60-431; Laws 1967, c. 391, § 1, p. 1215; R.S.1943, (1978), § 60-431; Laws 1981, LB 541, § 1.

Cross References

Bond and requirements, see section 84-106.

81-2002 State patrol; superintendent; how designated; subordinate officers; employees; appointment; salaries; expense allowance; bond or insurance; premium, how paid.

The superintendent, also designated as colonel, shall, with the approval of the Governor, appoint such subordinate officers of the Nebraska State Patrol as lieutenant colonel, majors, captains, lieutenants, sergeants, corporals, patrol officers, and such other employees as may be necessary to carry out the provisions of this act. The salaries of all such appointees shall be fixed by the superintendent, with the approval of the Governor. In addition to his or her salary, each sworn employee of the Nebraska State Patrol shall receive an expense allowance of one hundred dollars per month. All such appointees shall be bonded or insured as required by section 11-201. Premiums shall be paid from the fund appropriated to the Nebraska State Patrol.

Source: Laws 1937, c. 141, § 3, p. 507; Laws 1941, c. 176, § 5, p. 691; C.S.Supp.,1941, § 60-418; R.S.1943, § 60-432; Laws 1959, c. 286, § 4, p. 1085; Laws 1965, c. 386, § 1, p. 1240; Laws 1969, c. 510, § 1, p. 2089; Laws 1978, LB 653, § 20; R.S.1943, (1978), § 60-432; Laws 1981, LB 541, § 2; Laws 2004, LB 884, § 44.

Cross References

"This act", formerly defined in section 60-401 as meaning sections 60-401 to 60-430.06. For the last printed version of section 60-401 see the 1988 Reissue of Volume 3B.

81-2002.01 Officers appointed to carrier enforcement division; status and training.

On and after July 20, 2002, officers of the Nebraska State Patrol appointed to the carrier enforcement division shall be officers of the Nebraska State Patrol with the powers and duties as prescribed in sections 81-2001 to 81-2009 and this section and shall receive training commensurate with such powers and duties prior to appointment to the carrier enforcement division.

Source: Laws 2002, LB 470, § 3.

81-2003 Superintendent; power to adopt rules and regulations; seal; maintenance of office.

The Superintendent of Law Enforcement and Public Safety is hereby authorized to adopt, promulgate, and enforce rules and regulations, consistent with this act, to carry out sections 81-2001 to 81-2009, including the use, purpose, and contents of warning and violation cards. The Superintendent of Law Enforcement and Public Safety shall adopt an official seal for the use of the Nebraska State Patrol. The Superintendent of Law Enforcement and Public Safety shall maintain an office or offices for law enforcement and public safety in such places in the state as he or she may deem necessary to properly carry out the work and the administration of laws pertaining to the Nebraska State Patrol.

Source: Laws 1937, c. 141, § 5, p. 508; Laws 1941, c. 176, § 7, p. 691; C.S.Supp.,1941, § 60-420; R.S.1943, § 60-433; Laws 1957, c. 366, § 41, p. 1274; Laws 1959, c. 286, § 5, p. 1085; R.S.1943, (1978), § 60-433; Laws 1981, LB 541, § 3; Laws 1985, LB 395, § 12; Laws 2002, LB 470, § 5.

Cross References

"This act", formerly defined in section 60-401 as meaning sections 60-401 to 60-430.06. For the last printed version of section 60-401 see the 1988 Reissue of Volume 3B.

81-2004 State patrol; duties in general; Nebraska State Patrol Criminal Investigation Cash Fund; created; use; investment.

The Nebraska State Patrol, its subordinate officers such as lieutenant colonel, majors, captains, lieutenants, sergeants, corporals, patrolmen, and other employees shall be used primarily for the enforcement of the traffic and motor vehicle laws of the State of Nebraska and the handling of traffic within the state, except:

(1) The Superintendent of Law Enforcement and Public Safety, with the approval of the Governor, may designate such personnel of the Nebraska State Patrol to qualify and act as his or her deputies or investigators to assist him or her in the enforcement of the laws of the state relating to felonies, and the superintendent shall designate and train fifteen investigators in addition to those authorized on September 2, 1973, to assist in such law enforcement;

(2) The superintendent shall designate and train ten special investigators in addition to those authorized on July 12, 1974, to assist him or her and all other law enforcement agencies in this state with enforcement of drug control legislation. As an aid to such special investigators, the superintendent shall appoint two stenographers and one laboratory technician in addition to those authorized on September 2, 1973; and

(3) The Nebraska State Patrol shall provide security for all buildings and grounds owned or leased by the State of Nebraska in Lincoln, Nebraska, except the buildings and grounds described in subsection (5) of section 81-1108.15.

There is hereby created in the state treasury a cash fund to be known as the Nebraska State Patrol Criminal Investigation Cash Fund which shall be used for the enforcement of any state law relating to felonies. 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 1937, c. 141, § 4, p. 508; Laws 1941, c. 176, § 6, p. 691; C.S.Supp., 1941, § 60-419; R.S. 1943, § 60-434; Laws 1969, c. 510, § 2, p. 2089; Laws 1972, LB 1456, § 1; Laws 1973, LB 13, § 1; Laws 1974, LB 77, § 1; R.S. 1943, (1978), § 60-434; Laws 1984, LB 403, § 4; Laws 1995, LB 7, § 133; Laws 2004, LB 439, § 31.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-2004.01 Carrier Enforcement Cash Fund; created; use; investment.

(1) The Carrier Enforcement 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 fund transfers made each fiscal year from the Roads Operations Cash Fund as authorized by the Legislature through the budget process.

(2) The Carrier Enforcement Cash Fund shall only be used to pay the costs associated with the operation of the carrier enforcement division of the patrol, except that (a) the Legislature may authorize fund transfers each fiscal year through the budget process from the Carrier Enforcement Cash Fund to the Nebraska Public Safety Communication System Cash Fund to pay the carrier enforcement division's share of operations costs of the Nebraska Public Safety Communication System and (b) transfers may be made from the Carrier Enforcement Cash Fund to the General Fund at the direction of the Legislature.

(3) Any money in the Carrier Enforcement 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, § 2; Laws 2009, First Spec. Sess., LB3, § 83.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

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.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-2004.03 Investigation Petty Cash Fund; authorized.

The Superintendent of Law Enforcement and Public Safety may apply to the Director of Administrative Services and the Auditor of Public Accounts to establish and maintain an Investigation Petty Cash Fund. The funds used to initiate and maintain the Investigation Petty Cash Fund shall be drawn solely from the Nebraska State Patrol Cash Fund. The superintendent shall determine the amount of money to be held in the Investigation Petty Cash Fund, consistent with carrying out the duties and responsibilities of section 81-2004.02, but not to exceed fifteen thousand dollars for the entire agency. This restriction shall not apply to General Funds that have been specifically appropriated to the Nebraska State Patrol Cash Fund for investigative purposes. When the Director of Administrative Services and the Auditor of Public Accounts have approved the establishment of such fund, a voucher shall be submitted to the Department of Administrative Services accompanied by such information as the department may require for the establishment of the fund. The Director of Administrative Services shall issue a warrant for the amount specified and deliver it to the Nebraska State Patrol. Such fund may be replenished as necessary. The Investigation Petty Cash Fund shall be audited by the Auditor of Public Accounts.

Source: Laws 1986, LB 851, § 2.

81-2004.04 Funds and accounts; records; report; accounting.

(1) For the purpose of establishing and maintaining legislative oversight and accountability, the Nebraska State Patrol shall maintain records of all expenditures, disbursements, and transfers of cash from the Nebraska State Patrol Cash Fund and the Investigation Petty Cash Fund.

(2) By September 15 of each year, the patrol shall report to the budget division of the Department of Administrative Services and the Legislative Fiscal Analyst the unexpended balance existing on June 30 of the previous fiscal year

relating to investigative expenses in (a) the Nebraska State Patrol Cash Fund, (b) the Investigation Petty Cash Fund, (c) any special checking account or accounts used by the patrol in carrying out the duties specified in section 81-2004.02, and (d) any funds existing on June 30 of the previous fiscal year in the possession of personnel of the patrol involved in investigations. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically.

(3) The Legislature may require a separate accounting of the investigation funds according to specific types of investigations.

Source: Laws 1986, LB 851, § 3; Laws 2012, LB782, § 210.

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.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-2004.06 Capitol Security Revolving Fund; created; use; investment.

The Capitol Security Revolving 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 fund transfers made each fiscal year from the State Building Revolving Fund, as authorized by the Legislature through the budget process, and any other revenue received by the state capitol security division of the patrol from separate security agreements with state agencies. The Capitol Security Revolving Fund shall only be used to pay the non-general-fund costs associated with the operation of the state capitol security division. Any money in the Capitol Security 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 2007, LB322, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-2004.07 Nebraska State Patrol Vehicle Replacement Cash Fund; created; use; investment.

The Nebraska State Patrol Vehicle Replacement Cash Fund is created. The Superintendent of Law Enforcement and Public Safety of the Nebraska State Patrol shall administer the fund. The fund shall be used to purchase motor vehicles for the Nebraska State Patrol. 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 1995, LB 381, § 2.

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.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-2004.09 Combined Law Enforcement Information Network Cash Fund; created; use; investment.

There is hereby created the Combined Law Enforcement Information Network Cash Fund. The fund shall be maintained by the Nebraska State Patrol and administered by the Superintendent of Law Enforcement and Public Safety. The fund shall consist of fees collected by the Nebraska State Patrol from users of the network and shall be used to pay the costs of operating, maintaining, and enhancing the network. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2017, LB331, § 13.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-2004.10 Treasury Agency Forfeitures Cash Fund; created; use; investment.

There is hereby created the Treasury Agency Forfeitures Cash Fund. All forfeitures and proceeds received by the Nebraska State Patrol under the federal equitable sharing provisions distributed by federal Treasury agencies as of July 1, 2017, shall be deposited in the fund. This section shall not apply to funds otherwise subject to sections 28-431 and 28-1439.02. The fund shall be used only in accordance with the applicable requirements of the federal government. The fund shall be administered by the Superintendent of Law Enforcement and Public Safety. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2017, LB331, § 14.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-2005 State patrol; powers and duties enumerated.

On and after July 20, 2002, the Superintendent of Law Enforcement and Public Safety and all officers of the Nebraska State Patrol, except all carrier enforcement officers assigned to the carrier enforcement division, shall have the power:

(1) Of peace officers for the purpose of enforcing the Motor Vehicle Operator's License Act, the Motor Vehicle Registration Act, the Nebraska Rules of the Road, and any other law regulating the registration or operation of vehicles or the use of the highways;

(2) To make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of the Motor Vehicle Operator's License Act, the Motor Vehicle Registration Act, the Nebraska Rules of the Road, or any other law regulating the operation of vehicles or the use of the highways, if and when designated or called upon to do so as provided by law;

(3) To make arrests upon view and without warrant for any violation committed in their presence of any provision of the laws of the state relating to misdemeanors or felonies, if and when designated or called upon to do so as provided by law;

(4) At all times to direct all traffic in conformity with law or, in the event of a fire or other emergency or in order to expedite traffic or insure safety, to direct traffic as conditions may require notwithstanding the provisions of law;

(5) When in uniform, to require the driver of a vehicle to stop and exhibit his or her operator's license and registration card issued for the vehicle and submit to an inspection of such vehicle and the license plates and registration card thereon and to require the drivers of motor vehicles to present such vehicles within five days for correction of any defects revealed by such motor vehicle inspection as may lead the inspecting officer to reasonably believe that such

motor vehicle is being operated in violation of the statutes of Nebraska or the rules and regulations of the Director of Motor Vehicles;

(6) To inspect any vehicle of a type required to be registered under the Motor Vehicle Registration Act in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking;

(7) To serve warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways;

(8) To investigate traffic accidents for the purpose of carrying on a study of traffic accidents and enforcing motor vehicle and highway safety laws; and

(9) To operate weighing stations and portable scales and to perform carrier enforcement powers and duties prescribed in sections 60-1301 to 60-1309.

Carrier enforcement officers appointed to the carrier enforcement division before July 20, 2002, shall have the powers and duties prescribed in sections 60-1301 to 60-1309.

Source: Laws 1937, c. 141, § 6, p. 508; Laws 1939, c. 78, § 6, p. 321; Laws 1941, c. 176, § 8, p. 691; C.S.Supp., 1941, § 60-421; R.S. 1943, § 60-435; Laws 1959, c. 295, § 1, p. 1102; R.S. 1943, (1978), § 60-435; Laws 1985, LB 395, § 13; Laws 1993, LB 370, § 490; Laws 2002, LB 470, § 6; Laws 2005, LB 274, § 283.

Cross References

Motor Vehicle Operator's License Act, see section 60-462.

Motor Vehicle Registration Act, see section 60-301.

Nebraska Rules of the Road, see section 60-601.

This section enumerates the powers, but not necessarily all of the duties of a State Patrol trooper. *Hauser v. Nebraska Police Stds. Adv. Council*, 269 Neb. 541, 694 N.W.2d 171 (2005).

Investigative stop and search of auto by police held unconstitutional where officer had no reasonable suspicion the occupants were committing, had committed, or were about to commit a crime. *State v. Colgrove*, 198 Neb. 319, 253 N.W.2d 20 (1977).

In the absence of any proof of factual foundation, a mere radio dispatch to an officer to stop a vehicle does not constitute a "reasonably founded" suspicion authorizing detention. *State v. Benson*, 198 Neb. 14, 251 N.W.2d 659 (1977).

This section is constitutional and authorizes officers of the law to conduct routine stops of motor vehicles to check registration and operator's licenses even though there is no probable cause to believe a violation of law has occurred or is occurring. *State v. Shepardson*, 194 Neb. 673, 235 N.W.2d 218 (1975).

In enforcing licensing laws, officers are authorized to stop vehicles. *State v. Holmberg*, 194 Neb. 337, 231 N.W.2d 672 (1975).

The provisions of this section furnish no authority for an officer to issue an order to a person not under arrest to follow him where the offense involved was not a felony nor a violation

of any law regulating the operation of vehicles or use of the highway. *State v. Embrey*, 188 Neb. 649, 198 N.W.2d 322 (1972).

Carrier enforcement officers are not granted the full realm of powers possessed by State Patrol troopers; rather, they are granted only those powers specifically enumerated in section 60-1306, which limits their powers to arrest only for stated violations which are viewed by the officer while performing a function specifically related to the duties enumerated in subsections (1) and (2) of section 60-1306 or a function specifically related to those duties addressed in the statutes and laws referred to in subsections (3), (4), and (5) of section 60-1306. *State v. Langan*, 6 Neb. App. 739, 577 N.W.2d 752 (1998).

Federal district court reversed for error in granting habeas corpus relief on Fourth Amendment grounds to state prisoner who had received full and fair hearing in state court with respect to alleged violations of his Fourth Amendment rights. *Holmberg v. Parratt*, 548 F.2d 745 (8th Cir. 1977).

Where officer's only reason for stopping automobile was for baseless check to determine if it carried front license plate, search pursuant to stop was unreasonable and court abstains from comment on constitutionality of section. *United States v. Bell*, 383 F.Supp. 1298 (D. Neb. 1974).

81-2006 State patrol; patrolling highways; cooperation; duties; extension to freeways.

The Superintendent of Law Enforcement and Public Safety through his or her subordinate officers or employees in the Nebraska State Patrol shall properly patrol the highways of this state and cooperate with sheriffs, police officers, or other peace officers in enforcing the laws regulating the registration, operation, and use of vehicles upon the highway, including the specific enforcement of maximum speed limits. Performance of all duties, powers, and exercise of jurisdiction of the Nebraska State Patrol shall extend to all freeways

as defined in section 60-621 or any part thereof which is located within the jurisdictional limits of local authority. Officers and employees of the patrol shall cooperate with sheriffs, police officers, or any other local peace officers, and such officers will share concurrent jurisdiction with the patrol concerning any such freeway within local limits.

Source: Laws 1937, c. 141, § 8, p. 509; Laws 1941, c. 176, § 10, p. 693; C.S.Supp.,1941, § 60-423; R.S.1943, § 60-437; Laws 1961, c. 184, § 36, p. 567; R.S.1943, (1978), § 60-437; Laws 1993, LB 370, § 491; Laws 1996, LB 901, § 12.

This section does not furnish a foundation for an order by an officer to a person not under arrest to follow the officer. *State v. Embrey*, 188 Neb. 649, 198 N.W.2d 322 (1972).

81-2007 Uniform; badge.

The subordinate officers of the Nebraska State Patrol, when on duty, shall be dressed in distinctive uniform and display a badge of office, except that the superintendent may authorize not more than thirty-five percent of such officers to be on duty without wearing a distinct uniform. The superintendent shall issue to each member of the Nebraska State Patrol a serially numbered badge of office with the seal of this state in the center thereof, the words Nebraska State Patrol encircling the seal, and containing the designation of the position held by the subordinate officer.

Source: Laws 1937, c. 141, § 9, p. 509; Laws 1941, c. 176, § 11, p. 693; C.S.Supp.,1941, § 60-424; R.S.1943, § 60-438; R.S.1943, (1978), § 60-438; Laws 1986, LB 851, § 16.

81-2008 Rules, orders of state patrol; failure to obey; penalty.

Any person who fails or refuses to obey any lawful traffic direction or any lawful order of the superintendent or any of the subordinate officers or employees of the Nebraska State Patrol or who resists lawful arrest by the superintendent or any of his subordinate officers or employees, shall be deemed guilty of a Class III misdemeanor.

Source: Laws 1937, c. 141, § 7, p. 509; Laws 1941, c. 176, § 9, p. 692; C.S.Supp.,1941, § 60-422; R.S.1943, § 60-436; Laws 1977, LB 39, § 83; R.S.1943, (1978), § 60-436.

81-2009 State patrol; officers, members; actions against; duty of Attorney General to defend; limitation; agency legal counsel; powers and duties.

(1) The Attorney General, or a member of his or her staff, shall defend all civil actions instituted against the Superintendent of Law Enforcement and Public Safety or any subordinate officer or employee of the Nebraska State Patrol arising from employment by the patrol.

(2) In any instance in which the actions or omissions of an officer or employee of the patrol are the subject of an inquiry by a grand jury or prosecutor, the officer or employee of the patrol shall be defended by the Attorney General or a member of his or her staff or, in the event of a conflict of interest for the Attorney General, a private practice attorney chosen by the officer or employee of the patrol. Reasonable attorney's fees and costs shall be paid pursuant to section 81-8,239.02.

(3) The superintendent shall provide not less than three agency legal counsels stationed with the Nebraska State Patrol to assist county attorneys in the preparation of cases involving drug abuse and to advise the patrol on all legal matters. Agency counsel shall not represent individual officers or employees of the patrol whose actions or omissions are the subject of inquiry by a grand jury or prosecutor. Agency counsel may advise officers or employees of the patrol who are serving as investigators for a grand jury or a prosecutor.

Source: Laws 1937, c. 141, § 10, p. 510; Laws 1941, c. 176, § 12, p. 693; C.S.Supp.,1941, § 60-425; R.S.1943, § 60-439; Laws 1973, LB 14, § 1; Laws 1977, LB 294, § 1; R.S.1943, (1978), § 60-439; Laws 2022, LB1184, § 1.

81-2010 Criminalistics laboratory; establish; services included; accreditation.

A criminalistics laboratory is hereby established within the Nebraska State Patrol, under the direction of the Superintendent of Law Enforcement and Public Safety. The laboratory shall perform services necessary for the recognition and proper preservation, identification, and scientific analysis of evidence materials pertaining to the investigation of crimes. By October 1, 2003, the laboratory shall have met the requirements for accreditation by the American Society of Crime Laboratory Directors-LAB-Laboratory Accreditation Board or the National Forensic Science Technology Center and have applied for accreditation.

Source: Laws 1971, LB 477, § 1; R.S.1943, (1978), § 60-434.01; Laws 2001, LB 432, § 12.

81-2010.01 Child abuse and neglect; legislative findings.

The Legislature finds that child abuse and neglect are community problems requiring immediate and appropriate response by law enforcement and other agencies. It is the intent of the Legislature to ensure that all persons responsible for responding to such reports are provided with adequate resources with which to investigate such reports, including appropriate training and access to information sources, particularly in rural areas of the state.

Source: Laws 1996, LB 842, § 1.

81-2010.02 Child abuse and neglect; investigator; qualifications; duties.

The Nebraska State Patrol shall provide immediate responses to inquiries from local law enforcement in rural areas of the state regarding proper investigatory procedures related to child abuse and neglect. All calls shall be referred to an investigator of the Nebraska State Patrol who has completed training and is knowledgeable in:

- (1) Screening child abuse and neglect calls;
- (2) Interviewing alleged child abuse and neglect victims at the appropriate developmental level necessary;
- (3) Family dynamics, including the ability to assess and handle child abuse and neglect and child sexual abuse cases;
- (4) Understanding the medical evidence and other physical evidence in child abuse and neglect and child sexual abuse cases and how to gather such evidence;
- (5) How to prepare evidence for prosecution; and

(6) Evaluating the potential for false allegations.

The investigator shall maintain and make available to local law enforcement a list of psychiatrists, psychologists, mental health practitioners, or other qualified professionals in the particular area where the incident occurred.

Source: Laws 1996, LB 842, § 2.

81-2010.03 Transferred to section 81-1429.03.

81-2011 George Amos, Jr.; sympathy; financial assistance.

The Legislature, while recognizing that nothing it might do can compensate them for their loss, nevertheless wishes to extend its sympathy and financial assistance to the family of slain Trooper George Amos, Jr., such family consisting of Mrs. Dolores Ann Amos, widow, and Michael B. Amos and James M. Amos, sons.

Source: Laws 1973, LB 585, § 1; R.S.1943, (1978), § 60-440.01.

81-2012 George Amos, Jr.; appropriation; amount; payees.

There is hereby appropriated out of funds in the General Fund not otherwise appropriated the sum of fifteen thousand dollars to provide financial assistance to the family of Trooper George Amos, Jr. Upon May 21, 1973, the Director of Administrative Services shall draw his warrant upon the General Fund in the amount of seven thousand dollars in favor of Dolores Ann Amos and forward such warrant to her.

Source: Laws 1973, LB 585, § 2; R.S.1943, (1978), § 60-440.02.

81-2013 Michael B. Amos Educational Trust Fund; James M. Amos Educational Trust Fund; created; purposes; investment.

The State Treasurer shall, on May 21, 1973, establish in the state treasury two trust funds in the amount of four thousand dollars each, one to be known as the Michael B. Amos Educational Trust Fund and the other to be known as the James M. Amos Educational Trust Fund. Each such fund shall be expended solely for the purpose of providing financial assistance to the named beneficiary thereof in obtaining post-high school education. Disbursements from each of such funds shall be made upon application of the named beneficiary thereof and upon a showing that he is pursuing a course of post-high school education and may continue so long as he is pursuing such course and money remains in the fund. Any unexpended balance in either fund shall lapse to the General Fund upon (1) completion of the course of study or (2) discontinuance of such course prior to completion for a consecutive period of two years but any time spent on active duty in the armed forces of the United States shall not count as part of such two-year period. The entire amount in the Michael B. Amos Educational Trust Fund shall lapse to the General Fund on July 21, 1990, if the named beneficiary has not started a course of post-high school education prior to such date. The entire amount in the James M. Amos Educational Trust Fund shall lapse to the General Fund on October 7, 1993, if the named beneficiary has not started a course of post-high school education prior to such date. All money in each such 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 for the benefit of the fund.

Source: Laws 1973, LB 585, § 3; R.S.1943, (1978), § 60-440.03; Laws 1995, LB 7, § 135.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-2013.01 Missing Native American women and children; Nebraska State Patrol; duties; report.

The Nebraska State Patrol shall conduct a study to determine how to increase state criminal justice protective and investigative resources for reporting and identifying missing Native American women and children in Nebraska. The Nebraska State Patrol shall work with the Commission on Indian Affairs to convene meetings with tribal and local law enforcement partners, federally recognized tribes, and urban Indian organizations to determine the scope of the problem, identify barriers, and find ways to create partnerships to increase reporting and investigation of missing Native American women and children. Consultation and collaboration with federally recognized tribes shall be conducted with respect for government-to-government relations. The Nebraska State Patrol shall work with the United States Department of Justice to increase information sharing and resource coordination to focus on reporting and investigating missing Native American women and children in Nebraska. The Nebraska State Patrol shall submit a report electronically to the Executive Board of the Legislative Council by June 1, 2020, on the results of such study. Such report shall include data and analysis of the number of missing Native American women and children in Nebraska, identification of barriers in providing state resources to address the issue, and recommendations, including any proposed legislation, to improve the reporting and identification of missing Native American women and children in Nebraska.

Source: Laws 2019, LB154, § 1.

81-2013.02 Repealed. Laws 2004, LB 940, § 4.

81-2013.03 Repealed. Laws 2004, LB 940, § 4.

81-2013.04 Repealed. Laws 2004, LB 940, § 4.

(b) RETIREMENT SYSTEM

81-2014 Terms, defined.

For purposes of the Nebraska State Patrol Retirement Act:

(1)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment or to be received at an earlier retirement age than the normal retirement age.

(b) For an officer hired before July 1, 2017, the determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making the determinations until such percent is amended by the Legislature.

(c) For an officer hired on or after July 1, 2017, or rehired on or after July 1, 2017, after termination of employment and being paid a retirement benefit or taking a refund of contributions, the determinations shall be based on a unisex mortality table and an interest rate specified by the board. Both the mortality table and the interest rate shall be recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the officer's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate of return;

(2) Board means the Public Employees Retirement Board;

(3)(a)(i) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(ii) For any officer employed on or prior to January 4, 1979, compensation includes compensation for unused sick leave or unused vacation leave converted to cash payments.

(iii) For any officer employed after January 4, 1979, and prior to July 1, 2016, compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments and includes compensation for unused holiday compensatory time and unused compensatory time converted to cash payments.

(iv) For any officer employed on or after July 1, 2016, compensation does not include compensation for unused sick leave, unused vacation leave, unused holiday compensatory time, unused compensatory time, or any other type of unused leave, compensatory time, or similar benefits, converted to cash payments.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(4) Creditable service means service granted pursuant to section 81-2034 and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the officer is paid regular wages except as specifically provided in the Nebraska State Patrol Retirement Act. Creditable service does not include eligibility and vesting credit nor service years for which member contributions are withdrawn and not repaid;

(5) Current benefit means the initial benefit increased by all adjustments made pursuant to the Nebraska State Patrol Retirement Act;

(6) DROP means the deferred retirement option plan as provided in section 81-2041;

(7) DROP account means an individual DROP participant's defined contribution account under section 414(k) of the Internal Revenue Code;

(8) DROP period means the amount of time the member elects to participate in DROP which shall be for a period not to exceed five years from and after the date of the member's DROP election;

(9) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the Nebraska State Patrol Retirement Act. Such credit shall be used toward the vesting percentage pursuant to subsection (2) of section 81-2031 but shall not be included as years of service in the benefit calculation;

(10) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(11) Initial benefit means the retirement benefit calculated at the time of retirement;

(12) Officer means law enforcement officer as defined in section 81-1401 and as provided for in sections 81-2001 to 81-2009, but does not include a noncertified conditional officer as defined in section 81-1401;

(13) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(14) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(15) Required beginning date means, for purposes of the deferral of distributions and the commencement of mandatory distributions pursuant to section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder, April 1 of the year following the calendar year in which a member:

(a)(i) Terminated employment with the State of Nebraska; and

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;

(B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020, and prior to January 1, 2023;

(C) Attained at least seventy-three years of age for a member who attained seventy-two years of age after December 31, 2022, and seventy-three years of age prior to January 1, 2033; or

(D) Attained at least seventy-five years of age for a member who attained seventy-four years of age after December 31, 2032; or

(b)(i) Terminated employment with the State of Nebraska; and

(ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

(16) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(17) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

(18) Retirement system or system means the Nebraska State Patrol Retirement System as provided in the act;

(19) Service means employment as a member of the Nebraska State Patrol and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the board. Service does not include any period of disability for which disability retirement benefits are received under subsection (1) of section 81-2025;

(20) Surviving spouse means (a) the spouse married to the member on the date of the member's death if married for at least one year prior to death or if married on the date of the member's retirement or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(21) Termination of employment occurs on the date on which the Nebraska State Patrol determines that the officer's employer-employee relationship with the patrol is dissolved. The Nebraska State Patrol shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment with the Nebraska State Patrol if the officer returns to regular employment with the Nebraska State Patrol or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased and the date when the employer-employee relationship commenced with the Nebraska State Patrol or another state agency. Termination of employment does not occur upon an officer's participation in DROP pursuant to section 81-2041. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 81-2026, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Source: Laws 1947, c. 211, § 1, p. 687; Laws 1969, c. 511, § 1, p. 2092; R.S.1943, (1978), § 60-441; Laws 1989, LB 506, § 13; Laws 1991, LB 549, § 47; Laws 1994, LB 833, § 34; Laws 1995, LB 501, § 7; Laws 1996, LB 700, § 13; Laws 1996, LB 847, § 34; Laws 1996,

LB 1076, § 32; Laws 1996, LB 1273, § 27; Laws 1997, LB 624, § 27; Laws 1999, LB 674, § 7; Laws 2000, LB 1192, § 19; Laws 2001, LB 408, § 19; Laws 2002, LB 470, § 7; Laws 2003, LB 451, § 21; Laws 2007, LB324, § 1; Laws 2012, LB916, § 28; Laws 2013, LB263, § 30; Laws 2016, LB467, § 1; Laws 2017, LB415, § 42; Laws 2018, LB1005, § 35; Laws 2020, LB1054, § 9; Laws 2021, LB51, § 23; Laws 2023, LB103, § 11.

Cross References

Spousal Pension Rights Act, see section 42-1101.

81-2014.01 Act, how cited.

Sections 81-2014 to 81-2041 shall be known and may be cited as the Nebraska State Patrol Retirement Act.

Source: Laws 1996, LB 847, § 33; Laws 1997, LB 624, § 28; Laws 1998, LB 532, § 9; Laws 1998, LB 1191, § 64; Laws 2001, LB 408, § 20; Laws 2002, LB 407, § 48; Laws 2007, LB324, § 2; Laws 2011, LB509, § 40; Laws 2016, LB467, § 2.

81-2015 Nebraska State Patrol Retirement System; creation.

A retirement system is hereby created and established to be known as the Nebraska State Patrol Retirement System. It is the legislative intent and purpose of sections 81-2014 to 81-2036 to provide certain retirement and other benefits for officers of the Nebraska State Patrol in the amounts and under the terms and conditions set forth in such sections. It is further the legislative intent and purpose of such sections that when and if the Social Security Act, or any amendment thereto, or any similar or related federal act shall be enacted or amended so as to permit the inclusion of such officers of the Nebraska State Patrol, the State of Nebraska may at its election through appropriate legislative action adjust the benefits provided in such sections and the contributions called for so that the fund provided for by such sections or any amendments thereto may become merged with or integrated with the federal social security system.

Source: Laws 1947, c. 211, § 2, p. 687; Laws 1967, c. 391, § 2, p. 1215; Laws 1969, c. 511, § 2, p. 2093; R.S.1943, (1978), § 60-442; Laws 1991, LB 549, § 48; Laws 1994, LB 833, § 35.

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.

(2) No employee shall be authorized to participate in the retirement system provided for in the Nebraska State Patrol Retirement Act unless the employee is a United States citizen or is lawfully present in the United States. The employing state agency and the employee shall maintain at least one of the following documents which shall be unexpired, if applicable to the particular document,

to demonstrate United States citizenship or lawful presence in the United States as of the employee's date of hire and produce any such document so maintained upon request of the board or the Nebraska Public Employees Retirement Systems:

- (a) A state-issued driver's license;
 - (b) A state-issued identification card;
 - (c) A certified copy of a birth certificate or delayed birth certificate issued in any state, territory, or possession of the United States;
 - (d) A Consular Report of Birth Abroad issued by the United States Department of State;
 - (e) A United States passport;
 - (f) A foreign passport with a United States visa;
 - (g) A United States Certificate of Naturalization;
 - (h) A United States Certificate of Citizenship;
 - (i) A tribal certificate of Native American blood or similar document;
 - (j) A United States Citizenship and Immigration Services Employment Authorization Document, Form I-766;
 - (k) A United States Citizenship and Immigration Services Permanent Resident Card, Form I-551; or
 - (l) Any other document issued by the United States Department of Homeland Security or the United States Citizenship and Immigration Services granting employment authorization in the United States and approved by the board.
- (3) 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.
- (4) 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.
- (5) Information necessary to determine membership shall be provided by the Nebraska State Patrol.
- (6) 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; Laws 2024, LB198, § 18. Effective date March 19, 2024.

81-2017 Retirement system; contributions; payment; funding of system; actuarial valuation; powers and duties.

(1)(a)(i) 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 such officer's behalf a sum equal to sixteen percent of such officer's monthly compensation.

(ii) 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 such officer's behalf a sum equal to nineteen percent of such officer's monthly compensation.

(iii)(A) Commencing July 1, 2013, and until July 1, 2024, each officer who commenced service prior to July 1, 2016, while in the service of the Nebraska State Patrol shall pay or have paid on such officer's behalf a sum equal to sixteen percent of such officer's monthly compensation.

(B) Until July 1, 2024, each officer who commenced service on or after July 1, 2016, while in the service of the Nebraska State Patrol shall pay or have paid on such officer's behalf a sum equal to seventeen percent of such officer's monthly compensation.

(iv) Commencing July 1, 2024, each officer while in the service of the Nebraska State Patrol shall pay or have paid on such officer's behalf a sum equal to ten percent of such officer's monthly compensation.

(b) 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:

(a)(i) 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.

(ii) 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.

(iii)(A) Commencing July 1, 2013, and until July 1, 2024, for each officer who commenced service prior to July 1, 2016, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of sixteen percent of each officer's monthly compensation, which shall be credited to the State Patrol Retirement Fund.

(B) Commencing July 1, 2016, and until July 1, 2024, for each officer who commenced service on or after July 1, 2016, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of seventeen percent of each officer's monthly compensation, which shall be credited to the State Patrol Retirement Fund.

(iv) Commencing July 1, 2024, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of twenty-four

percent of each officer's monthly compensation, which shall be credited to the State Patrol Retirement Fund.

(b) This assessment constitutes an employer match and shall be contingent upon the officer making such officer's contributions to the retirement system.

(3)(a) Prior to July 1, 2021:

(i) Beginning July 1, 2002, and each fiscal year thereafter, the board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform an actuarial valuation of the system on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level percentage of salary basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members;

(ii) Beginning July 1, 2006, any existing unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation through June 30, 2021, changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a thirty-year period beginning on the valuation date of such change;

(iii) If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date; and

(iv) If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

(b) Beginning July 1, 2021, and each fiscal year thereafter:

(i) The board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform an actuarial valuation of the system on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board using the entry age actuarial cost method. Under such method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level percentage of salary basis. The normal cost under such method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members;

(ii) Any changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change;

(iii) If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date; and

(iv) If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

(c) Upon the recommendation of the actuary to the board, and after the board notifies the Nebraska Retirement Systems Committee of the Legislature, the board may combine or offset certain amortization bases to reduce future volatility of the actuarial contribution rate. Such notification to the committee shall be in writing and include, at a minimum, the actuary's projection of the contributions to fund the plan if the combination or offset were not implemented, the actuary's projection of the contributions to fund the plan if the combination or offset were implemented, and the actuary's explanation of why the combination or offset is in the best interests of the plan at the proposed time.

(4) The state shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions pursuant to section 414(h)(2) of the Internal Revenue Code in determining federal tax treatment under the code and shall not be included as gross income of the member until such time as they are distributed or made available. The contributions, although designated as member contributions, shall be paid by the state in lieu of member contributions. The state shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the Nebraska State Patrol Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Source: Laws 1947, c. 211, § 4, p. 688; Laws 1959, c. 286, § 6, p. 1085; Laws 1965, c. 387, § 1, p. 1243; Laws 1971, LB 987, § 10; Laws 1975, LB 235, § 1; R.S.1943, (1978), § 60-444; Laws 1981, LB 462, § 5; Laws 1984, LB 218, § 4; Laws 1989, LB 506, § 14; Laws 1991, LB 549, § 49; Laws 1994, LB 833, § 36; Laws 1994, LB 1287, § 1; Laws 1995, LB 369, § 6; Laws 1995, LB 574, § 81; Laws 2001, LB 408, § 21; Laws 2002, LB 407, § 50; Laws 2004, LB 514, § 1; Laws 2005, LB 503, § 12; Laws 2006, LB 1019, § 12; Laws 2007, LB324, § 4; Laws 2009, LB188, § 7; Laws 2011, LB382, § 7; Laws 2013, LB263, § 32; Laws 2013, LB553, § 17; Laws 2016, LB467, § 3; Laws 2021, LB17, § 14; Laws 2024, LB196, § 2.

Effective date April 17, 2024.

81-2018 State Patrol Retirement Fund; State Patrol Retirement Act Expense Fund; created; use.

(1) Except as provided in subsection (2) of this section, all money received by the Nebraska State Patrol Retirement System shall be remitted to the State Treasurer for credit to the State Patrol Retirement Fund which is hereby created. Out of the fund shall be paid the benefits and annuities as provided in the Nebraska State Patrol Retirement Act.

(2) The State Patrol Retirement Act 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 Nebraska State Patrol Retirement Act and necessary in connection with the administration and operation of the retirement system.

Source: Laws 1947, c. 211, § 5, p. 688; Laws 1959, c. 286, § 7, p. 1086; Laws 1967, c. 391, § 3, p. 1216; Laws 1969, c. 511, § 4, p. 2094; R.S.1943, (1978), § 60-445; Laws 1991, LB 549, § 50; Laws 1994, LB 833, § 37; Laws 2001, LB 408, § 22; Laws 2005, LB 364, § 16.

81-2019 Retirement system; administration; Public Employees Retirement Board; duties; rules and regulations.

The general administration of the Nebraska State Patrol Retirement System, except the investment of funds, is hereby vested in the board. The board may adopt and promulgate rules and regulations as may be necessary to carry out the Nebraska State Patrol Retirement Act. The board shall employ a director and such assistants and employees as may be necessary to efficiently discharge the duties imposed by the act.

Source: Laws 1947, c. 211, § 6, p. 688; Laws 1967, c. 391, § 4, p. 1216; Laws 1967, c. 486, § 39, p. 1529; Laws 1971, LB 987, § 11; R.S.1943, (1978), § 60-446; Laws 1991, LB 549, § 51; Laws 1994, LB 833, § 38; Laws 1995, LB 369, § 7; Laws 1996, LB 847, § 35; Laws 2018, LB1005, § 36.

81-2019.01 Board; power to adjust contributions and benefits; overpayment of benefits; investigatory powers; subpoenas.

(1)(a) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of sections 81-2014 to 81-2036, the board shall 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 an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest.

(b) The board shall have the power, through the director of the Nebraska Public Employees Retirement Systems or the director's designee, to make a thorough investigation of any overpayment of a benefit, when in the judgment of the retirement system such investigation is necessary, including, but not limited to, circumstances in which benefit payments are made after the death of a member or beneficiary and the retirement system is not made aware of such member's or beneficiary's death. In connection with any such investigation, the board, through the director or the director's designee, shall have the power to

compel the attendance of witnesses and the production of books, papers, records, and documents, whether in hardcopy, electronic form, or otherwise, and issue subpoenas for such purposes. Such subpoenas shall be served in the same manner and have the same effect as subpoenas from district courts.

(2) The board may 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 prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

Source: Laws 1996, LB 1076, § 35; Laws 2015, LB40, § 12; Laws 2018, LB1005, § 37.

81-2020 State Treasurer; duties; warrants.

The State Treasurer shall be the custodian of the funds and securities of the retirement system and may deposit the funds and securities in any financial institution approved by the Nebraska Investment Council. The State Treasurer shall transmit monthly to the board a detailed statement showing all credits to and disbursements from the State Patrol Retirement Fund. The State Treasurer shall disburse money from such fund only on warrants issued by the Director of Administrative Services upon vouchers signed by a person authorized by the retirement board.

Source: Laws 1947, c. 211, § 7, p. 689; Laws 1971, LB 987, § 12; R.S.1943, (1978), § 60-447; Laws 1991, LB 549, § 52; Laws 1997, LB 623, § 34.

81-2021 Retirement system; director; records; employer education program.

(1) The director in charge of the system shall keep a record of all acts and proceedings taken by the board. He or she shall keep a complete record of all members with respect to name, current address, age, contributions, length of service, compensation, and any other facts as may be necessary in the administration of the Nebraska State Patrol Retirement Act. The board shall prescribe the form in which such information shall be reported by the Nebraska State Patrol to the board. The information in the records shall be provided by the Nebraska State Patrol in an accurate and verifiable form, as specified by the director. The director shall, from time to time, carry out testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(2) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement sys-

tems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

Source: Laws 1947, c. 211, § 8, p. 689; Laws 1971, LB 987, § 13; R.S.1943, (1978), § 60-448; Laws 1991, LB 549, § 53; Laws 1994, LB 833, § 39; Laws 2000, LB 1192, § 21; Laws 2005, LB 503, § 13.

81-2022 Retirement system; funds; investment; charges; report.

Any funds of the Nebraska State Patrol Retirement System available for investment shall be invested by the Nebraska Investment Council pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Payment for investment services by the council shall be charged directly against the gross investment returns of the funds. Charges so incurred shall not be a part of the board's annual budget request. The amounts of payment for such services, as of December 31 of each year, shall be reported not later than March 31 of the following year to the council, the board, and the Nebraska Retirement Systems Committee of the Legislature. The report submitted to the committee shall be submitted electronically.

The state investment officer shall sell any securities upon request from the director so as to provide money for the payment of benefits or annuities.

Source: Laws 1947, c. 211, § 9, p. 689; Laws 1967, c. 486, § 40, p. 1530; Laws 1969, c. 584, § 59, p. 2382; R.S.1943, (1978), § 60-449; Laws 1986, LB 311, § 24; Laws 1991, LB 549, § 54; Laws 1994, LB 1066, § 128; Laws 2012, LB782, § 211.

Cross References

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

81-2023 Auditor of Public Accounts; annual audit; report to Clerk of the Legislature.

It shall be the duty of the Auditor of Public Accounts to make an annual audit of the retirement system and submit electronically an annual report to the Clerk of the Legislature of its condition. Each member of the Legislature shall receive an electronic copy of such report by making a request for it to the Auditor of Public Accounts.

Source: Laws 1947, c. 211, § 10, p. 689; Laws 1971, LB 987, § 14; Laws 1979, LB 322, § 24; R.S.Supp.,1980, § 60-450; Laws 2012, LB782, § 212.

81-2024 Retirement system; powers.

The system may sue or be sued in the name of the system, and in all actions brought by or against it, the system shall be represented by the Attorney General.

Source: Laws 1947, c. 211, § 11, p. 690; R.S.1943, (1978), § 60-451; Laws 1996, LB 847, § 36.

81-2025 Retirement; conditions; deferment of payment; board; duties.

(1) Every officer who has been in the employ of the state as such and who becomes disabled and physically unfit to perform the duties of an officer shall be entitled to retire and receive an annuity as provided by law.

(2) Every officer who has been in the employ of the state as such for ten years or more, as calculated in section 81-2033, and has attained the age of fifty years or more shall be entitled to retire and receive an annuity as provided by law. The right to retire at the age of fifty years shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(3) Any officer who has attained the age of sixty years upon his or her separation from state service but who has not been in the employ of the state for ten years as such shall be entitled to the annuity as provided for in the Nebraska State Patrol Retirement Act.

(4) Every officer who has been in the employ of the state as such for twenty-five years or more, as calculated in section 81-2033, and has attained the age of fifty years shall be entitled to retire and receive an annuity as provided by law. The right to retire at the age of fifty years with twenty-five years or more of creditable service shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(5) Every officer who has been in the employ of the state as such for thirty years or more, as calculated in section 81-2033, shall be entitled to retire and receive an annuity as provided by law. The right to retire with thirty years or more of creditable service shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(6) Payment of any benefit provided under the act shall not be deferred later than the required beginning date.

(7) The effective date of retirement payments shall be the first day of the month following (a) the date a member qualifies for retirement as provided in this section or (b) the date upon which a member's request for retirement is received on an application form provided by the system, whichever is later. An application may be filed no more than one hundred twenty days in advance of qualifying for retirement.

(8) The board shall make reasonable efforts to locate the officer or the officer's beneficiary and distribute benefits by the required beginning date. If the board is unable to make such a distribution, the account shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any officer would otherwise receive under the Nebraska State Patrol Retirement Act.

Source: Laws 1947, c. 211, § 12(1), p. 690; Laws 1953, c. 333, § 1, p. 1093; Laws 1969, c. 510, § 3, p. 2090; Laws 1969, c. 511, § 7, p. 2095; Laws 1975, LB 235, § 2; R.S.1943, (1978), § 60-452; Laws 1986, LB 311, § 25; Laws 1989, LB 506, § 15; Laws 1990, LB 953, § 1; Laws 1993, LB 724, § 15; Laws 1994, LB 833, § 40; Laws 1994, LB 1306, § 5; Laws 1997, LB 623, § 35; Laws 1997, LB 624, § 30; Laws 2003, LB 451, § 22; Laws 2017, LB415, § 43; Laws 2020, LB1054, § 10.

Cross References

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

81-2026 Retirement; annuity; officers; surviving spouse; children; benefit; disability or death in line of duty; benefit; maximum benefit; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.

(1)(a) Any officer qualified for an annuity as provided in section 81-2025 for reasons other than disability shall be entitled to receive a monthly annuity for the remainder of the officer's life. The annuity payments shall continue until the end of the calendar month in which the officer dies. The amount of the annuity shall be a percentage of the officer's final average monthly compensation. For retirement on or after the fifty-fifth birthday of the member or on or after the fiftieth birthday of a member who has been in the employ of the state for twenty-five years, as calculated in section 81-2033, the percentage shall be three percent multiplied by the number of years of creditable service, as calculated in section 81-2033, except that the percentage shall never be greater than seventy-five percent.

(b) For retirement pursuant to subsection (2) of section 81-2025 on or after the fiftieth birthday of the member but prior to the fifty-fifth birthday of the member who has been in the employ of the state for less than twenty-five years, as calculated in section 81-2033, the annuity which would apply if the member were age fifty-five at the date of retirement shall be reduced by five-ninths of one percent for each month by which the early retirement date precedes age fifty-five or for each month by which the early retirement date precedes the date upon which the member has served for twenty-five years, whichever is earlier. Any officer who has completed thirty years of creditable service with the Nebraska State Patrol shall have retirement benefits computed as if the officer had reached age fifty-five.

(c) For purposes of this computation:

(i) For an officer who became a member prior to July 1, 2016, final average monthly compensation means the sum of the officer's total compensation during the three twelve-month periods of service as an officer in which compensation was the greatest divided by thirty-six and:

(A) For any officer employed on or before January 4, 1979, the officer's total compensation includes payments received for unused vacation and sick leave accumulated during the final three years of service; or

(B) For any officer employed after January 4, 1979, and prior to July 1, 2016, the officer's total compensation includes payments received for unused holiday compensatory time and unused compensatory time; and

(ii) For an officer who became a member on or after July 1, 2016, final average monthly compensation means the sum of the officer's total compensation during the five twelve-month periods of service as an officer in which compensation was the greatest divided by sixty and does not include payments received for unused sick leave, unused vacation leave, unused holiday compensatory time, unused compensatory time, or any other type of unused leave, compensatory time, or similar benefits, converted to cash payments. The five twelve-month periods used for calculating an officer's final average monthly compensation ends with the month during which the officer's final compensation is paid. In the determination of compensation, that part of an officer's compensation for the plan year which exceeds the officer's compensation for the preceding plan year by more than eight percent during the capping period shall be excluded. Such officer's compensation for the first plan year of the

capping period shall be compared to the officer's compensation received for the plan year immediately preceding the capping period. For purposes of this subdivision, capping period means the five plan years preceding the officer's retirement date. The board may adopt and promulgate rules and regulations for the implementation of this section, including rules and regulations related to prorating, annualizing, or recalculating an officer's final average monthly compensation for each plan year in the capping period.

(2) Any officer qualified for an annuity as provided in section 81-2025 for reasons of disability shall be entitled to receive a monthly annuity for the remainder of the period of disablement as provided in sections 81-2028 to 81-2030. The amount of the annuity shall be fifty percent of the officer's monthly compensation at the date of disablement if the officer has completed seventeen or fewer years of creditable service. If the officer has completed more than seventeen years of creditable service, the amount of the annuity shall be three percent of the final monthly compensation at the date of disablement multiplied by the total years of creditable service but not to exceed seventy-five percent of the final average monthly compensation as defined in subsection (1) of this section. The date of disablement shall be the date on which the benefits as provided in section 81-2028 have been exhausted.

(3) Upon the death of an officer after retirement for reasons other than disability, benefits shall be provided as a percentage of the amount of the officer's annuity, calculated as follows:

(a) If there is a surviving spouse but no dependent child or children of the officer under nineteen years of age, the surviving spouse shall receive a benefit equal to seventy-five percent of the amount of the officer's annuity for the remainder of the surviving spouse's life;

(b) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age and there is no other dependent child or children of the officer not in the care of the surviving spouse under nineteen years of age, the benefit shall be equal to one hundred percent of the officer's annuity. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(c) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age or there is another dependent child or children of the officer under nineteen years of age not in the care of the surviving spouse, the benefit shall be twenty-five percent of the amount of the officer's annuity to the surviving spouse and seventy-five percent of the amount of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children but in no case shall the benefit received by a surviving spouse and dependent children residing with such spouse be less than fifty percent of the amount of the officer's annuity. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(d) If there is no surviving spouse and a dependent child or children of the officer under nineteen years of age, the benefit shall be equal to seventy-five percent of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age; and

(e) If there is no surviving spouse or no dependent child or children of the officer under nineteen years of age, the amount of benefit such officer has received under the Nebraska State Patrol Retirement Act shall be computed. If such amount is less than the contributions to the State Patrol Retirement Fund made by such officer, plus regular interest, the difference shall be paid to the officer's designated beneficiary or estate.

(4) Upon the death of an officer after retirement for reasons of disability, benefits shall be provided as if the officer had retired for reasons other than disability.

(5) Upon the death of an officer before retirement, benefits shall be provided as if the officer had retired for reasons of disability on the date of such officer's death, calculated as follows:

(a) If there is a surviving spouse but no dependent child or children of the officer under nineteen years of age, the surviving spouse shall receive a benefit equal to seventy-five percent of the amount of the officer's annuity for the remainder of the surviving spouse's life;

(b) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age and there is no other dependent child or children of the officer not in the care of the surviving spouse under nineteen years of age, the benefit shall be equal to one hundred percent of the officer's annuity. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(c) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age or there is another dependent child or children of the officer under nineteen years of age not in the care of the surviving spouse, the benefit shall be twenty-five percent of the amount of the officer's annuity to the surviving spouse and seventy-five percent of the amount of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children but in no case shall the benefit received by a surviving spouse and dependent children residing with such spouse be less than fifty percent of the amount of the officer's annuity. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life;

(d) If there is no surviving spouse and a dependent child or children of the officer under nineteen years of age, the benefit shall be equal to seventy-five percent of the officer's annuity to the dependent children of the officer under

nineteen years of age to be divided equally among such dependent children. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age; and

(e) If no benefits are paid to a surviving spouse or dependent child or children of the officer, benefits will be paid as described in subsection (1) of section 81-2031.

(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 Nebraska State Patrol and such employment had terminated on the date of the member's death.

(8) Any changes made to this section by Laws 2004, LB 1097, shall apply only to retirements, disabilities, and deaths occurring on or after July 16, 2004.

Source: Laws 1953, c. 333, § 2, p. 1093; Laws 1957, c. 276, § 1, p. 1004; Laws 1959, c. 296, § 1, p. 1104; Laws 1961, c. 307, § 6, p. 973; Laws 1965, c. 386, § 2, p. 1241; Laws 1969, c. 510, § 4, p. 2090; Laws 1969, c. 511, § 8, p. 2095; Laws 1974, LB 1004, § 1; Laws 1975, LB 235, § 3; Laws 1976, LB 644, § 1; Laws 1977, LB 347, § 1; Laws 1979, LB 80, § 107; R.S.Supp., 1980, § 60-452.01; Laws 1981, LB 462, § 6; Laws 1986, LB 311, § 26; Laws 1987, LB 493, § 1; Laws 1989, LB 506, § 16; Laws 1990, LB 953, § 2; Laws 1991, LB 549, § 55; Laws 1993, LB 724, § 16; Laws 1994, LB 833, § 41; Laws 1994, LB 1306, § 6; Laws 1996, LB 847, § 37; Laws 1996, LB 1273, § 28; Laws 1997, LB 623, § 36; Laws 1997, LB 624, § 31; Laws 2004, LB 1097, § 30; Laws 2006, LB 1019, § 13; Laws 2011, LB509, § 42; Laws 2012, LB916, § 29; Laws 2016, LB467, § 4; Laws 2018, LB1005, § 38.

Subsection (3) of this section, as it existed in 2002, is ambiguous as to the proper distribution of a deceased trooper's annuity where there are surviving minor children who are not all in the care of a surviving spouse. Consistent with the legislative intent of subsection (3) of this section, to provide benefits to the surviving members of a trooper's family, this section requires distribution of benefits to all of a deceased trooper's minor children, regardless of with whom they reside. *Zach v. Eacker*, 271 Neb. 868, 716 N.W.2d 437 (2006).

Where plaintiffs had been members of the system prior to administrative change in method of calculating "final average

monthly salary" under this section and had been advised on the former method of calculation, their expectations that their retirement payment would be calculated under the former method amounted to a contractual right. Where state failed to produce evidence that violating patrolmen's contractual right to have retirement payments calculated under former method was demanded by a vital state interest or important public purpose, plaintiffs in this case were entitled to summary judgment against state. *Halpin v. Nebraska State Patrolmen's Retirement System*, 211 Neb. 892, 320 N.W.2d 910 (1982).

81-2027 Retirement benefit; adjusted by increase in cost of living.

Each retired officer of the Nebraska State Patrol, or surviving beneficiary who is receiving a retirement benefit as of December 31, 1977, shall have such retirement benefits adjusted by the increase in the cost of living, as determined by the difference between the Consumer Price Index for Urban Wage Earners

and Clerical Workers from the date his or her retirement benefit commenced and January 1, 1978.

Source: Laws 1977, LB 347, § 2; Laws 1979, LB 80, § 108; R.S.Supp.,1980, § 60-452.02.

81-2027.01 Repealed. Laws 1998, LB 1191, § 85.

81-2027.02 Repealed. Laws 1998, LB 1191, § 85.

81-2027.03 Repealed. Laws 2011, LB 509, § 55.

81-2027.04 Repealed. Laws 1999, LB 674, § 12.

81-2027.05 Repealed. Laws 2011, LB 509, § 55.

81-2027.06 Repealed. Laws 2011, LB 509, § 55.

81-2027.07 Repealed. Laws 2011, LB 509, § 55.

81-2027.08 Officer who became member prior to July 1, 2016; 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) This section applies to an officer who became a member prior to July 1, 2016.

Source: Laws 2011, LB509, § 41; Laws 2013, LB263, § 33; Laws 2016, LB467, § 5.

81-2027.09 Officer who became member on or after July 1, 2016; annual benefit adjustment.

On July 1 of each year, for officers who became members on or after July 1, 2016:

(1) The board shall determine the number of retired members or beneficiaries of members in the retirement system who became members on or after July 1, 2016, and an annual benefit adjustment shall be made by the board for each such 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. 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;

(2) Each retired member or beneficiary shall receive the sum of the annual benefit adjustment and such retired member's or beneficiary's total monthly benefit less withholding, which sum shall be the retired member's or beneficiary's adjusted total monthly benefit. Each such 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; and

(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.

Source: Laws 2016, LB467, § 6.

81-2027.10 Officer who became member on or after July 1, 2016; lump-sum cost-of-living payment.

(1) Beginning July 1, 2016, for officers who became members on or after July 1, 2016, if the annual valuation made by the actuary, as approved by the board, indicates that the retirement system is fully funded and has sufficient actuarial

surplus to provide for a supplemental, lump-sum cost-of-living payment, the board may, in its discretion, elect to pay up to a maximum one and one-half percent supplemental, lump-sum cost-of-living payment to each retired member or beneficiary based on the retired member's or beneficiary's total monthly benefit through June 30 of the year for which the supplemental, lump-sum cost-of-living payment is being calculated. The supplemental, lump-sum cost-of-living payment shall be paid within sixty days after the board's decision. In no event shall the board declare a supplemental, lump-sum cost-of-living payment if such adjustment would cause the plan to be less than fully funded.

(2) For purposes of this section, fully funded means the unfunded actuarial accrued liability, based on the lesser of the actuarial value and the market value, under the entry age actuarial cost method, is less than zero on the most recent actuarial valuation date.

(3) Any decision or determination by the board to declare or not declare a cost-of-living payment or as to whether the annual valuation indicates a sufficient actuarial surplus to provide for a cost-of-living payment 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 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 payments.

Source: Laws 2016, LB467, § 7.

81-2028 Retirement; disability; exceptions.

No officer shall receive any disability benefit payments when there remains to his or her credit unused annual leave or sick leave or under any other circumstances if during the period of disability there has been no impairment of his or her compensation.

Source: Laws 1947, c. 211, § 13(2), p. 691; R.S.1943, (1978), § 60-455; Laws 1991, LB 549, § 56.

81-2029 Retirement; disability; proof.

No disability benefit payments shall be made except upon adequate proof furnished to the system of the existence of such disability, and during the time when any such benefits are being paid, the system shall have the right, at reasonable times, to require the disabled officer to submit proof of the continuance of the disability claimed. Disability is defined to be the complete inability of the officer, for reasons of accident or sickness, to perform the duties of an officer.

Source: Laws 1947, c. 211, § 13(3), p. 691; Laws 1969, c. 511, § 9, p. 2097; Laws 1974, LB 1004, § 2; R.S.1943, (1978), § 60-456; Laws 1991, LB 549, § 57.

81-2030 Retirement; disability; medical examinations; expense.

The board shall have the right to demand a physical examination of the member by a disinterested physician legally authorized to practice medicine

under the laws of the state in which he or she practices, chosen by the system and at the expense of the system.

Source: Laws 1947, c. 211, § 13(4), p. 691; R.S.1943, (1978), § 60-457; Laws 1997, LB 623, § 39.

81-2031 Termination of employment; return of contributions, when; rejoining system; deferred annuity.

(1) Upon termination of employment prior to becoming eligible to retire, as provided in section 81-2025, and for reasons other than death or disability, an officer shall be entitled to receive all payments which have been made by compensation deductions into the State Patrol Retirement Fund plus regular interest. The return of such contributions and interest to such officer shall preclude such officer from any benefits under the Nebraska State Patrol Retirement Act unless and until such officer is reemployed in such capacity and repays such withdrawals pursuant to section 81-2031.06. If the officer chooses not to repay such withdrawals with interest, the officer shall enter the system as a new member with no prior rights.

(2) In lieu of the benefit described in subsection (1) of this section, the officer may elect to receive a deferred annuity to commence as early as age fifty. If this election is made, the contributions made to the system by the officer may not be withdrawn from the system. The deferred annuity shall be computed as a percentage of the retirement annuity, as computed in subsection (1) of section 81-2026. The percentage shall be:

(a) Zero percent for the first five years of (i) creditable service plus (ii) eligibility and vesting credit;

(b) Twenty percent for each completed year for the next five years of (i) creditable service plus (ii) eligibility and vesting credit; and

(c) One hundred percent after ten completed years of (i) creditable service plus (ii) eligibility and vesting credit.

In the event of the death of any officer during the deferred period, the accumulated value of the officer's contributions at the date of termination plus regular interest to the date of his or her death shall be paid to such officer's beneficiary.

Source: Laws 1947, c. 211, § 14, p. 692; Laws 1959, c. 297, § 1, p. 1106; Laws 1969, c. 511, § 10, p. 2097; Laws 1974, LB 905, § 6; Laws 1974, LB 1004, § 3; Laws 1975, LB 55, § 1; Laws 1975, LB 235, § 4; R.S.1943, (1978), § 60-458; Laws 1986, LB 311, § 27; Laws 1989, LB 506, § 17; Laws 1991, LB 549, § 58; Laws 1994, LB 833, § 44; Laws 1994, LB 1306, § 7; Laws 1996, LB 1076, § 34; Laws 1997, LB 624, § 32; Laws 1999, LB 703, § 19; Laws 2001, LB 408, § 23.

The election to receive either a refund of contributions plus accrued interest or a monthly annuity is made by "the officer."
Klimek v. Klimek, 18 Neb. App. 82, 775 N.W.2d 444 (2009).

81-2031.01 Retirement system; reemployment; election to repay system; amount; status; exception.

From January 1, 1991, to June 30, 1991, any person who withdrew his or her accumulated contributions pursuant to subsection (1) of section 81-2031 prior

to January 1, 1991, and has again become an employee of the Nebraska State Patrol may elect to repay the retirement system for any number of years of service which he or she accumulated prior to withdrawing his or her accumulated contributions. The amount to be repaid shall not exceed the amount of the withdrawal for the years of service for which the repayment is being made plus the interest which would have accrued on that amount under the retirement system. Any person who repays such amount shall be restored to the same status for the years of service for which repayment is made as he or she had prior to the withdrawal of the accumulated contributions. This section shall not apply to employees of the Nebraska State Patrol retiring prior to January 1, 1991.

Source: Laws 1990, LB 1105, § 1.

81-2031.02 Retirement system; current employee; participation in another governmental plan; how treated.

For one year after September 9, 1995, any member employed on or before September 9, 1995, 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. 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.

Source: Laws 1995, LB 501, § 9.

81-2031.03 Direct rollover; terms, defined; distributee; powers; board; powers.

(1) For purposes of this section and section 81-2031.04:

(a) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(b) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, (v) except for purposes of section 81-2031.04, an individual retirement plan described in section 408A of the code, and (vi) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (vi) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) A member's surviving spouse or former spouse who is an alternate payee under a qualified domestic relations order and, on or after July 1, 2010, any designated beneficiary of a member who is not a surviving spouse or former spouse who is entitled to receive an eligible rollover distribution from the retirement system may, in accordance with such rules, regulations, and limitations as may be established by the board, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(4) An eligible rollover distribution on behalf of a designated beneficiary of a member who is not a surviving spouse or former spouse of the member may be transferred to an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is established for the purpose of receiving the distribution on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity described in section 408(d)(3)(C) of the Internal Revenue Code.

(5) The board may adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Source: Laws 1996, LB 847, § 39; Laws 2002, LB 407, § 51; Laws 2012, LB916, § 30; Laws 2018, LB1005, § 39.

81-2031.04 Retirement system; accept payments and rollovers; limitations; board; powers.

(1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 81-2031 if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such section and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for service credits.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an

individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includable in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board may adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Source: Laws 1996, LB 847, § 40; Laws 2002, LB 407, § 52; Laws 2018, LB1005, § 40.

81-2031.05 Retired officer; reemployment; how treated.

A retired officer of the Nebraska State Patrol who becomes a member of the Nebraska State Patrol shall continue receiving retirement benefits and shall be treated for all purposes of the Nebraska State Patrol Retirement Act as a new member of the system.

Source: Laws 1997, LB 624, § 33.

81-2031.06 Termination of employment prior to eligibility to retire; rejoining system; effect.

An officer who terminates employment prior to becoming eligible to retire and again serves as an officer in the Nebraska State Patrol may elect to repay part or all of the amount he or she had withdrawn as a refund pursuant to section 81-2031 plus the interest that would have accrued on such amount. Payment shall commence prior to termination of employment, shall not be extended more than five years after the date the officer elects to repay his or her refund, and shall be completed prior to termination of employment. Prior service and rights shall be restored in proportion to the amounts repaid, and the prior service and rights of the officer shall be fully restored only if he or she repays all accumulated withdrawals plus interest which would have accrued on that amount.

Source: Laws 2001, LB 408, § 24.

81-2031.07 Retirement system; accept transfers; limitations; how treated.

The retirement system may accept as payment for withdrawn amounts made pursuant to the Nebraska State Patrol Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such amounts. The amount transferred shall not exceed the amount withdrawn and such transferred amount shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

Source: Laws 2002, LB 407, § 53.

81-2032 Retirement system; funds; exemption from legal process; exception.

All annuities or benefits which any person shall be entitled to receive under the Nebraska State Patrol Retirement Act shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable except to the extent that such annuities or benefits are subject to a qualified domestic relations order under the Spousal Pension Rights Act.

Source: Laws 1947, c. 211, § 15, p. 692; Laws 1969, c. 511, § 11, p. 2098; R.S.1943, (1978), § 60-459; Laws 1986, LB 311, § 28; Laws 1989, LB 506, § 18; Laws 1994, LB 833, § 45; Laws 1995, LB 574, § 84; Laws 1996, LB 1273, § 29; Laws 2012, LB916, § 31; Laws 2015, LB40, § 13.

Cross References

Spousal Pension Rights Act, see section 42-1101.

The amendment of anti-attachment statutes to allow a civil judgment to attach to the distributed retirement assets of State Patrol officers and other public employees who had committed six specified crimes constituted special legislation in violation of the Nebraska Constitution. The Legislature's attempt to create very limited exceptions to an absolute privilege from attachment of a public employee's retirement assets resulted in a law that benefited only a select group of victims and arbitrarily protected public employees who were convicted of comparably serious crimes, yet retained an absolute privilege from attachment of their retirement assets because their crimes were not included

in the amendment. *J.M. v. Hobbs*, 288 Neb. 546, 849 N.W.2d 480 (2014).

A benefit is a cash payment or service provided for under an annuity, pension plan, or insurance policy. *J.M. v. Hobbs*, 281 Neb. 539, 797 N.W.2d 227 (2011).

An annuity is a fixed sum of money payable periodically. *J.M. v. Hobbs*, 281 Neb. 539, 797 N.W.2d 227 (2011).

This section exempts annuities or benefits a person is entitled to receive under the Nebraska State Patrol Retirement Act from execution, even in the person's possession. *J.M. v. Hobbs*, 281 Neb. 539, 797 N.W.2d 227 (2011).

81-2033 Retirement; total service credit.

In computing length of creditable service under the Nebraska State Patrol Retirement Act, such service shall include the years of service with the Nebraska State Patrol, permanent force, as established by the law creating the Nebraska State Patrol computed to the nearest one-twelfth year and shall only include such years during which the person was a contributing member of the Nebraska State Patrol Retirement System. Length of creditable service shall also include credit for time served in the armed forces pursuant to section 81-2034. For subsection (2) of section 81-2031 only, service shall also include credit for vesting pursuant to sections 60-1304, 81-2016, and 81-2031.02.

Source: Laws 1947, c. 211, § 16, p. 692; Laws 1969, c. 511, § 12, p. 2098; R.S.1943, (1978), § 60-460; Laws 1993, LB 724, § 17; Laws 1995, LB 501, § 10; Laws 1997, LB 624, § 34; Laws 2002, LB 470, § 9.

81-2034 Retirement; method of crediting for military service; effect; applicability.

(1)(a) Any officer of the Nebraska State Patrol who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of the officer's period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the officer's accrued benefits and the accrual of benefits under the plan.

(b) The state shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the Nebraska State Patrol shall pay to the retirement system an amount equal to:

(i) The sum of the officer and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, or interest credits that would have accrued on the officer and employer contributions that are paid by the Nebraska State Patrol pursuant to this section shall not be included.

(c) The amount required in subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment, but must be paid within eighteen months of the date the board notifies the Nebraska State Patrol of the amount due. If the Nebraska State Patrol fails to pay the required amount within such eighteen-month period, then the Nebraska State Patrol is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the Nebraska State Patrol is notified by the board until the date the amount is paid.

(d) The board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

(i) How and when the officer and Nebraska State Patrol must notify the retirement system of a period of military service;

(ii) The acceptable methods of payment;

(iii) Determining the service and compensation upon which the contributions must be made;

(iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the officer's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and

(v) The documentation required to substantiate that the officer was reemployed pursuant to 38 U.S.C. 4301 et seq.

(2) This section applies to military service that falls within the definition of uniformed services under 38 U.S.C. 4301 et seq., and includes (a) preparation periods prior to military service, (b) periods during military service, (c) periods of rest and recovery authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods of federal military service, and (e) periods during active service of the state provided pursuant to sections 55-101 to 55-181.

Source: Laws 1949, c. 177, § 1, p. 481; Laws 1967, c. 391, § 5, p. 1216; Laws 1971, LB 987, § 15; R.S.1943, (1978), § 60-461; Laws 1991, LB 549, § 59; Laws 1996, LB 847, § 38; Laws 2017, LB415, § 44; Laws 2023, LB103, § 12.

81-2035 Annuity; adjustment; amount.

Any annuity paid pursuant to sections 81-2014 to 81-2034 to any officer or surviving spouse qualified to receive such payment shall be adjusted on May 27, 1989, to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement. The adjustment shall be an increase in an amount equal to three percent for each year since the date of such officer's retirement commencing on and after January 1, 1978, until December 31, 1984.

Source: Laws 1989, LB 137, § 1.

81-2036 Annuity; additional adjustment; changes in family unit.

After the adjustment prescribed in section 81-2035 is made, any annuity paid pursuant to sections 81-2014 to 81-2034 to any officer or surviving spouse qualified to receive such payment shall be adjusted on May 27, 1989, to reflect changes in the cost of living and wage levels which have occurred subsequent to the date of retirement up to an annuity total amount equal to five thousand nine hundred eighty dollars for a one-member family unit. For each additional member of the family unit the amount shall be increased by two thousand forty dollars. The annuity shall be adjusted to reflect any changes in the family unit when the change occurs. A change in the family unit after retirement occurs (1) upon the death of the officer, (2) upon the death of the spouse or a dependent child, (3) upon the birth of a dependent child, (4) upon the divorce of the officer and his or her spouse, (5) when the officer no longer provides support for a dependent child, and (6) when a dependent child becomes nineteen years of age. Each officer or surviving spouse whose annuity is adjusted pursuant to this section shall file an annual report with the retirement system, on a form prescribed by the Public Employees Retirement Board, to verify the size of the family unit. For purposes of this section, family unit shall include the officer, his or her spouse at the time of retirement, the officer's legal dependent children under nineteen years of age, and the officer's dependent handicapped children.

Source: Laws 1989, LB 137, § 2.

81-2037 Limitation of actions.

Every claim and demand under sections 81-2014 to 81-2036 and against the retirement system or the board shall be forever barred unless the action is brought within two years of the time at which the claim accrued.

Source: Laws 1996, LB 1076, § 36.

81-2038 False or fraudulent actions; prohibited acts; penalty; denial of benefits.

Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system for the purpose of defrauding or attempting to defraud the retirement system shall be guilty of a Class II misdemeanor. The board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the officer to recover any benefits already paid on the basis of such information.

Source: Laws 1998, LB 1191, § 66.

81-2039 Retirement system contributions, property, and rights; how treated.

All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and to pay administrative expenses according to the provisions of the Nebraska State Patrol Retirement Act.

Source: Laws 1998, LB 1191, § 67.

81-2040 Termination of system or contributions; effect.

Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to benefits accrued to the date of such termination, partial termination, or discontinuance, to the extent funded as of such date, shall be nonforfeitable.

Source: Laws 1998, LB 1191, § 68.

81-2041 DROP participation authorized; requirements; fees.

(1) Any officer who became a member prior to July 1, 2016, and 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;

(i) Cost-of-living adjustments or payments as provided for in section 81-2027.08 or 81-2027.09 and 81-2027.10 shall not be applied to retirement benefits during the DROP period; and

(j) Any officer who became a member on or after July 1, 2016, is specifically prohibited from participating in DROP.

Source: Laws 2007, LB324, § 3; Laws 2011, LB509, § 43; Laws 2012, LB916, § 32; Laws 2013, LB263, § 34; Laws 2016, LB467, § 8.

STATE ELECTRICAL DIVISION
ARTICLE 21
STATE ELECTRICAL DIVISION

Section	
81-2101.	Act, how cited.
81-2102.	Terms, defined.
81-2103.	State Electrical Division; created; State Electrical Board; members; duties; qualifications; terms.
81-2104.	State Electrical Board; powers enumerated.
81-2105.	Electrical Division Fund; created; how funded; board; expenses.
81-2106.	Plan, lay out, or supervise certain activities; license required; exceptions.
81-2107.	Electrical contractor license; applicant; qualifications; Class B electrical contractor license; restriction on license.
81-2108.	Wiring or installing; license required; exceptions; lending license prohibited.
81-2109.	Journeyman electrician license; residential journeyman electrician license; qualifications; Class B journeyman electrician license; restriction on license.
81-2110.	Repealed. Laws 2024, LB144, § 17.
81-2111.	Repealed. Laws 1993, LB 193, § 35.
81-2112.	Special electrician license; licensee; rights and privileges; qualifications.
81-2112.01.	Repealed. Laws 1993, LB 193, § 35.
81-2112.02.	Fire alarm installer; license; rights and privileges; experience.
81-2113.	Apprentice electrician; registration; supervision; renewal; continuing education.
81-2114.	State Electrical Division; provide training sessions; fee.
81-2115.	License; written examination; when given; examination required to renew license; when.
81-2116.	License; issued upon passing examination and showing satisfactory qualifications.
81-2117.	Repealed. Laws 1993, LB 193, § 35.
81-2117.01.	License renewal; continuing education required; registrant; continuing education, how credited; instructor and course approval; certificate of attendance.
81-2117.02.	License; renewal.
81-2118.	Licenses and registrations; expiration; fees.
81-2119.	Death of licensee; representative may carry on business; how long; insurance required.
81-2120.	Licenses; issued without examination based on reciprocity; qualifications; issued based on reciprocal credentialing agreement, military occupational specialty, or apprenticeship training program; procedure.
81-2121.	Act; not applicable to certain situations; enumerated.
81-2122.	Repealed. Laws 1993, LB 193, § 35.
81-2123.	Repealed. Laws 1993, LB 193, § 35.
81-2124.	Electrical installations; subject to inspection.
81-2125.	State inspection; not applicable in certain political subdivisions; when; electrical inspector; certificate of qualification.
81-2126.	Request for inspection; when required; fees; failure to file request; procedure.
81-2127.	Inspection; installation not in compliance with standards; written order to condemn; opportunity to correct noncompliance.
81-2128.	Condemnation or disconnection order; service.
81-2129.	Installations; connected; certificate of safe operation; dismissal of condemnation or disconnection order; contents of certificate; transient projects; duty of board.
81-2130.	Political subdivision inspections; file inspection codes with board; no additional license fee required; powers of political subdivision.
81-2131.	Repealed. Laws 1993, LB 193, § 35.
81-2132.	Inspections; not required; when.
81-2133.	Supplier of electrical energy; liability limited; exception.
81-2134.	State inspection; procedures.

§ 81-2101

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-2135. State inspections; fees; when due; when not applicable.
- 81-2136. Inspection; new electrical installation not in compliance with standards; condemnation; when; opportunity to correct.
- 81-2137. Inspection; new electrical installation not in compliance with standards; disconnection; when; opportunity to correct.
- 81-2138. Noncomplying installation; not dangerous; correction order; contents; failure to correct; effect; liability of energy supplier.
- 81-2139. Correction order; countermanded or extended; written request; action on.
- 81-2140. Condemnation, disconnection, and correction orders; forms; service; manner.
- 81-2141. Appeal from condemnation or disconnection order; time; stay of appeal; conditions.
- 81-2142. Appeal; hearing officer; hearing; decision by board; notice; opportunity to present evidence; hearing date.
- 81-2143. Violations, enumerated; penalties.
- 81-2144. Directional boring contractor; activities authorized.
- 81-2145. Repealed. Laws 2003, LB 126, § 16.

81-2101 Act, how cited.

Sections 81-2101 to 81-2144 shall be known and may be cited as the State Electrical Act.

Source: Laws 1975, LB 525, § 1; R.S.1943, (1976), § 81-571; Laws 1986, LB 379, § 1; Laws 1993, LB 215, § 1; Laws 1993, LB 193, § 1; Laws 2003, LB 126, § 1; Laws 2019, LB65, § 1.

81-2102 Terms, defined.

For purposes of the State Electrical Act, unless the context otherwise requires:

(1) Apprentice electrician means any person, other than a licensee, who, as such person's principal occupation, is engaged in learning and assisting in the installation, alteration, and repair of electrical equipment as an employee of a licensee and who is registered with the board. For purposes of this subdivision, persons who are not engaged in the installation, alteration, or repair of electrical wiring and apparatus, either inside or outside buildings, shall not be considered apprentice electricians;

(2) Board means the State Electrical Board;

(3) Class A master electrician means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of wiring, apparatus, and equipment for electric light, heat, power, and other purposes and who is licensed by the board;

(4) Class B electrical contractor means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, install, and supervise the installation of wiring, apparatus, and equipment for systems of not over four hundred ampere capacity for light, heat, power, and other purposes in any structure used and maintained as a residential dwelling but not larger than a four-family dwelling located in any municipality which has a population of less than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and who is licensed by the board;

(5) Class B journeyman electrician means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment for systems of not over four hundred ampere capacity for light, heat, power, and other purposes in any structure used and maintained as a residential dwelling but not larger than a four-family dwelling located in any municipality which has a population of less than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and who is licensed by the board;

(6) Commercial installation means an installation intended for commerce, but does not include a residential installation;

(7) Electrical contractor means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, install, and supervise the installation of wiring, apparatus, and equipment for electric light, heat, power, and other purposes and who is licensed by the board;

(8) Fire alarm installer means any person having the necessary qualifications, training, and experience to plan, lay out, and install electrical wiring, apparatus, and equipment for only those components of fire alarm systems that operate at fifty volts or less and who is licensed by the board;

(9) Industrial installation means an installation intended for use in the manufacture or processing of products involving systematic labor or habitual employment and includes installations in which agricultural or other products are habitually or customarily processed or stored for others, either by buying or reselling on a fee basis;

(10) Inspector means a person certified as an electrical inspector upon such reasonable conditions as may be adopted by the board. The board may permit more than one class of electrical inspector;

(11) Journeyman electrician means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment and to supervise apprentice electricians and who is licensed by the board;

(12) New electrical installation means the installation of wiring, apparatus, and equipment for electric light, heat, power, and other purposes;

(13) Public-use building or facility means any building or facility designated for public use;

(14) Residential installation means an installation intended for a single-family or two-family residential dwelling or a multi-family residential dwelling not larger than three stories in height;

(15) Residential journeyman electrician means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment for residential installations and to supervise apprentice electricians and who is licensed by the board;

(16) Routine maintenance means the repair or replacement of existing electrical apparatus and equipment of the same size and type for which no changes in wiring are made; and

(17) Special electrician means a person having the necessary qualifications, training, and experience in wiring or installing special classes of electrical wiring, apparatus, equipment, or installations which shall include irrigation

system wiring, well pump wiring, air conditioning and refrigeration installation, and sign installation and who is licensed by the board.

Source: Laws 1975, LB 525, § 2; Laws 1978, LB 833, § 2; Laws 1981, LB 67, § 1; R.S.Supp.,1981, § 81-572; Laws 1993, LB 193, § 2; Laws 2003, LB 126, § 2; Laws 2004, LB 914, § 1; Laws 2017, LB113, § 60; Laws 2024, LB144, § 1.
Effective date July 19, 2024.

81-2103 State Electrical Division; created; State Electrical Board; members; duties; qualifications; terms.

(1) There is hereby established an independent agency to be known as the State Electrical Division which shall be under the administrative and operative control of the executive director of such division. The division shall include a seven-member State Electrical Board appointed by the Governor with the consent of the Legislature. All members of the board shall be residents of the State of Nebraska. The board shall direct the efforts of the executive director and set the policy of the division. The members of the board shall be (a) two journeyman electricians, one of which shall be appointed in accordance with subsection (2) of this section, (b) one electrical contractor or master electrician who shall be appointed in accordance with subsection (3) of this section, (c) one certified electrical inspector, (d) one licensed professional electrical engineer, (e) one representative of a public power district or rural electric cooperative in the state, (f) one representative of the municipal electric systems in the state, and (g) except as provided in subsection (2) of this section, one member of any of such groups. The members of the board shall be appointed for staggered terms of five years. Any vacancy occurring in the membership of the board shall be filled by the Governor for the unexpired term. Each member of the board shall serve until a successor is appointed and qualified. The executive director shall be the executive secretary of the board and shall be responsible for all books, records, and transcripts of proceedings of the board.

(2) At the expiration of the term of the member serving under subdivision (1)(g) of this section as the member of any such groups on July 19, 2024, such member shall be one of the two journeyman electrician members, shall be affiliated with a nonprofit labor organization for electrical workers holding a certificate of exemption under section 501(c)(5) of the Internal Revenue Code, and shall be selected from a list of journeyman electricians recommended by such organization.

(3) At the expiration of the term of the electrical contractor or master electrician member serving under subdivision (1)(b) of this section on July 19, 2024, the electrical contractor or master electrician member shall be affiliated with a nonprofit labor organization for electrical workers holding a certificate of exemption under section 501(c)(5) of the Internal Revenue Code and shall be selected from a list of electrical contractors or master electricians recommended by such organization.

Source: Laws 1975, LB 525, § 3; Laws 1978, LB 833, § 2; R.S.Supp.,1980, § 81-573; Laws 1982, LB 490, § 1; Laws 1993, LB 193, § 3; Laws 1997, LB 622, § 127; Laws 2003, LB 126, § 3; Laws 2024, LB16, § 1.
Effective date July 19, 2024.

81-2104 State Electrical Board; powers enumerated.

The board shall have power to:

- (1) Elect its own officers;
- (2) Engage and fix the compensation of such officers, inspectors, and employees as may be required in the performance of its duties;
- (3) Pay such other expenses as may be necessary in the performance of its duties;
- (4) Provide upon request such additional voluntary inspections and reviews as it deems appropriate;
- (5) Adopt, promulgate, and revise rules and regulations necessary to enable it to carry into effect the State Electrical Act. In adopting and promulgating such rules and regulations, the board shall be governed by the minimum standards set forth in the National Electrical Code issued and adopted by the National Fire Protection Association beginning in the 2023 edition of the National Electrical Code, Publication Number 70-2023, except that the minimum standards set forth in the 2017 edition of the National Electrical Code shall apply for sections 210.8(A), 210.8(A)(3), 210.8(A)(5), 230.67(A), and 230.85. Each edition of the National Electrical Code mentioned in this subdivision shall be filed in the offices of the Secretary of State and the board during the time the edition is in use under this subdivision and shall be a public record. The board shall adopt and promulgate rules and regulations establishing wiring standards that protect public safety and health and property and that apply to all electrical wiring which is installed subject to the State Electrical Act;
- (6) Revoke, suspend, or refuse to renew any license or registration granted pursuant to the State Electrical Act when the licensee or registrant (a) violates any provision of the National Electrical Code as adopted pursuant to subdivision (5) of this section, the act, or any rule or regulation adopted and promulgated pursuant to the act, (b) fails or refuses to pay any examination, registration, or license renewal fee required by law, (c) is an electrical contractor or master electrician and fails or refuses to provide and keep in force a public liability insurance policy as required by the board, or (d) violates any political subdivision's approved inspection ordinances;
- (7) Order disconnection of power to any electrical installation that is proximately dangerous to health and property;
- (8) Order removal of electrical wiring and apparatus from premises when such wiring and apparatus is proximately dangerous to health and property;
- (9) Investigate, for the purpose of identifying dangerous electrical wiring or violations of the National Electrical Code as adopted pursuant to subdivision (5) of this section, any death by electrocution that occurs within the State of Nebraska;
- (10) Refuse to renew any license granted pursuant to the act when the licensee fails to submit evidence of completing the continuing education requirements under section 81-2117.01;
- (11) Provide for the amount and collection of fees for inspection and other services;
- (12) Adopt a seal, and the executive secretary shall have the care and custody thereof; and

(13) Enforce the provisions of the National Electrical Code as adopted pursuant to subdivision (5) of this section.

Source: Laws 1975, LB 525, § 5; Laws 1978, LB 906, § 1; Laws 1978, LB 833, § 3; Laws 1981, LB 77, § 1; R.S.Supp.,1981, § 81-575; Laws 1984, LB 946, § 1; Laws 1987, LB 69, § 1; Laws 1990, LB 863, § 1; Laws 1993, LB 215, § 2; Laws 1993, LB 193, § 4; Laws 1993, LB 192, § 1; Laws 1996, LB 933, § 1; Laws 1999, LB 91, § 1; Laws 2002, LB 873, § 1; Laws 2003, LB 126, § 4; Laws 2005, LB 201, § 1; Laws 2010, LB411, § 1; Laws 2011, LB56, § 1; Laws 2014, LB863, § 28; Laws 2017, LB455, § 1; Laws 2024, LB716, § 1.

Effective date July 19, 2024.

81-2105 Electrical Division Fund; created; how funded; board; expenses.

There is hereby created the Electrical Division Fund. All money received under the State Electrical Act shall be remitted to the State Treasurer for credit to the fund. Each member of the board shall be reimbursed for expenses incurred in the performance of his or her duties pursuant to sections 81-1174 to 81-1177 to be paid out of the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature.

Source: Laws 1975, LB 525, § 6; R.S.1943, (1976), § 81-576; Laws 1993, LB 193, § 5; Laws 2009, First Spec. Sess., LB3, § 84; Laws 2020, LB381, § 127.

81-2106 Plan, lay out, or supervise certain activities; license required; exceptions.

Except as provided in section 81-2108, 81-2112, or 81-2144, no person shall, for another, plan, lay out, or supervise the installation of wiring, apparatus, or equipment for electrical light, heat, power, or other purposes unless he or she is licensed by the board as a Class B electrical contractor, an electrical contractor, or a Class A master electrician.

Source: Laws 1975, LB 525, § 7; Laws 1978, LB 833, § 4; R.S.Supp.,1980, § 81-577; Laws 1993, LB 193, § 6; Laws 2003, LB 126, § 5; Laws 2019, LB65, § 2; Laws 2024, LB144, § 2.
Effective date July 19, 2024.

81-2107 Electrical contractor license; applicant; qualifications; Class B electrical contractor license; restriction on license.

(1) An applicant for an electrical contractor license shall (a) be a graduate of a four-year electrical course in an accredited college or university or (b) have at least one year's experience, acceptable to the board, as a journeyman electrician.

(2) A Class B electrical contractor license shall be valid only in regard to systems of not over four hundred amperes in capacity in structures used and maintained as residential dwellings but not larger than four-family dwellings located in any municipality which has a population of less than one hundred thousand inhabitants as determined by the most recent federal decennial

census or the most recent revised certified count by the United States Bureau of the Census.

Source: Laws 1975, LB 525, § 9; Laws 1978, LB 833, § 6; R.S.Supp.,1980, § 81-578; Laws 1993, LB 193, § 7; Laws 2003, LB 126, § 6; Laws 2017, LB113, § 61; Laws 2024, LB144, § 3.
Effective date July 19, 2024.

81-2108 Wiring or installing; license required; exceptions; lending license prohibited.

(1) Except as provided in subsection (2) of this section or in section 81-2112 or 81-2144, no person shall, for another, wire for or install electrical wiring, apparatus, or equipment unless he or she is licensed by the board as a Class B electrical contractor, an electrical contractor, a Class A master electrician, or a fire alarm installer.

(2) Except as provided in section 81-2106, 81-2112, or 81-2144, no person shall wire for or install electrical wiring, apparatus, or equipment or supervise an apprentice electrician unless such person is licensed as a Class B journeyman electrician, a journeyman electrician, a residential journeyman electrician, or a fire alarm installer and is employed by a Class B electrical contractor, an electrical contractor, a Class A master electrician, or a fire alarm installer.

For purposes of this section, the holder of a fire alarm installer license shall only supervise those apprentices engaged in the installation of fire alarm equipment and apparatus operating at fifty volts or less.

(3) No person licensed under the State Electrical Act may lend his or her license to any person or knowingly permit the use of such license by another.

Source: Laws 1975, LB 525, § 9; Laws 1978, LB 833, § 6; R.S.Supp.,1980, § 81-579; Laws 1982, LB 605, § 1; Laws 1993, LB 193, § 8; Laws 2003, LB 126, § 7; Laws 2004, LB 914, § 2; Laws 2019, LB65, § 3; Laws 2024, LB144, § 4.
Effective date July 19, 2024.

81-2109 Journeyman electrician license; residential journeyman electrician license; qualifications; Class B journeyman electrician license; restriction on license.

(1) An applicant for a journeyman electrician license shall have at least four years' experience, acceptable to the board, in the electrical trade. Registration as an apprentice electrician for those years shall, on the approval of the board, constitute evidence of such experience. The board may by rule or regulation provide for the allowance of one year of experience credit for successful completion of a two-year post-high school electrical course approved by the board.

(2) On and after July 16, 2004, an applicant for a residential journeyman electrician license shall have at least three years' experience, acceptable to the board, in the electrical trade. Registration as an apprentice electrician for those years shall, on the approval of the board, constitute evidence of such experience. The board may by rule or regulation provide for the allowance of one year of experience credit for successful completion of a two-year post-high school electrical course approved by the board. A residential journeyman electrician license shall be valid only for residential installations.

(3) A Class B journeyman electrician license shall be valid only for electrical systems of not over four hundred amperes in capacity in structures used and maintained as residential dwellings but not larger than four-family dwellings located in any municipality which has a population of less than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

Source: Laws 1975, LB 525, § 10; R.S.1943, (1976), § 81-580; Laws 1993, LB 193, § 9; Laws 2004, LB 914, § 3; Laws 2017, LB113, § 62.

81-2110 Repealed. Laws 2024, LB144, § 17.

81-2111 Repealed. Laws 1993, LB 193, § 35.

81-2112 Special electrician license; licensee; rights and privileges; qualifications.

The board shall by rule or regulation provide for the issuance of special electrician licenses empowering the licensee to engage in a limited class or classes of electrical work, which class or classes shall be specified on the license. Each licensee shall have experience, acceptable to the board, in each such limited class of work for which such licensee is licensed.

Source: Laws 1975, LB 525, § 13; R.S.1943, (1976), § 81-583; Laws 2024, LB144, § 5.

Effective date July 19, 2024.

81-2112.01 Repealed. Laws 1993, LB 193, § 35.

81-2112.02 Fire alarm installer; license; rights and privileges; experience.

On and after September 9, 1993, any person licensed as a fire alarm installer may plan, lay out, and install electrical wiring, apparatus, and equipment for only those components of fire alarm systems that operate at fifty volts or less. An applicant for a fire alarm installer license shall have at least two years experience, acceptable to the board, in planning, laying out, and installing fire alarm systems.

Source: Laws 1993, LB 193, § 11.

81-2113 Apprentice electrician; registration; supervision; renewal; continuing education.

(1) A person may register with the board and pay a fee as provided in section 81-2118 to work as an apprentice electrician. Such registration shall entitle the registrant to act as an apprentice electrician to a Class B electrical contractor, an electrical contractor, a Class B journeyman electrician, a journeyman electrician, a residential journeyman electrician, or a Class A master electrician as provided in subsection (2) of this section. At the time of registration renewal, an apprentice shall pay the fee for renewal provided by section 81-2118 and present documentary evidence of any continuing education courses under section 81-2117.01 completed by the applicant. The board shall assess up to a six-month increase of required experience necessary for the applicant to qualify for the examination under section 81-2115 unless the applicant presents documentary evidence of the requisite hours of continuing education courses under section 81-2117.01.

(2) An apprentice electrician shall do no electrical wiring except under the direct personal on-the-job supervision and control and in the immediate presence of a licensee under the State Electrical Act. Such supervision shall include both on-the-job training and related classroom training as approved by the board. The licensee may employ or supervise apprentice electricians at a ratio not to exceed three apprentice electricians to one licensee, except that such ratio and the other requirements of this section shall not be applicable to a teacher-student relationship within a classroom of a community college.

For purposes of this section, the direct personal on-the-job supervision and control and in the immediate presence of a licensee shall mean the licensee and the apprentice electrician shall be working at the same project location but shall not require that the licensee and apprentice electrician must be within sight of one another at all times.

(3) An apprentice electrician shall not install, alter, or repair electrical equipment except as provided in this section, and the licensee employing or supervising an apprentice electrician shall not authorize or permit such actions by the apprentice electrician.

Source: Laws 1975, LB 525, § 14; Laws 1981, LB 67, § 2; R.S.Supp.,1981, § 81-584; Laws 1993, LB 193, § 12; Laws 2003, LB 126, § 8; Laws 2004, LB 914, § 4; Laws 2015, LB179, § 1; Laws 2024, LB144, § 6.
Effective date July 19, 2024.

81-2114 State Electrical Division; provide training sessions; fee.

The State Electrical Division may provide training sessions for persons applying for licenses pursuant to the State Electrical Act, which sessions shall be held before each licensing examination is given. The purpose of the training sessions shall be to review electrical theory, current rules, regulations, codes, and laws pertaining to electricians, and other subjects deemed necessary by the division. The Electrical Division Fund shall be utilized in carrying out this section, and the attendance fee for one or more sessions shall be forty dollars. The division shall remit money collected under this section to the State Treasurer for credit to the Electrical Division Fund.

Source: Laws 1975, LB 525, § 15; R.S.1943, (1976), § 81-585; Laws 1993, LB 193, § 13; Laws 2003, LB 126, § 9; Laws 2024, LB144, § 7.
Effective date July 19, 2024.

81-2115 License; written examination; when given; examination required to renew license; when.

In addition to the education and experience requirements imposed in the State Electrical Act and except as otherwise provided in section 81-2116, each applicant shall, prior to issuance of a license under the act, pass a written examination given by the board to insure his or her competence. Such examination shall contain reasonable questions based upon the then current National Electrical Code and upon electrical theory. When answering questions based upon the National Electrical Code, the applicant may refer to an open copy of such code. Examinations shall be given at least twice yearly. Any licensee

failing to renew his or her license by April 1 after its expiration shall take the examination before he or she is issued a new license.

Source: Laws 1975, LB 525, § 16; R.S.1943, (1976), § 81-586; Laws 1982, LB 605, § 2; Laws 1993, LB 193, § 14.

81-2116 License; issued upon passing examination and showing satisfactory qualifications.

Any person having been examined and having submitted satisfactory evidence that he or she is qualified to undertake and perform work in his or her trade or skill, to the end that any such work will be safely and properly accomplished and installed in accordance with approved standards, based upon minimum standards adopted by the board pursuant to section 81-2104 for such work, shall be licensed as provided in the State Electrical Act.

Source: Laws 1975, LB 525, § 17; R.S.1943, (1976), § 81-587; Laws 1993, LB 193, § 15.

81-2117 Repealed. Laws 1993, LB 193, § 35.

81-2117.01 License renewal; continuing education required; registrant; continuing education, how credited; instructor and course approval; certificate of attendance.

(1)(a) In order to renew a license issued under the State Electrical Act, the licensee shall be required to complete twelve contact hours of continuing education by January 1 of each odd-numbered year.

(b) Continuing education is not mandatory for a registrant. However, a registrant that completes twelve contact hours of continuing education by January 1 of each odd-numbered year in accordance with this section shall not be required to obtain an increase of required experience under section 81-2113 to qualify for the examination.

(c) The continuing education courses shall be approved by the board and may consist of training programs, courses, and seminars by the State Electrical Division or public or private schools, organizations, or associations. The contact hours shall include a minimum of six contact hours studying the National Electrical Code described in section 81-2104, and the remaining contact hours may include study of electrical circuit theory, blueprint reading, transformer and motor theory, electrical circuits and devices, control systems, programmable controllers, and microcomputers or any other study of electrical-related material that is approved by the board. Any additional hours studying the National Electrical Code shall be acceptable. For purposes of this section, a contact hour means fifty minutes of classroom attendance at an approved course under a qualified instructor approved by the board.

(2) An application for approval of the instructor and course offering shall be submitted by January 1 of each odd-numbered year on a form provided by the board. The approval by the board of the application shall be valid until December 31 of the even-numbered year following the year of approval and shall include the following information:

(a) Name of the sponsoring organization or school, if any, the address of such organization or school, and the name of the contact person;

(b) The instructor's name, address, and telephone number;

- (c) The title of the course offering;
- (d) A description of all materials to be distributed to the participants;
- (e) The date and exact location of each presentation of the course offering;
- (f) The duration and time of the offering;
- (g) A detailed outline of the subject matter together with the time sequence of each segment, faculty for each segment, and teaching technique used in each segment;
- (h) The procedure for measuring attendance; and
- (i) A description of the faculty, including name, background, and practical or teaching experience. A complete resume may be furnished.

Any application for approval of the instructor and course offering that is rejected shall be returned to the applicant with specific reasons for such rejection and stating what is needed for approval.

(3) If a continuing education course is approved, the licensee or registrant shall retain the attendance certificate and attach it to the application for renewal of his or her license or registration at the time of renewal. The licensee or registrant shall have the responsibility for record keeping and providing proof of attendance at continuing education courses.

(4) The instructor of each course shall provide an individual certificate of attendance to each licensee or registrant who attends ninety percent or more of the classroom hours. A certificate of attendance shall not be issued to a licensee or registrant who is absent for more than ten percent of the classroom hours. The certificate shall contain the licensee's or registrant's name and license or registration number, the course title, the date and location of the course, the number of credit hours, and the signature of the instructor.

Source: Laws 1993, LB 193, § 16; Laws 1993, LB 215, § 3; Laws 2015, LB179, § 2; Laws 2024, LB144, § 8.
Effective date July 19, 2024.

81-2117.02 License; renewal.

(1) No license as a Class A master electrician, Class B electrical contractor, or Class B journeyman electrician shall be issued on or after September 9, 1993, but such licenses may be renewed as provided in this section.

(2) A person licensed as a Class A master electrician, a Class B electrical contractor, a Class B journeyman electrician, or a special electrician on September 9, 1993, may renew such license on or after such date upon presentation of documentary evidence of successful completion of the requisite hours of continuing education courses under section 81-2117.01 and payment of the fee for renewal provided by section 81-2118.

Source: Laws 1993, LB 193, § 17; Laws 2003, LB 126, § 10; Laws 2024, LB144, § 9.
Effective date July 19, 2024.

81-2118 Licenses and registrations; expiration; fees.

All licenses or registrations issued under the State Electrical Act shall expire on December 31 of each even-numbered year. All license or registration applications shall include the applicant's social security number.

The board shall, by a unanimous vote of the board, set reasonable fees for examination, issuance, and renewal of licenses and registrations issued under the State Electrical Act in amounts necessary to cover the costs incurred by the State Electrical Division and the board in administering and carrying out the purposes of the State Electrical Act and in a manner that unnecessary surpluses are avoided. The board shall annually file a report with the Attorney General and the Legislative Fiscal Analyst stating the amount of the fees set by the board. Such reports shall be submitted on or before July 1 of each year. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically. The board shall establish the following fees:

- (1) For examination for the following licenses:
 - (a) Electrical contractor;
 - (b) Journeyman electrician;
 - (c) Residential journeyman electrician;
 - (d) Fire alarm installer; and
 - (e) Special electrician license, sixty dollars;
- (2) For each year of the two-year license period for issuance and renewal of the following licenses:
 - (a) Electrical contractor; and
 - (b) Journeyman electrician, residential journeyman electrician, fire alarm installer, or special electrician;
- (3) For each year of the two-year registration period for issuance and renewal as an apprentice electrician; and
- (4) For renewal on or after September 9, 1993, of the following licenses issued prior to such date for each year of the two-year license period:
 - (a) Class B electrical contractor;
 - (b) Class A master electrician; and
 - (c) Class B journeyman electrician.

The holder of an expired license or registration may renew the license or registration for a period of three months from the date of expiration upon payment of the license or registration fee plus ten percent of the renewal fee for each month or portion thereof past the expiration date. All holders of licenses or registrations expired for more than three months shall apply for a new license or registration.

Source: Laws 1975, LB 525, § 19; Laws 1978, LB 833, § 7; R.S.Supp.,1980, § 81-589; Laws 1984, LB 841, § 1; Laws 1993, LB 193, § 18; Laws 1997, LB 752, § 229; Laws 2003, LB 126, § 11; Laws 2004, LB 914, § 5; Laws 2015, LB179, § 3; Laws 2024, LB144, § 10; Laws 2024, LB716, § 2.
Effective date July 19, 2024.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB144, section 10, with LB716, section 2, to reflect all amendments.

81-2119 Death of licensee; representative may carry on business; how long; insurance required.

Upon the death of an electrical contractor, a Class A master electrician, a Class B electrical contractor, or a fire alarm installer, the board may permit his or her representative to carry on the business of the decedent for a period not

to exceed six months for the purpose of completing work under contract to comply with the State Electrical Act. Such representative shall furnish all public liability and property damage insurance required by the board.

Source: Laws 1975, LB 525, § 20; Laws 1978, LB 833, § 8; R.S.Supp.,1980, § 81-590; Laws 1993, LB 193, § 19; Laws 2003, LB 126, § 12; Laws 2024, LB144, § 11.
Effective date July 19, 2024.

81-2120 Licenses; issued without examination based on reciprocity; qualifications; issued based on reciprocal credentialing agreement, military occupational specialty, or apprenticeship training program; procedure.

(1) To the extent that any other state which provides for the licensing of electricians provides for similar action, the board may grant licenses, without examination, of the same grade and class to an electrician who has been licensed by such other state for at least one year, upon payment by the applicant of the required fee, and upon the board being furnished with proof that the qualifications of the applicant are equal to the qualifications of holders of similar licenses in Nebraska.

(2)(a) Subject to subdivision (b) of this subsection, the board shall issue a license to an individual upon application if:

(i)(A) The applicant holds (I) a credential in another state that has a reciprocal credentialing agreement with the State of Nebraska for such credential as determined by the board, (II) a military occupational specialty in the United States Military as defined in section 84-944.01, or (III) a license with a prerequisite of apprentice registration and successful completion of an apprenticeship training program registered by the United States Department of Labor; and

(B) Such credential, military occupational specialty, or license is for an occupation with a similar scope of practice, as determined by the board;

(ii) The applicant has held the credential, military occupational specialty, or license for at least one year;

(iii) To obtain such credential, military occupational specialty, or license, the applicant was required to pass an examination or meet education, training, or experience standards;

(iv) The applicant does not have a disqualifying criminal record as determined by the board;

(v) The applicant's credential, military occupational specialty, or license has not been revoked because of negligence or intentional misconduct related to the applicant's work in the occupation;

(vi) The applicant has not surrendered a credential, military occupational specialty, or license because of negligence or intentional misconduct related to the applicant's work in the occupation in any state, in the United States Military, or in an apprenticeship training program;

(vii) The applicant does not have a complaint, allegation, or investigation pending before a board in any state, the United States Military, or an apprenticeship training program that relates to unprofessional conduct or an alleged crime. If such a complaint, allegation, or investigation is pending, the State Electrical Board shall not issue or deny a license until the complaint, allega-

tion, or investigation is resolved or the applicant otherwise meets the criteria for a license to the satisfaction of the board; and

(viii) The applicant has paid all applicable fees required for issuance of the license in this state.

(b) Prior to issuance of a license under this subsection, the board may require an applicant to pass a jurisprudential examination specific to relevant state statutes and administrative rules and regulations that regulate the occupation if issuance of such license in this state requires a person to pass such an examination.

(c)(i) Except as otherwise provided in subdivision (ii) of this subdivision, the board shall approve or deny a license under this subsection in writing within sixty days after receiving a complete application under this subsection or within five business days after the next meeting of the board that is held after receiving a complete application under this subsection, whichever is sooner.

(ii) The board may delay the approval or denial of a license under this subsection past the deadline prescribed in subdivision (i) of this subdivision if the approval or denial is delayed because of the requirement to complete a criminal background check or a disciplinary history review, but the board shall approve or deny such license in writing within five business days after receiving the results of the background check and the disciplinary history review or within five business days after the next meeting of the board after receiving such results, whichever is sooner. The board shall document in writing each case in which approval or denial of an application is not provided within sixty days after receipt of the complete application.

(d) For a license that has a prerequisite of apprentice registration under the State Electrical Act, the board shall grant credit toward requirements for such license for completion of any portion of an apprenticeship training program registered by the United States Department of Labor.

(e) An applicant may appeal the denial of a license under this subsection. The appeal shall be in accordance with the Administrative Procedure Act.

(f) A license issued pursuant to this subsection is valid only in this state and does not make the individual eligible to work in another state, in the United States Military, or under an interstate compact or reciprocity agreement unless otherwise provided by law.

Source: Laws 1975, LB 525, § 21; R.S.1943, (1976), § 81-591; Laws 2024, LB16, § 2.
Effective date July 19, 2024.

Cross References

Administrative Procedure Act, see section 84-920.

81-2121 Act; not applicable to certain situations; enumerated.

Nothing in the State Electrical Act shall be construed to:

(1) Require employees of municipal corporations, public power districts, public power and irrigation districts, electric membership or cooperative associations, public utility corporations, railroads, telephone or telegraph companies, or commercial or industrial companies performing manufacturing, installation, and repair work for such employer to hold licenses while acting within the scope of their employment;

(2) Require any person doing work for which a license would otherwise be required under the act to hold a license issued under the act if he or she is the holder of a valid license issued by any city or other political subdivision, so long as he or she makes electrical installations only in the jurisdictional limits of such city or political subdivision and such license issued by the city or political subdivision meets the requirements of the act;

(3) Cover the installation, maintenance, repair, or alteration of vertical transportation or passenger conveyors, elevators, moving walks, dumbwaiters, stagelifts, manlifts, or appurtenances thereto beyond the terminals of the controllers. The licensing of elevator contractors or constructors shall not be considered a part of the licensing requirements of the act;

(4) Require a license of any person who engages any electrical appliance where approved electrical outlets are already installed;

(5) Prohibit an owner of property from performing work on his or her principal residence, if such residence is not larger than a single-family dwelling, or farm property, excluding commercial or industrial installations or installations in public-use buildings or facilities, or require such owner to be licensed under the act;

(6) Require that any person be a member of a labor union in order to be licensed; or

(7) Prohibit a pump installation contractor or pump installation supervisor licensed under the Water Well Standards and Contractors' Practice Act from wiring pumps and pumping equipment at a water well location to the first control.

Source: Laws 1975, LB 525, § 22; Laws 1978, LB 833, § 9; Laws 1981, LB 67, § 3; R.S.Supp., 1981, § 81-592; Laws 1986, LB 379, § 2; Laws 1993, LB 193, § 20; Laws 2004, LB 914, § 6; Laws 2006, LB 508, § 11; Laws 2007, LB 463, § 1314; Laws 2021, LB 148, § 82.

Cross References

Water Well Standards and Contractors' Practice Act, see section 46-1201.

81-2122 Repealed. Laws 1993, LB 193, § 35.

81-2123 Repealed. Laws 1993, LB 193, § 35.

81-2124 Electrical installations; subject to inspection.

(1) All new electrical installations for commercial or industrial applications, including installations both inside and outside of the buildings, and for public-use buildings and facilities and any installation at the request of the owner shall be subject to the inspection and enforcement provisions of the State Electrical Act.

(2) All new electrical installations for residential applications in excess of single-family residential applications shall be subject to the inspection and enforcement provisions of the act.

(3) All new electrical installations for single-family residential applications requiring new electrical service equipment shall be subject to the inspection and enforcement provisions of the act.

(4) Existing electrical installations observed during inspection which constitute an electrical hazard shall be subject to the act. Existing installations shall

not be deemed to constitute an electrical hazard if the wiring when originally installed was installed in accordance with the electrical code in force at the time of installation and has been maintained in that condition.

Source: Laws 1975, LB 525, § 24; R.S.1943, (1976), § 81-594; Laws 1993, LB 193, § 21; Laws 2004, LB 914, § 7.

81-2125 State inspection; not applicable in certain political subdivisions; when; electrical inspector; certificate of qualification.

(1) State inspection shall not apply within the jurisdiction of any county, city, or village which provides by resolution or ordinance standards of electrical wiring and its installation that are not less than those prescribed by the board or by the State Electrical Act and which further provides by resolution or ordinance for the inspection of electrical installations within the limits of such subdivision by a certified electrical inspector. No person other than the holder of an electrical inspector's certificate of qualification shall be appointed to act as electrical inspector and to enforce the act as electrical inspector and to enforce the act or any applicable resolution or ordinance within his or her jurisdiction. A copy of the certificate of each electrical inspector shall be provided to the board by the political subdivision issuing the certificate.

(2) State inspection shall not apply to routine maintenance.

Source: Laws 1975, LB 525, § 25; R.S.1943, (1976), § 81-595; Laws 1993, LB 193, § 22.

81-2126 Request for inspection; when required; fees; failure to file request; procedure.

At or before commencement of any installation required to be inspected by the board, the licensee or owner making such installation shall submit to the board a request for inspection, on a form prescribed by the board, together with a supervisory fee of fifty cents and the inspection fees required for such installation. If the board becomes aware that a person has failed to file a necessary request for inspection, the board shall send to such person a written notification by certified mail to file such request within fourteen days. Any person filing a late request for inspection shall pay a delinquent fee of two hundred fifty dollars. Failure to file such request within fourteen days shall result in submission of the matter to the county attorney's office for action pursuant to section 81-2143.

Source: Laws 1975, LB 525, § 26; Laws 1978, LB 833, § 11; R.S.Supp.,1980, § 81-596; Laws 1982, LB 605, § 3; Laws 1993, LB 193, § 23; Laws 2024, LB144, § 12.
Effective date July 19, 2024.

81-2127 Inspection; installation not in compliance with standards; written order to condemn; opportunity to correct noncompliance.

If the inspector finds that any installation or portion of an installation is not in compliance with accepted standards of construction for safety to health and property, based upon minimum standards set forth in the local electrical code or National Electrical Code, he or she shall by written order condemn the installation or noncomplying portion or order service to such installation disconnected and shall send a copy of such order to the board and the supplier involved. If the installation or the noncomplying part is such as to seriously and

proximately endanger human health and property, the order of the inspector when approved by his or her superior shall require immediate condemnation and disconnection by the applicant. In all other cases, the order of the inspector shall establish a reasonable period of time for the installation to be brought into compliance with accepted standards of construction for safety to health and property prior to the effective time established in such order for condemnation or disconnection.

Source: Laws 1975, LB 525, § 27; R.S.1943, (1976), § 81-597; Laws 1993, LB 193, § 24.

81-2128 Condemnation or disconnection order; service.

A copy of each condemnation or disconnection order shall be served personally or by United States mail upon the property owner at his or her last-known address, the licensee making the installation, and such other persons as the board by rule or regulation may direct.

Source: Laws 1975, LB 525, § 28; Laws 1978, LB 833, § 12; R.S.Supp.,1980, § 81-598; Laws 1993, LB 193, § 25.

81-2129 Installations; connected; certificate of safe operation; dismissal of condemnation or disconnection order; contents of certificate; transient projects; duty of board.

No electrical installation subject to inspection by the board shall be newly connected or reconnected for use until there is filed with the electrical utility supplying power a certificate of the property owner or licensed electrician directing the work that inspection has been requested and that the conditions of the installation are safe for energization. In all cases when an order of condemnation or disconnection has been issued against the installation or any part thereof, prior to connection or reconnection there shall also first be filed with the electrical utility supplying the power a copy of an order of the inspector or the board dismissing such prior order of condemnation or disconnection or approving the installation as being in compliance with accepted standards of construction for safety to life and property, based upon minimum standards set forth in the National Electrical Code. Any supplier may refuse service without liability for such refusal until such conditions have been met. With respect to transient projects, the certificate shall also contain a certification that the request for inspection has been or will be filed with the board so as to be received by it at least five days prior to the date and time energization of the installation by the utility is to occur, and that the request for inspection states such date and time, and it shall be the responsibility of the board to have inspection made of such transient project prior to the date and time at which the request states energization is to occur.

Source: Laws 1975, LB 525, § 29; R.S.1943, (1976), § 81-599.

81-2130 Political subdivision inspections; file inspection codes with board; no additional license fee required; powers of political subdivision.

Any political subdivision may make provision for inspection of electrical installations within its jurisdiction, in which case it shall keep on file with the board copies of its current inspection ordinances or resolutions and codes. No political subdivision shall require any individual, partnership, limited liability company, corporation, or other business association holding a license from the

board to (1) pay any license fee or (2) take any examination if the person holds a current license issued by the board which is of a classification equal to or greater than the classification needed to do the work proposed. Any such political subdivision may provide a requirement that each individual, partnership, limited liability company, corporation, railroad, or other business association doing electrical work within the jurisdiction of such political subdivision have on file with the political subdivision a copy of the current license issued by the board or such other evidence of such license as may be provided by the board.

Source: Laws 1975, LB 525, § 30; R.S.1943, (1976), § 81-5,100; Laws 1982, LB 605, § 4; Laws 1993, LB 121, § 546.

81-2131 Repealed. Laws 1993, LB 193, § 35.

81-2132 Inspections; not required; when.

Nothing in the State Electrical Act shall be construed to require the work of employees of municipal corporations, public power districts, public power and irrigation districts, railroads, electric membership or cooperative associations, public utility corporations, or telephone systems to be inspected while acting within the scope of their employment.

Source: Laws 1975, LB 525, § 32; R.S.1943, (1976), § 81-5,102; Laws 1993, LB 193, § 26; Laws 2024, LB144, § 13.
Effective date July 19, 2024.

81-2133 Supplier of electrical energy; liability limited; exception.

Upon inspection and approval by any certified inspector, all liability upon any supplier of electrical service for subsequent damage or loss arising from any installation shall be terminated, except for any acts of gross negligence by such supplier.

Source: Laws 1975, LB 525, § 33; R.S.1943, (1976), § 81-5,103.

81-2134 State inspection; procedures.

(1) As to state inspections:

(a) At or before commencement of any electrical installation which is required by law to be inspected, the person responsible for the installation shall forward a request for inspection to the board completed in the manner prescribed by the board; and

(b) On installations requiring more than six months in the process of construction and in excess of three hundred dollars total inspection fees, the persons responsible for the installation may, after a minimum filing fee of one hundred dollars, pay a prorated fee for each month and submit it with an order for payment initiated by the electrical inspector.

(2) Where wiring is to be concealed, the inspector must be notified within reasonable time to complete a rough-in inspection prior to concealment, exclusive of Saturdays, Sundays, and holidays. If wiring is concealed before rough-in inspection without adequate notice having been given to the inspector, the person responsible for having enclosed the wiring shall be responsible for all costs resulting from uncovering and replacing the cover material.

(3) Inspections shall be made within one week of the appropriate request. When necessary, circuits may be energized by the authorized installer prior to inspection but the installation shall remain subject to condemnation and disconnection.

Source: Laws 1975, LB 525, § 34; R.S.1943, (1976), § 81-5,104.

81-2135 State inspections; fees; when due; when not applicable.

(1) The board shall, by a unanimous vote of the board, set reasonable fees for state electrical inspections under the State Electrical Act in amounts necessary to cover the costs incurred by the State Electrical Division and the board in administering and carrying out the purposes of the State Electrical Act and in a manner that unnecessary surpluses are avoided. The board shall annually file a report with the Attorney General and the Legislative Fiscal Analyst stating the amount of the fees set by the board. Such reports shall be submitted on or before July 1 of each year. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically.

(2) All state electrical inspection fees shall be due and payable to the board at or before commencement of the installation and shall be forwarded with the request for inspection. Inspection fees set by the board in accordance with this section shall not apply within the jurisdiction of any county, city, or village if the county, city, or village has adopted an ordinance or resolution as set forth in the State Electrical Act.

(3) The board shall establish the following fees:

(a) Minimum fee for each separate inspection of an installation, replacement, alteration, or repair;

(b) Services, change of services, temporary services, additions, alterations, or repairs on either primary or secondary services;

(c) Field irrigation system inspections;

(d) The first reinspection required as a result of a correction order; a second reinspection required as a result of noncompliance with the same correction order; and subsequent reinspections associated with the same correction order; and

(e) An inspection is requested by an owner.

(4) The fee for fire and accident inspections shall be computed at the rate set by the board per hour, and mileage and other expenses shall be reimbursed as provided in section 81-1176.

Source: Laws 1975, LB 525, § 35; Laws 1978, LB 833, § 13; Laws 1980, LB 957, § 1; R.S.Supp.,1980, § 81-5,105; Laws 1984, LB 841, § 2; Laws 1993, LB 193, § 27; Laws 2003, LB 126, § 13; Laws 2024, LB716, § 3.

Effective date July 19, 2024.

81-2136 Inspection; new electrical installation not in compliance with standards; condemnation; when; opportunity to correct.

When an electrical inspector finds that a new electrical installation or part of a new electrical installation that is not energized is not in compliance with accepted standards of construction, based upon minimum standards adopted by the board pursuant to section 81-2104, he or she shall, if the installation or

noncomplying part is such as to seriously and proximately endanger human health and property if energized, order with the approval of his or her superior immediate condemnation of the installation or noncomplying part. When the person responsible for making the installation so condemned is notified, he or she shall promptly proceed to make the corrections cited in the condemnation order.

Source: Laws 1975, LB 525, § 36; R.S.1943, (1976), § 81-5,106; Laws 1993, LB 193, § 28.

81-2137 Inspection; new electrical installation not in compliance with standards; disconnection; when; opportunity to correct.

If the electrical inspector finds that a new electrical installation or part of a new electrical installation that is energized is not in compliance with accepted standards of construction, he or she shall, if the installation or the noncomplying part is such as to seriously and proximately endanger human health and property, order immediate disconnection of the installation or noncomplying part. When the person responsible for making the installation so ordered disconnected is notified, he or she shall promptly proceed to make the corrections cited in the order.

Source: Laws 1975, LB 525, § 37; R.S.1943, (1976), § 81-5,107; Laws 1993, LB 193, § 29.

81-2138 Noncomplying installation; not dangerous; correction order; contents; failure to correct; effect; liability of energy supplier.

When a noncomplying installation or part thereof, whether energized or not, is not proximately dangerous to human health and property, the inspector shall issue a correction order, ordering the owner or licensee under the State Electrical Act to make the installation comply with accepted standards of construction for safety to health and property, based upon minimum standards adopted by the board pursuant to section 81-2104, noting specifically what changes are required. The order shall specify a date, not less than ten nor more than seventeen calendar days from the date of the order, when a final inspection shall be made. If at the time of the final inspection the installation has not been brought into compliance, a condemnation or disconnection order may be issued by the inspector with the approval of his or her superior. When the installation is brought into compliance to the satisfaction of the inspector, such correction order shall be immediately countermanded. Any supplier of electrical service complying with any order of an electrical inspector shall be relieved of all liability in cases of subsequent damage or loss arising from any cause, except acts of gross negligence by such supplier.

Source: Laws 1975, LB 525, § 38; R.S.1943, (1976), § 81-5,108; Laws 1993, LB 193, § 30.

81-2139 Correction order; countermanded or extended; written request; action on.

A correction order of an inspector properly issued may be countermanded or extended by the inspector or his supervisor. Any interested party may demand that an outstanding order be countermanded or extended. Such demand shall

be in writing and shall be addressed to the board. If the request to countermand an order is rejected it shall be done so in writing within ten days.

Source: Laws 1975, LB 525, § 39; R.S.1943, (1976), § 81-5,109.

81-2140 Condemnation, disconnection, and correction orders; forms; service; manner.

(1) Condemnation, disconnection, and correction orders shall be issued on forms prescribed by the board.

(2) A correction order made pursuant to section 81-2138 shall be served personally or by United States mail only upon the licensee making the installation or the property owner. All other orders shall be served personally or by United States mail upon the property owner and the licensee making the installation.

(3) The power supplier shall be served with a copy of any order which requires immediate disconnection or prohibits energizing an installation.

(4) Service by United States mail is complete upon mailing, but three days shall be added to the prescribed time whenever the party served is required to do some act or entitled to respond.

Source: Laws 1975, LB 525, § 40; Laws 1978, LB 833, § 14; R.S.Supp.,1980, § 81-5,110; Laws 1993, LB 193, § 31.

81-2141 Appeal from condemnation or disconnection order; time; stay of appeal; conditions.

(1) Any person aggrieved by a condemnation or disconnection order issued may appeal from the order by filing a written notice of appeal with the board within ten days after the date the order was served upon the owner or within ten days after the order was filed with the board, whichever is later.

(2) Upon receipt of the notice of appeal from a condemnation or disconnection order because the electrical installation is proximately dangerous to health and property, the order appealed from shall not be stayed unless countermanded by the board.

(3) Upon receipt of notice of appeal from a condemnation or disconnection order because the electrical installation is not in compliance with accepted standards of construction for safety to health and property, the order appealed from shall be stayed until final decision of the board and the board shall notify the property owner and the Class B electrical contractor, electrical contractor, Class A master electrician, fire alarm installer, or special electrician making the installation. The power supplier shall also be notified in those instances in which the order has been served on such supplier.

Source: Laws 1975, LB 525, § 41; Laws 1978, LB 833, § 15; R.S.Supp.,1980, § 81-5,111; Laws 1993, LB 193, § 32; Laws 2003, LB 126, § 14; Laws 2024, LB144, § 14.
Effective date July 19, 2024.

81-2142 Appeal; hearing officer; hearing; decision by board; notice; opportunity to present evidence; hearing date.

(1) Upon receipt of a notice of appeal, the chairman or executive secretary of the board may designate a hearing officer from among the board members to

hear the appeal or may set the matter for hearing before the full board at its next regular meeting. A majority of the board shall make the decision.

(2) Upon receiving the notice of appeal, the board shall notify all persons served with the order appealed from. Such persons may join in the hearing and give testimony in their own behalf. The board shall set the hearing date on a date not more than fourteen days after receipt of the notice of appeal unless otherwise agreed by the interested parties and the board.

Source: Laws 1975, LB 525, § 42; R.S.1943, (1976), § 81-5,112.

81-2143 Violations, enumerated; penalties.

It shall be a Class I misdemeanor knowingly and willfully to commit or to order, instruct, or direct another to commit any of the following acts:

(1) To make a false statement in any license application, request for inspection, certificate, or other lawfully authorized or required form or statement provided by the State Electrical Act;

(2) To perform electrical work for another without a proper license for such work;

(3) To fail to file a request for inspection when required;

(4) To interfere with or refuse entry to an inspector lawfully engaged in the performance of his or her duties; or

(5) To fail or neglect to comply with the act or any lawful rule, regulation, or order of the board.

Source: Laws 1975, LB 525, § 43; Laws 1977, LB 39, § 292; R.S.Supp.,1980, § 81-5,113; Laws 1993, LB 193, § 33.

81-2144 Directional boring contractor; activities authorized.

A person who is a directional boring contractor may install underground conduit on the load side of the meter under the direct supervision of a Class A master electrician, journeyman electrician, or Class B journeyman electrician who is employed by an electrical contractor.

Source: Laws 2019, LB65, § 4; Laws 2024, LB144, § 15.
Effective date July 19, 2024.

81-2145 Repealed. Laws 2003, LB 126, § 16.

ARTICLE 22

AGING SERVICES

(a) NEBRASKA COMMUNITY AGING SERVICES ACT

Section	
81-2201.	Act, how cited.
81-2202.	Legislative findings.
81-2203.	Legislative intent.
81-2204.	Definitions, where found.
81-2205.	Committee, defined.
81-2206.	Department, defined.
81-2207.	Repealed. Laws 2007, LB 296, § 815.
81-2208.	Area agency on aging, defined.
81-2209.	Area program plan, defined.
81-2210.	Community aging services, defined.

AGING SERVICES

- Section
- 81-2211. Senior service center, defined.
 - 81-2211.01. Greatest economic need, defined.
 - 81-2211.02. Greatest social need, defined.
 - 81-2211.03. Older individual, defined.
 - 81-2212. Committee; advise department; areas enumerated; serve as appeal panel.
 - 81-2213. Department; powers and duties relating to aging.
 - 81-2214. Repealed. Laws 1996, LB 1044, § 985.
 - 81-2214.01. Repealed. Laws 1992, LB 677, § 35.
 - 81-2214.02. Records and information; disclosure prohibited; exceptions.
 - 81-2215. Area agency on aging; department designate.
 - 81-2216. Area agency on aging; designation by department.
 - 81-2217. Area agency on aging; department; duties prior to designation.
 - 81-2218. Area agency on aging; governing unit; duties.
 - 81-2219. Area agencies on aging; chief executive officer and staff; qualifications; personnel policies.
 - 81-2220. Area agency on aging; duties.
 - 81-2221. Area plan and budget; contents.
 - 81-2222. Funding eligibility; activities and services enumerated.
 - 81-2223. Services; eligibility; determination.
 - 81-2224. Area agency on aging; reimbursement for costs; how made.
 - 81-2225. Reimbursement for costs; qualification.
 - 81-2225.01. Intrastate funding formula; department; duties.
 - 81-2226. Area agency on aging; malfeasance; effect.
 - 81-2227. Department; submit budget.
 - 81-2228. Repealed. Laws 2016, LB698, § 37.

(b) CARE MANAGEMENT SERVICES

- 81-2229. Legislative intent.
- 81-2230. Purpose of sections.
- 81-2231. Care management units; certification; standards.
- 81-2232. Area agency on aging; prepare plan; procedure.
- 81-2233. Repealed. Laws 2017, LB417, § 25.
- 81-2234. Care management unit; fee scale; reimbursement.
- 81-2235. Care management unit; reimbursement by department.
- 81-2236. Repealed. Laws 1996, LB 1044, § 985.

(c) LONG-TERM CARE OMBUDSMAN

- 81-2237. Act, how cited.
- 81-2238. Definitions, where found.
- 81-2239. Department, defined.
- 81-2240. Repealed. Laws 1996, LB 1044, § 985.
- 81-2241. Repealed. Laws 2007, LB 296, § 815.
- 81-2242. Local long-term care ombudsman program, defined.
- 81-2243. Long-term care facility, defined.
- 81-2244. Office, defined.
- 81-2245. Older Americans Act, defined.
- 81-2246. Transferred to section 81-2247.02.
- 81-2247. Ombudsman advocate, defined.
- 81-2247.01. Representative of the office, defined.
- 81-2247.02. Resident, defined.
- 81-2247.03. Resident representative, defined.
- 81-2248. State long-term care ombudsman, defined.
- 81-2249. Office; created; state long-term care ombudsman; appointed.
- 81-2250. Long-term care ombudsman program; established; contents.
- 81-2251. Rules and regulations; state long-term care ombudsman; qualifications.
- 81-2252. Local long-term care ombudsman programs; designation; provisional status.
- 81-2253. Staff training requirements; ombudsman advocate certification; required.
- 81-2254. Office; investigations; procedure.
- 81-2255. Abuse, neglect, or exploitation; referral required; procedure.
- 81-2256. Long-term care facility; notice required; form.

§ 81-2201

STATE ADMINISTRATIVE DEPARTMENTS

Section

- 81-2257. Office; access to governmental records.
- 81-2258. Office; access to medical and personal records; liability for disclosure; confidentiality.
- 81-2259. State long-term care ombudsman and ombudsman advocate; access to resident.
- 81-2260. Complaints or investigations; confidentiality; exceptions.
- 81-2261. Department; duties.
- 81-2262. Local long-term care ombudsman program and certified individual; treatment.
- 81-2263. State long-term care ombudsman and ombudsman advocate; immunity from liability; legal counsel.
- 81-2264. Interference with lawful actions; institution of certain proceedings; prohibited; department; sanctions.

(d) PREADMISSION SCREENING

- 81-2265. Repealed. Laws 2009, LB 288, § 54.
- 81-2266. Repealed. Laws 2000, LB 888, § 1.
- 81-2267. Repealed. Laws 2009, LB 288, § 54.
- 81-2268. Medicaid waiver funds; use authorized.
- 81-2269. Statewide project; establishment.
- 81-2270. Purchase of services with state funds; sliding-fee scale.
- 81-2271. Rules and regulations.

(e) DEPARTMENT ON AGING CASH FUND

- 81-2272. Repealed. Laws 1996, LB 1044, § 985.

(f) NEBRASKA SENIOR VOLUNTEER PROGRAM ACT

- 81-2273. Act, how cited.
- 81-2274. Purpose of act.
- 81-2275. Terms, defined.
- 81-2276. Repealed. Laws 2017, LB417, § 25.
- 81-2277. Repealed. Laws 2017, LB417, § 25.
- 81-2278. Repealed. Laws 2017, LB417, § 25.
- 81-2279. Senior volunteers; benefits.
- 81-2280. Repealed. Laws 2017, LB417, § 25.
- 81-2281. Grants; amount.
- 81-2282. Grantee; reports.
- 81-2283. Rules and regulations.

(a) NEBRASKA COMMUNITY AGING SERVICES ACT

81-2201 Act, how cited.

Sections 81-2201 to 81-2227 shall be known and may be cited as the Nebraska Community Aging Services Act.

Source: Laws 1982, LB 404, § 1; Laws 1991, LB 58, § 3; Laws 2016, LB698, § 28.

81-2202 Legislative findings.

The Legislature hereby finds and declares:

(1) That in many urban and rural areas of the state numerous older individuals are without access to community aging services which strengthen and support a self-reliant, independent family home life in times of personal crisis or advanced age;

(2) That this deficiency in program coverage causes many older individuals to forfeit their independent living arrangements for more dependent and sometimes inappropriate institutional living;

(3) That this deficiency has resulted in disproportionate expenditures of both private and public funds for institutionally based care for the state's older individuals;

(4) That the known future increase in the number and proportion of the state's older individuals will require increased use of the natural care system of family, friends, and neighbors and of the strengths and experience of older individuals for their own self-sufficiency;

(5) That older individuals are healthier, happier, and better served living in their own homes and neighborhoods; that support and care is best given by family, friends, or neighbors; that community-based aging services through senior centers and local organizations can serve, supplement, and bolster family living; and that greater state and other public expenditures for inappropriate care can be avoided by investment in preventive community aging services;

(6) That older individuals of this state are entitled to the same opportunities as others for full enjoyment of and maximum participation in their communities' civic, social, and employment activities and in the personal choice and management of their own lives; and

(7) That it is in the public interest that community aging services which support the continued independence and self-sufficiency of older individuals be available in all areas of the state.

Source: Laws 1982, LB 404, § 2; Laws 1991, LB 58, § 4.

81-2203 Legislative intent.

The Nebraska Community Aging Services Act is intended to (1) define the state's long-term care policy and program for older individuals in all areas of the state, (2) define and recognize a system for planning, administering, and delivering such program, (3) provide for the coordination and integration of all community activities and services into a comprehensive, coordinated program, and (4) provide authority for state funding of such program.

Source: Laws 1982, LB 404, § 3; Laws 1991, LB 58, § 5.

81-2204 Definitions, where found.

For purposes of the Nebraska Community Aging Services Act, unless the context otherwise requires, the definitions found in sections 81-2205 to 81-2211.03 shall be used.

Source: Laws 1982, LB 404, § 4; Laws 1991, LB 58, § 6.

81-2205 Committee, defined.

Committee shall mean the Division of Medicaid and Long-Term Care Advisory Committee on Aging.

Source: Laws 1982, LB 404, § 5; Laws 1996, LB 1044, § 870; Laws 2007, LB296, § 762.

Cross References

Division of Medicaid and Long-Term Care Advisory Committee on Aging, created, see section 68-1101.

81-2206 Department, defined.

Department shall mean the Division of Medicaid and Long-Term Care of the Department of Health and Human Services.

Source: Laws 1982, LB 404, § 6; Laws 1996, LB 1044, § 871; Laws 2007, LB296, § 763.

81-2207 Repealed. Laws 2007, LB 296, § 815.

81-2208 Area agency on aging, defined.

Area agency on aging shall mean the agency formed or eligible pursuant to the Nebraska Community Aging Services Act which is designated by the department as responsible for the administration of the area program plan in each planning-and-service area.

Source: Laws 1982, LB 404, § 8; Laws 1991, LB 58, § 8.

81-2209 Area program plan, defined.

Area program plan shall mean the document submitted to the department by an area agency on aging in order to receive funds under the Nebraska Community Aging Services Act and under the Older Americans Act, as now or hereafter amended, which details the area agency on aging's plan for a comprehensive, coordinated program of community aging services for such area. The area program plan shall be designed to address the needs of older individuals with the greatest economic need and the greatest social need.

Source: Laws 1982, LB 404, § 9; Laws 1991, LB 58, § 9.

81-2210 Community aging services, defined.

Community aging services means those activities and services which fulfill the goals of the Nebraska Community Aging Services Act, which are necessary to promote, restore, or support self-sufficiency and independence for older persons, and which include: (1) Congregate activities, including, but not limited to, senior centers, group meals, volunteerism, adult day services, and recreation; and (2) individual services, including, but not limited to, specialized transportation, meals-on-wheels, home handyman services, home health care services, legal services, counseling related to problems of aging or encouraging access to aging services, and senior volunteer services.

Source: Laws 1982, LB 404, § 10; Laws 1991, LB 58, § 10; Laws 2000, LB 819, § 156; Laws 2000, LB 1101, § 1; Laws 2017, LB417, § 17.

81-2211 Senior service center, defined.

Senior service center shall mean a senior center or other community facility that provides ready access to a broad range of community aging services.

Source: Laws 1982, LB 404, § 11.

81-2211.01 Greatest economic need, defined.

Greatest economic need shall mean the need resulting from an income level at or below the poverty level as established by the Office of Management and Budget.

Source: Laws 1991, LB 58, § 11.

81-2211.02 Greatest social need, defined.

Greatest social need shall mean the need caused by noneconomic factors, including physical and mental disabilities, language barriers, and cultural, social, or geographic isolation including that caused by racial or ethnic status, which restricts an individual's ability to perform normal daily tasks, which threatens such individual's capacity to live independently, or which interferes with the exercise of rights and privileges.

Source: Laws 1991, LB 58, § 12.

81-2211.03 Older individual, defined.

Older individual shall mean any individual who is sixty years of age or older, the spouse of an individual who is sixty years of age or older, or, for purposes of employment services, any individual who is fifty-five years of age or older.

Source: Laws 1991, LB 58, § 13.

81-2212 Committee; advise department; areas enumerated; serve as appeal panel.

In addition to duties enumerated in section 68-1104, the committee shall advise the department regarding:

- (1) The state plan on aging as developed and prepared by the department;
- (2) Policies adopted by the department;
- (3) The needs of the state's older individuals;
- (4) The development of the state plan and policies which affect the state's older individuals;
- (5) Such rules, regulations, and standards as may be adopted by the department; and
- (6) A community aging services budget for submission to the Legislature by the department.

The committee shall also act as a panel for the hearing and resolution of any appeal requested by an area agency on aging should the department disapprove the area plan and budget or amendments as submitted.

Source: Laws 1982, LB 404, § 12; Laws 1991, LB 58, § 14.

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 of 1965, as such act existed on January 1, 2016, 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 of 1965, as such act existed on January 1, 2016;

- (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 of 1965, as such federal act existed on January 1, 2016;
- (8) To require the submission of a two-year, three-year, or four-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 two-year, three-year, or four-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 of 1965, as such federal act existed on January 1, 2016. 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; Laws 2016, LB698, § 29.

81-2214 Repealed. Laws 1996, LB 1044, § 985.

81-2214.01 Repealed. Laws 1992, LB 677, § 35.

81-2214.02 Records and information; disclosure prohibited; exceptions.

No record of any person receiving any services funded through the department and no information of a sensitive or confidential nature may be disclosed or released to any other party without the written consent of the person or his or her legal representative unless the disclosure is required for the furtherance of purposes directly associated with the person's plan for services, is required by court order, or is necessary for program monitoring by authorized federal, state, or local monitoring agencies, including the department and the Legislature, or for purposes of the Adult Protective Services Act.

Source: Laws 1991, LB 58, § 17.

Cross References

Adult Protective Services Act, see section 28-348.

81-2215 Area agency on aging; department designate.

The department shall designate an area agency on aging for each planning-and-service area designated pursuant to subdivision (6) of section 81-2213.

Source: Laws 1982, LB 404, § 15.

81-2216 Area agency on aging; designation by department.

The department shall designate, to perform the functions of an area agency on aging, any office or agency having the necessary authority and capacity which is proposed by the chief elected officials of a combination of units of local general-purpose governments formed under the Interlocal Cooperation Act or the Joint Public Agency Act.

Source: Laws 1982, LB 404, § 16; Laws 1999, LB 87, § 98.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

81-2217 Area agency on aging; department; duties prior to designation.

Before designating an area agency on aging for a planning-and-service area, the department shall:

(1) Provide written notice to the county government in the planning-and-service area of the pending designation no less than sixty days before taking action;

(2) Conduct an onsite assessment to determine whether the agency which is being considered for designation as an area agency on aging has the capacity and authority to perform all the functions of an area agency on aging specified by the Nebraska Community Aging Services Act; and

(3) Consider the views of the units of general-purpose local government within the planning-and-service area.

Source: Laws 1982, LB 404, § 17; Laws 1991, LB 58, § 19.

81-2218 Area agency on aging; governing unit; duties.

The governing unit of the designated area agency on aging shall:

(1) In accordance with section 81-2219, employ a qualified administrator to serve as the chief executive officer for the administration of the agency and employ adequate staff for carrying out the area program plan;

(2) Approve and submit an area plan and budget to the department pursuant to section 81-2213. The plan shall comply with the requirements of the Nebraska Community Aging Services Act and the federal Older Americans Act of 1965, as such federal act existed on January 1, 2016;

(3) Approve such contracts and agreements as are necessary to carry out the functions of the agency; and

(4) Establish and consult with an area advisory council on needs, services, and policies affecting older individuals in the area. The advisory council for the area agency on aging shall establish bylaws which specify the role and functions of the council, number of members, selection of members, term of membership, and frequency of meetings.

Source: Laws 1982, LB 404, § 18; Laws 1991, LB 58, § 20; Laws 2016, LB698, § 30.

81-2219 Area agencies on aging; chief executive officer and staff; qualifications; personnel policies.

Each area agency on aging governing unit shall establish minimum qualifications of education, training, and experience for its chief executive officer and written policies and procedures for the selection, appointment, and annual performance rating of its chief executive officer and staff.

Source: Laws 1982, LB 404, § 19; Laws 1991, LB 58, § 21.

81-2220 Area agency on aging; duties.

An area agency on aging shall:

(1) Monitor, evaluate, and comment on policies, programs, hearings, and community actions which affect older individuals;

(2) Conduct public hearings, studies, and assessments on the needs of older individuals living in the planning-and-service area;

(3) Represent the interests of older individuals to public officials and to public and private agencies or organizations;

(4) Cooperate, coordinate, and plan with other agencies, organizations, or individuals to promote benefits and opportunities for older individuals consistent with the goals of the Nebraska Community Aging Services Act and the federal Older Americans Act of 1965, as such federal act existed on January 1, 2016;

(5) Develop an area plan and budget pursuant to section 81-2213 for a comprehensive, coordinated program of community aging services needed by older individuals of the area and consistent with the requirements of the Nebraska Community Aging Services Act and the federal Older Americans Act of 1965, as such federal act existed on January 1, 2016;

(6) Monitor and evaluate the activities of service providers to ensure that the services being provided comply with the terms of the grant or contract. When a provider is found to be in breach of the terms of its grant or contract, the area agency on aging shall enforce the terms of the grant or contract;

(7) Comply with rules, regulations, and requirements of the department which have been developed in consultation with the area agencies on aging for client and fiscal information and provide to the department information necessary for federal and state reporting, program evaluation, program management, fiscal control, and research needs; and

(8) Provide technical assistance to service providers as needed, prepare written monitoring reports, and provide written reports of onsite assessments of all service providers funded by the area agency on aging according to the rules and regulations promulgated by the department.

Source: Laws 1982, LB 404, § 20; Laws 1991, LB 58, § 22; Laws 2016, LB698, § 31.

81-2221 Area plan and budget; contents.

The plan and budget adopted pursuant to section 81-2220 shall contain at least the following:

(1) Provisions required by the Nebraska Community Aging Services Act and the federal Older Americans Act of 1965, as such federal act existed on January 1, 2016; and

(2) A detailed statement of the manner in which the area agency on aging develops, administers, and supports the comprehensive, coordinated program of community aging services throughout the area.

The department may require minimum service levels for the area and establish minimum standards for activities which carry out the requirements of the Nebraska Community Aging Services Act and the federal Older Americans Act of 1965, as such federal act existed on January 1, 2016.

Source: Laws 1982, LB 404, § 21; Laws 1991, LB 58, § 23; Laws 2016, LB698, § 32.

81-2222 Funding eligibility; activities and services enumerated.

Activities and services eligible for funding under the Nebraska Community Aging Services Act and an approved plan are:

(1) Those agency functions and services necessary to carry out the agency's responsibilities under the act and in its plan, including, but not limited to, administration, management, information, referral, counseling, program evaluation, needs assessment, research, training, program development, outreach, coordination, advocacy, planning, technical assistance, contracting, and promotion; and

(2) Those community aging services necessary to promote, restore, or support self-sufficiency for older individuals, including (a) congregate activities which

(i) are organized and provided on a group basis and delivered in or through a senior service center, (ii) have as their purpose to serve older individuals as a group, and (iii) carry out the goals of the act and (b) individual services which (i) are organized and provided on a one-to-one basis in home or through a senior service center, (ii) have as their purpose to serve an individual or family need, and (iii) carry out the goals of the act.

Source: Laws 1982, LB 404, § 22; Laws 1991, LB 58, § 24.

81-2223 Services; eligibility; determination.

Within an area plan, the determination of eligibility of older individuals to benefit from community aging services shall be as follows:

(1) For congregate activities, the determination shall be left to the area agency on aging, taking into account (a) the needs, resources, and standards of communities and older individuals in the area and (b) the recommendations of the area advisory council; and

(2) For individual services, the determination shall be by (a) an assessment of an individual's or family's circumstances and (b) the development of a service plan.

Source: Laws 1982, LB 404, § 23; Laws 1991, LB 58, § 25.

81-2224 Area agency on aging; reimbursement for costs; how made.

The department shall reimburse each designated area agency on aging for seventy-five percent of the actual cost of providing eligible activities and services as defined in section 81-2222. Such reimbursement shall be made from (1) state funds appropriated by the Legislature, (2) federal funds allocated to the department, including federal funds allocated under the Older Americans Act, as now or hereafter amended, and (3) other funds as available. The payments shall be made by the department on or before the twentieth day of each month. If state funds appropriated, federal funds allocated, or other funds available are insufficient to finance the department-approved plan and budget for each designated area agency on aging, the reimbursement to each area agency on aging shall be proportionately reduced. If an area agency on aging chooses to exceed the budget approved by the department, costs in excess of the approved budget shall not be reimbursed by the department.

Source: Laws 1982, LB 404, § 24; Laws 1991, LB 58, § 26; Laws 1993, LB 818, § 2.

81-2225 Reimbursement for costs; qualification.

To qualify for reimbursement by the department, as provided for in section 81-2224, a designated area agency on aging shall have a department-approved plan and budget and shall provide no less than twenty-five percent of such approved plan and budget from local sources. Local sources shall include, but shall not be limited to, local tax dollars and donations and shall not include receipts from federal or state sources, except federal revenue-sharing trust funds.

Source: Laws 1982, LB 404, § 25; Laws 2018, LB903, § 1.

81-2225.01 Intrastate funding formula; department; duties.

(1) The department, after consultation with the area agencies on aging, shall develop and use an intrastate funding formula for the allocation to area agencies on aging of state and federal funds awarded pursuant to the Nebraska Community Aging Services Act and the Older Americans Act, as now or hereafter amended.

(2) The area agencies on aging shall comply with the intrastate funding formula determined by the department.

Source: Laws 1991, LB 58, § 27.

81-2226 Area agency on aging; malfeasance; effect.

In the event of a documented malfeasance on the part of any area agency on aging in the administration of its area plan, and the failure of the governing unit of the area agency to take corrective action within a reasonable time, the department shall, with the advice of the committee, terminate funding to the area agency governing unit by disapproving the area plan for that area agency on aging.

Source: Laws 1982, LB 404, § 26; Laws 1996, LB 1044, § 874; Laws 2007, LB296, § 765.

81-2227 Department; submit budget.

Based upon the department-approved plan and budget for each designated area agency on aging, the department shall submit a budget request to the Department of Administrative Services, on or before the date provided in subsection (1) of section 81-132 for each even-numbered year, for the funds required to achieve the objectives of the Nebraska Community Aging Services Act. Such request shall include all federal funds available to the department for reimbursement to area agencies on aging.

Source: Laws 1982, LB 404, § 27; Laws 1991, LB 58, § 28; Laws 2002, Second Spec. Sess., LB 12, § 4; Laws 2016, LB1092, § 6.

81-2228 Repealed. Laws 2016, LB698, § 37.

(b) CARE MANAGEMENT SERVICES

81-2229 Legislative intent.

It is the intent of the Legislature that:

(1) The state establish a statewide system of care management units through the area agencies on aging to aid in the coordination of the delivery of a continuum of services targeted primarily to the state's older population;

(2) The continuum of services include the proper utilization of all available care resources, including community-based services and institutionalization, to ensure that persons are receiving, when reasonably possible, the level of care that best matches their level of need;

(3) The Department of Health and Human Services apply for and implement a Title XIX medicaid waiver as a way to provide care management services to medicaid clients and to control the rising costs of medicaid; and

(4) The Department of Health and Human Services develop a uniform method for data collection by care management units.

Source: Laws 1987, LB 42, § 1; Laws 1996, LB 1044, § 875; Laws 2007, LB296, § 766.

81-2230 Purpose of sections.

The purpose of sections 81-2229 to 81-2235 shall be to provide for care management units which include ongoing consultation, assessment, care plan development, referral, and review for individuals, primarily older Nebraskans, in need of long-term care. With the individual's approval, the care management unit shall help coordinate the developed plan of care using the most appropriate available public and private resources to meet the individual's long-term care needs.

Source: Laws 1987, LB 42, § 2; Laws 1996, LB 1044, § 876.

81-2231 Care management units; certification; standards.

The care management units shall be certified by the Department of Health and Human Services which shall adopt and promulgate rules and regulations within two hundred forty days of August 30, 1987, providing standards for certification. Such standards shall be developed in consultation with appropriate state agencies and professional organizations and shall provide that:

(1) The care management units shall be subject to periodic review by the department;

(2) The care management units shall provide an assessment of an individual's entire range of needs, including, but not limited to, functional, psychosocial, and environmental needs;

(3) The care management units shall develop a long-term care plan for each client in consultation with the individual and if possible his or her family utilizing and coordinating available and appropriate public and private resources;

(4) The care management units shall periodically monitor the delivery of services to each client and review the individual's plan to determine if the plan remains appropriate;

(5) The care management units shall be operated separately from any direct care programs provided by the area agencies on aging; and

(6) A standardized long-term care assessment document shall be developed that incorporates, when reasonably possible, (a) assessment procedures currently used by area agencies on aging and (b) assessment criteria designed to reduce duplication of effort with related long-term care services, both public and private, including assessment material necessary to determine service eligibility by the Department of Health and Human Services.

Source: Laws 1987, LB 42, § 3; Laws 1996, LB 1044, § 877.

81-2232 Area agency on aging; prepare plan; procedure.

Within sixty days of the adoption and promulgation of the standards for certification by the Department of Health and Human Services, each area agency on aging shall submit to the department for approval a plan of operation to either provide and supervise or subcontract for at least one certified care management unit to provide all eligible individuals residing in its planning-and-service area with long-term care management services. Within thirty days of receipt of a plan for approval, the department shall notify the area agency on aging of its acceptance or denial of the plan. If the plan is denied, the department shall give the reasons for denial and the area agency on aging shall submit a revised plan. If the area agency on aging does not submit a

revised plan within thirty days of the denial, the Department of Health and Human Services may contract with another public or private entity to serve that planning-and-service area.

Source: Laws 1987, LB 42, § 4; Laws 1996, LB 1044, § 878.

81-2233 Repealed. Laws 2017, LB417, § 25.

81-2234 Care management unit; fee scale; reimbursement.

(1) Individuals who have family income below three hundred percent of a poverty level determined by the Department of Health and Human Services based on any federal poverty index or similar guidelines shall pay from zero to ninety percent of the fee for the services provided by a care management unit. The fee scale shall be adopted and promulgated as rules and regulations by the department and shall reflect the income range of individuals.

(2) A care management unit may receive reimbursement from state and federal government programs which allow for reimbursement for care management or case management services.

(3) Individuals not covered by subsection (1) or (2) of this section shall pay the full fee for services provided by a care management unit.

Source: Laws 1987, LB 42, § 6; Laws 1996, LB 1044, § 880.

81-2235 Care management unit; reimbursement by department.

(1) Each care management unit may be reimbursed by the Department of Health and Human Services for costs not paid for by the individual or through other reimbursement specified in section 81-2234. Reimbursement by the department shall be based on actual casework time units expended on all care management services provided and shall include expenses for personnel, administration and planning, client eligibility review, contractual services, and necessary support services and other necessary actual and indirect costs. Standardized rates of reimbursement shall be adopted and promulgated by the department and shall be adjusted at least every three years.

(2) Appropriations for reimbursement by the department for services provided under sections 81-2229 to 81-2235 and for the costs of the department to administer the program shall be appropriated separately from funds appropriated under the Nebraska Community Aging Services Act.

Source: Laws 1987, LB 42, § 7; Laws 1996, LB 1044, § 881; Laws 2016, LB698, § 33.

Cross References

Nebraska Community Aging Services Act, see section 81-2201.

81-2236 Repealed. Laws 1996, LB 1044, § 985.

(c) LONG-TERM CARE OMBUDSMAN

81-2237 Act, how cited.

Sections 81-2237 to 81-2264 shall be known and may be cited as the Long-Term Care Ombudsman Act.

Source: Laws 1992, LB 677, § 1; Laws 2018, LB903, § 2.

Cross References

Adult Protective Services Act, see section 28-348.

81-2238 Definitions, where found.

For purposes of the Long-Term Care Ombudsman Act, the definitions found in sections 81-2239 to 81-2248 shall be used.

Source: Laws 1992, LB 677, § 2; Laws 2018, LB903, § 3.

81-2239 Department, defined.

Department means the Department of Health and Human Services.

Source: Laws 1992, LB 677, § 3; Laws 1996, LB 1044, § 882; Laws 2018, LB903, § 4.

81-2240 Repealed. Laws 1996, LB 1044, § 985.**81-2241 Repealed. Laws 2007, LB 296, § 815.****81-2242 Local long-term care ombudsman program, defined.**

Local long-term care ombudsman program means an entity, either public or private and nonprofit, designated as a local long-term care ombudsman program by the office.

Source: Laws 1992, LB 677, § 6; Laws 2018, LB903, § 5.

81-2243 Long-term care facility, defined.

Long-term care facility includes:

- (1) A nursing facility;
- (2) An assisted-living facility;
- (3) Any other adult care home;
- (4) A continuing care community;
- (5) Any swing bed in an acute care facility or extended care facility; and
- (6) Any adult day service.

Source: Laws 1992, LB 677, § 7; Laws 1997, LB 608, § 26; Laws 2000, LB 819, § 157; Laws 2018, LB903, § 6.

81-2244 Office, defined.

Office means the office of the state long-term care ombudsman.

Source: Laws 1992, LB 677, § 8; Laws 2018, LB903, § 7.

81-2245 Older Americans Act, defined.

Older Americans Act means the federal Older Americans Act, as amended.

Source: Laws 1992, LB 677, § 9; Laws 2018, LB903, § 8.

81-2246 Transferred to section 81-2247.02.**81-2247 Ombudsman advocate, defined.**

Ombudsman advocate means an employee or a volunteer of the office other than the state long-term care ombudsman or of a local program trained and certified to carry out duties of the office.

Source: Laws 1992, LB 677, § 11; Laws 2018, LB903, § 9.

81-2247.01 Representative of the office, defined.

Representative of the office means an employee or volunteer designated by the state long-term care ombudsman to fulfill the duties of the office, whether personnel supervision is provided by the state long-term care ombudsman or his or her designee or by an agency hosting a local long-term care ombudsman designated by the state long-term care ombudsman.

Source: Laws 2018, LB903, § 10.

81-2247.02 Resident, defined.

Resident means an individual who resides in a long-term care facility as a patient, resident, or client.

Source: Laws 1992, LB 677, § 10; R.S.1943, (2014), § 81-2246; Laws 2018, LB903, § 11.

81-2247.03 Resident representative, defined.

Resident representative means:

(1) An individual chosen by the resident to act on behalf of the resident in order to support the resident in decisionmaking; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications; or

(2) A person authorized by state or federal law, including, but not limited to, agents under a power of attorney, representative payees, and other fiduciaries, to act on behalf of the resident in order to support the resident in decisionmaking; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications.

Source: Laws 2018, LB903, § 12.

81-2248 State long-term care ombudsman, defined.

State long-term care ombudsman means the person appointed under section 81-2249 to fulfill the responsibilities of the office.

Source: Laws 1992, LB 677, § 12; Laws 2007, LB296, § 767; Laws 2018, LB903, § 13.

81-2249 Office; created; state long-term care ombudsman; appointed.

Pursuant to the Older Americans Act, the office of the state long-term care ombudsman is hereby created. The department shall establish and operate the office. The chief executive officer of the department shall appoint the state long-term care ombudsman.

Source: Laws 1992, LB 677, § 13; Laws 2007, LB296, § 768.

81-2250 Long-term care ombudsman program; established; contents.

The department shall establish a long-term care ombudsman program consisting of the state long-term care ombudsman and any local long-term care ombudsman programs. The program shall:

(1) Investigate and resolve complaints made by or on behalf of residents relating to action, inaction, or decisions of providers of long-term care services or their representatives, of public agencies, or of social service agencies which may adversely affect the health, safety, welfare, or rights of residents. The office

shall implement procedures to ensure that no state long-term care ombudsman or ombudsman advocate investigates any complaint involving a provider with which the representative was once employed or associated;

(2) Provide for the training of the state long-term care ombudsman and ombudsman advocates and promote the development of citizen organizations to participate in the program, provide training to ombudsman advocates and staff of local long-term care ombudsman programs, issue certificates attesting to the successful completion of the prescribed training, and provide ongoing technical assistance to such local programs;

(3) Analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies with respect to long-term care facilities and services and recommend any changes in such laws, regulations, and policies deemed by the long-term care ombudsman program to be appropriate;

(4) Establish a statewide, uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems. The data shall be submitted to the department at least on an annual basis;

(5) Prepare reports and provide policy, regulatory, and legislative recommendations to solve problems, resolve complaints, and improve the quality of care and life in long-term care facilities;

(6) Provide for public forums to discuss concerns and problems relating to action, inaction, or decisions that may adversely affect the health, safety, welfare, or civil rights of residents and resident representatives, public agencies and entities, and social service agencies; and

(7) Provide information to public agencies, legislators, and others regarding the problems and concerns, including recommendations related to such problems and concerns, of residents.

Source: Laws 1992, LB 677, § 14; Laws 1996, LB 1044, § 884; Laws 2007, LB296, § 769; Laws 2018, LB903, § 14.

81-2251 Rules and regulations; state long-term care ombudsman; qualifications.

The department may adopt and promulgate rules and regulations to carry out the Long-Term Care Ombudsman Act. The department shall ensure that the state long-term care ombudsman has no conflicts of interest in fulfilling the duties of the office, is capable of administering the office impartially, has an understanding of long-term care issues, has experience in the fields of aging and health care, and has worked with and been involved in volunteer programs.

Source: Laws 1992, LB 677, § 15; Laws 2007, LB296, § 770; Laws 2018, LB903, § 15.

81-2252 Local long-term care ombudsman programs; designation; provisional status.

The office may designate for two-year periods, within each planning-and-service area designated pursuant to section 81-2213, local long-term care ombudsman programs.

The office may withdraw or provisionally maintain the designation of an entity as a local long-term care ombudsman program. If the designation of a local long-term care ombudsman program is provisionally maintained, the office shall notify the program of the reasons for the provisional status, of the changes or corrections necessary for the removal of the provisional status, of the length of time permitted to make the changes or corrections, and that the office will withdraw the designation if the program does not comply with the requirements specified in the notice. If the designation of a local long-term care ombudsman program is withdrawn, the office may provide for the continuation of long-term care ombudsman services for that area.

Source: Laws 1992, LB 677, § 16; Laws 2007, LB296, § 771; Laws 2018, LB903, § 16.

81-2253 Staff training requirements; ombudsman advocate certification; required.

(1) The state long-term care ombudsman shall ensure that the staff of the office and of local long-term care ombudsman programs are trained in:

- (a) Federal, state, and local laws, regulations, and policies with respect to long-term care facilities in the state;
- (b) Investigative techniques;
- (c) Management of long-term care facilities; and
- (d) Such other matters as the office deems appropriate.

(2) The state long-term care ombudsman shall develop procedures for the certification of ombudsman advocates.

(3) No ombudsman advocate shall investigate any complaint filed with the office unless such person is certified by the office.

Source: Laws 1992, LB 677, § 17; Laws 2018, LB903, § 17.

81-2254 Office; investigations; procedure.

The office shall investigate and seek to resolve complaints and concerns communicated by or on behalf of a resident. The office may initiate investigations based on its observations of the conditions in a long-term care facility. If the office does not investigate a complaint, the complainant shall be notified of the decision not to investigate and the reasons for the decision.

Source: Laws 1992, LB 677, § 18; Laws 2018, LB903, § 18.

81-2255 Abuse, neglect, or exploitation; referral required; procedure.

(1) Notwithstanding any other provision of law related to reporting, when abuse, neglect, or exploitation of a resident is suspected, the long-term care ombudsman program, with the permission of the resident or the resident representative, shall make an immediate referral to adult protective services of the department or the appropriate law enforcement agency.

(2) Any state agency or board which responds to a complaint against a long-term care facility or an individual employed by a long-term care facility that was referred to the state agency or board by the office shall forward to the office copies of related inspection reports, plans of correction, and notice of any

citations and sanctions levied against the long-term care facility or the individual.

Source: Laws 1992, LB 677, § 19; Laws 1996, LB 1044, § 885; Laws 2007, LB296, § 772; Laws 2018, LB903, § 19.

81-2256 Long-term care facility; notice required; form.

Every long-term care facility shall post in a conspicuous location a notice of the name, address, and telephone number of the office and the name and telephone number of the nearest local long-term care ombudsman program. A brief description of the services provided by the office and the nearest long-term care ombudsman program shall be included in the notice. The form of the notice shall be approved by the office.

Source: Laws 1992, LB 677, § 20.

81-2257 Office; access to governmental records.

Upon request, the office shall have access to any record of a state or local governmental agency which is necessary to carry out its responsibilities under the Long-Term Care Ombudsman Act.

Source: Laws 1992, LB 677, § 21.

81-2258 Office; access to medical and personal records; liability for disclosure; confidentiality.

(1) The office shall have access to the medical and personal records of a resident of a long-term care facility which are retained by the facility. If the resident:

(a) Has the ability to consent in writing or through the use of auxiliary aids and services, access may only be obtained by the written consent of the resident;

(b) Is unable to consent in writing or through the use of auxiliary aids and services, oral consent may be given;

(c) Is under guardianship or conservatorship that provides the guardian or conservator with the authority to approve review of records, the office shall obtain the permission of the guardian or conservator for review of the records unless (i) the existence of the guardianship or conservatorship is unknown to the office or the facility, (ii) the guardian or conservator cannot be reached within five working days, (iii) the subject of the complaint is the guardian or the conservator, or (iv) in case of an emergency;

(d) Has a resident representative other than a guardian or conservator as described in subdivision (c) of this subsection, the office shall obtain the permission of the resident representative for review of the records unless (i) the existence of the resident representative is unknown to the office or the facility, (ii) the resident representative cannot be reached within five working days, (iii) the subject of the complaint is the resident representative, or (iv) in case of emergency; and

(e) Is unable to express written or oral consent and there is no guardian, conservator, or other resident representative or the notification of the guardian, conservator, or other resident representative is not applicable for reasons set forth in subdivision (c) or (d) of this subsection or the resident is deceased,

inspection of records may be made by the state long-term care ombudsman or representatives of the office.

(2) Copies of records may be reproduced by the office.

(3) Upon request by the office, a long-term care facility shall provide to the office the name, address, and telephone number of the resident representative or next of kin of a resident.

(4) The long-term care facility and personnel who disclose records pursuant to this section shall not be liable for the disclosure.

(5) The office shall establish procedures to protect the confidentiality of records obtained pursuant to this section.

Source: Laws 1992, LB 677, § 23; Laws 2018, LB903, § 20.

81-2259 State long-term care ombudsman and ombudsman advocate; access to resident.

A state long-term care ombudsman or an ombudsman advocate shall have immediate access to any consenting resident for the purpose of effectively carrying out the Long-Term Care Ombudsman Act if such state long-term care ombudsman or ombudsman advocate identifies himself or herself and presents his or her credentials to the individual in charge of the long-term care facility.

Source: Laws 1992, LB 677, § 22; Laws 2018, LB903, § 21.

81-2260 Complaints or investigations; confidentiality; exceptions.

(1) Information relating to any complaints or investigation made pursuant to the Long-Term Care Ombudsman Act that discloses the identities of complainants or residents shall remain confidential except:

(a) When disclosure is authorized in writing by the complainant, resident, or resident representative;

(b) When disclosure is necessary to an investigation of abuse, neglect, or exploitation and the disclosure is made to the Attorney General, the county attorney, or the department;

(c) When disclosure is necessary for the provision of services to the resident and the resident is unable to express written or oral consent; or

(d) Upon court order.

(2) Access to the records and files of the office relating to any complaint or investigation made pursuant to the Long-Term Care Ombudsman Act shall be permitted only at the discretion of the state long-term care ombudsman, except that the identity of any complainant, witness, or resident shall not be disclosed by such ombudsman except:

(a) When disclosure is authorized in writing by such complainant, witness, resident, or resident representative; or

(b) Upon court order.

Source: Laws 1992, LB 677, § 24; Laws 1996, LB 1044, § 886; Laws 2007, LB296, § 773; Laws 2018, LB903, § 22.

81-2261 Department; duties.

The department shall ensure that:

- (1) No individual involved in the designation of the state long-term care ombudsman has a pecuniary or other interest in a long-term care facility;
- (2) No state long-term care ombudsman or ombudsman advocate has a pecuniary or other interest in a long-term care facility;
- (3) Mechanisms are in place to identify and remedy all such or other similar conflicts; and
- (4) The office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents.

Source: Laws 1992, LB 677, § 25; Laws 2018, LB903, § 23.

81-2262 Local long-term care ombudsman program and certified individual; treatment.

Any local long-term care ombudsman program or any individual certified by the office, whether an employee of the program or office or an unpaid volunteer of the program or office, shall be treated as a representative of the office.

Source: Laws 1992, LB 677, § 26; Laws 2018, LB903, § 24.

81-2263 State long-term care ombudsman and ombudsman advocate; immunity from liability; legal counsel.

No state long-term care ombudsman or ombudsman advocate shall be liable for the good faith performance of official duties pursuant to the Long-Term Care Ombudsman Act. Pursuant to the Older Americans Act, the department shall ensure that adequate legal counsel is available to the office for advice and consultation and that legal representation is provided to any state long-term care ombudsman or ombudsman advocate against whom any legal action is brought in connection with his or her official duties.

Source: Laws 1992, LB 677, § 27.

81-2264 Interference with lawful actions; institution of certain proceedings; prohibited; department; sanctions.

(1) No person shall willfully interfere with the lawful actions of the office, including the request for immediate entry into a long-term care facility by an individual certified pursuant to section 81-2253 who identifies himself or herself and presents his or her credentials to the individual in charge of the long-term care facility.

(2) No person shall institute discriminatory, disciplinary, or retaliatory action against any officer or employee of a long-term care facility or governmental agency or against any resident, resident representative, or family member of a resident for any communications by him or her with the office or for any information given or disclosed by him or her in good faith to aid the office in carrying out its duties and responsibilities.

(3) The department shall implement mechanisms to prohibit, and investigate allegations of, interference, retaliation, and reprisals:

(a) By a long-term care facility, another entity, or an individual with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of the office; or

(b) By a long-term care facility, another entity, or an individual against the ombudsman or representatives of the office for fulfillment of their functions, responsibilities, or duties.

(4) The department shall provide for appropriate sanctions with respect to such interference, retaliation, and reprisals if verified by such investigation.

Source: Laws 1992, LB 677, § 28; Laws 2018, LB903, § 25.

(d) PREADMISSION SCREENING

81-2265 Repealed. Laws 2009, LB 288, § 54.

81-2266 Repealed. Laws 2000, LB 888, § 1.

81-2267 Repealed. Laws 2009, LB 288, § 54.

81-2268 Medicaid waiver funds; use authorized.

Services identified by care plans for those eligible for medical assistance whose care needs are appropriate for nursing facilities but whose needs can be met outside a nursing facility may be purchased with medicaid waiver funds available through the home and community-based waiver for the aged and disabled administered by the Department of Health and Human Services.

Source: Laws 1993, LB 801, § 4; Laws 1996, LB 1044, § 890; Laws 2007, LB296, § 776.

81-2269 Statewide project; establishment.

(1) The Department of Health and Human Services, through its care management units, shall establish a statewide project to prevent premature institutionalization of nursing facility medicaid-eligible applicants sixty-five years of age and older through preadmission screening. In any case in which a determination has not been made within forty-eight hours, the nursing facility applicant shall be deemed appropriate for nursing home admission until such time as preadmission screening is completed, notwithstanding that a preadmission screening has not been done. The Department of Health and Human Services shall use the preadmission screening services of the project.

(2) Subsection (1) of this section becomes operative on July 1, 1997.

Source: Laws 1993, LB 801, § 5; Laws 1995, LB 406, § 90; Laws 1996, LB 1044, § 891.

81-2270 Purchase of services with state funds; sliding-fee scale.

Services identified by care plans for those not eligible for services provided through the home and community-based waiver for the aged and disabled may be purchased with funds appropriated through section 81-2235 based on a sliding-fee scale.

Source: Laws 1993, LB 801, § 6; Laws 1996, LB 1044, § 892; Laws 2009, LB288, § 37.

81-2271 Rules and regulations.

The Department of Health and Human Services shall adopt and promulgate rules and regulations to establish procedures and standards to implement the intent of sections 81-2268 to 81-2271.

Source: Laws 1993, LB 801, § 7; Laws 1996, LB 1044, § 893; Laws 2009, LB288, § 38.

(e) DEPARTMENT ON AGING CASH FUND

81-2272 Repealed. Laws 1996, LB 1044, § 985.

(f) NEBRASKA SENIOR VOLUNTEER PROGRAM ACT

81-2273 Act, how cited.

Sections 81-2273 to 81-2283 shall be known and may be cited as the Nebraska Senior Volunteer Program Act.

Source: Laws 2000, LB 1101, § 2; Laws 2017, LB417, § 18.

81-2274 Purpose of act.

The purpose of the Nebraska Senior Volunteer Program Act is to provide volunteer community service opportunities for older persons following priorities outlined in the federal Older Americans Act of 1965, as the act existed on January 1, 2017.

Source: Laws 2000, LB 1101, § 3; Laws 2017, LB417, § 19.

81-2275 Terms, defined.

For purposes of the Nebraska Senior Volunteer Program Act:

- (1) Department means the Department of Health and Human Services; and
- (2) Senior volunteer means an individual who is sixty years of age or older.

Source: Laws 2000, LB 1101, § 4; Laws 2017, LB417, § 20.

81-2276 Repealed. Laws 2017, LB417, § 25.

81-2277 Repealed. Laws 2017, LB417, § 25.

81-2278 Repealed. Laws 2017, LB417, § 25.

81-2279 Senior volunteers; benefits.

(1) A senior volunteer may receive (a) transportation expenses for transportation to and from their residences and the place where services are to be rendered, (b) one free meal when reasonably available during each day that services are rendered, and (c) an annual physical examination.

(2) A senior volunteer shall receive motor vehicle accident and liability insurance coverage.

Source: Laws 2000, LB 1101, § 8; Laws 2017, LB417, § 21.

81-2280 Repealed. Laws 2017, LB417, § 25.

81-2281 Grants; amount.

(1) The department shall make annual grants in an amount not to exceed twenty-five thousand dollars.

(2) As a condition to receiving a grant, an applicant shall obtain at least ten percent matching funds from local sources.

Source: Laws 2000, LB 1101, § 10; Laws 2017, LB417, § 22.

81-2282 Grantee; reports.

Each grantee shall file with the department a quarterly report of its activities on forms provided by the department.

Source: Laws 2000, LB 1101, § 11.

81-2283 Rules and regulations.

The department shall adopt and promulgate rules and regulations to carry out the Nebraska Senior Volunteer Program Act.

Source: Laws 2000, LB 1101, § 12; Laws 2017, LB417, § 23.

ARTICLE 23

INTERGOVERNMENTAL DATA COMMUNICATIONS ACT

Section

- 81-2301. Transferred to section 86-531.
- 81-2302. Transferred to section 86-532.
- 81-2303. Transferred to section 86-533.
- 81-2304. Transferred to section 86-539.
- 81-2305. Transferred to section 86-540.
- 81-2306. Transferred to section 86-541.
- 81-2307. Transferred to section 86-542.
- 81-2308. Transferred to section 86-543.
- 81-2308.01. Transferred to section 86-544.
- 81-2309. Transferred to section 86-545.
- 81-2310. Transferred to section 86-546.
- 81-2311. Transferred to section 86-547.
- 81-2312. Transferred to section 86-548.
- 81-2313. Transferred to section 86-549.

81-2301 Transferred to section 86-531.

81-2302 Transferred to section 86-532.

81-2303 Transferred to section 86-533.

81-2304 Transferred to section 86-539.

81-2305 Transferred to section 86-540.

81-2306 Transferred to section 86-541.

81-2307 Transferred to section 86-542.

81-2308 Transferred to section 86-543.

81-2308.01 Transferred to section 86-544.

81-2309 Transferred to section 86-545.

81-2310 Transferred to section 86-546.

81-2311 Transferred to section 86-547.

81-2312 Transferred to section 86-548.

81-2313 Transferred to section 86-549.

ARTICLE 24
PROMPT PAYMENT ACT

Section

- 81-2401. Act, how cited.
- 81-2402. Terms, defined.
- 81-2403. Goods or services; payment in full; when required.
- 81-2404. Creditor; charge interest; when.
- 81-2405. Incorrect bill; notice to creditor; corrected bill; payment.
- 81-2406. Act, how construed.
- 81-2407. Act; applicability.
- 81-2408. Agency; reports; required.

81-2401 Act, how cited.

Sections 81-2401 to 81-2408 shall be known and may be cited as the Prompt Payment Act.

Source: Laws 1988, LB 1079, § 1.

81-2402 Terms, defined.

As used in the Prompt Payment Act, unless the context otherwise requires:

- (1) Agency shall mean the state and any agency, department, office, commission, board, panel, or division of the state. Agency shall include the University of Nebraska and the Nebraska state colleges;
- (2) Bill shall mean a proper billing or invoice which requests a payment and which is supplemented by all necessary verification and forms required by agency rules and regulations to process payments;
- (3) Creditor shall mean any person, corporation, association, or other business concern engaged in a trade or business, either on a for-profit or not-for-profit basis, and providing any goods or services to an agency;
- (4) Good faith dispute shall mean:
 - (a) A contention by the agency that goods delivered or services rendered were of less quantity or quality than ordered or specified by contract, faulty, or installed improperly; or
 - (b) Any other reason giving cause for the withholding of payment by the agency until the dispute is settled, except that failure to give notice as prescribed in section 81-2405 shall preclude an agency from claiming a good faith dispute in the case of a defective or improper billing;
- (5) Goods shall mean any goods, supplies, materials, equipment, or other personal property but shall not mean any real property; and
- (6) Services shall mean any contractual services, including, but not limited to, architectural, engineering, medical, financial consulting, or other professional services, any construction services, and any other personal services but shall not mean any services performed as an officer or employee of any agency.

Source: Laws 1988, LB 1079, § 2; Laws 2010, LB552, § 11.

81-2403 Goods or services; payment in full; when required.

(1) Except as provided in subsection (2) of this section, each agency shall make payment in full for all goods delivered or services rendered on or before the forty-fifth calendar day after (a) the date of receipt by the agency of the goods or services or (b) the date of receipt by the agency of the bill for the goods or services, whichever is later, unless other provisions for payment are agreed to in writing by the creditor and the agency.

(2) Any agency making payment for goods or services provided for third parties shall make payment in full for such goods or services on or before the sixtieth calendar day after the date of receipt by the agency of the bill.

(3) No goods or services shall be deemed to be received by an agency until all such goods or services are completely delivered and finally accepted by the agency. For purposes of determining whether payment was made in accordance with this section, payment in full by an agency shall be considered to be made on the date the warrant or check for such payment was mailed or otherwise transmitted.

Source: Laws 1988, LB 1079, § 3.

81-2404 Creditor; charge interest; when.

Any creditor of an agency not receiving payment in full for goods delivered or services rendered within the forty-five-day or sixty-day time period, whichever is applicable, may charge the agency interest on the unpaid principal balance at the rate specified in section 45-104.02, as such rate may from time to time be adjusted. Interest charges shall begin to accrue on the thirty-first calendar day after (1) the date of receipt by the agency of the goods or services or (2) the date of receipt by the agency of the bill for the goods or services, whichever is later, and shall terminate on the date on which payment in full of the amount due is made. Each agency shall pay the interest charge upon request unless the bill is the subject of a good faith dispute between the agency and the creditor. No claim by a creditor for interest charges shall be allowed unless the agency is requested to pay the interest charges within ninety calendar days from the date on which payment in full is due.

Source: Laws 1988, LB 1079, § 4; Laws 1992, Fourth Spec. Sess., LB 1, § 42.

81-2405 Incorrect bill; notice to creditor; corrected bill; payment.

When a bill submitted to an agency is filled out incorrectly or when there is any defect or impropriety in a bill submitted, the agency shall notify the creditor in writing prior to the date on which payment in full is due. The notice shall contain a description of the defect or impropriety and any additional information necessary to enable the creditor to correct the bill. Upon receiving a properly corrected bill, the agency shall make payment in full of the bill on or before the forty-fifth calendar day after the receipt of the corrected bill or, when the agency is making payment for goods or services provided by a third party, on or before the sixtieth calendar day after the receipt of the corrected bill.

Source: Laws 1988, LB 1079, § 5.

81-2406 Act, how construed.

Nothing in the Prompt Payment Act shall be construed to prohibit full or partial payments by agencies for goods or services whether or not such goods or services have been completely received or finally accepted by the agencies.

Source: Laws 1988, LB 1079, § 6.

81-2407 Act; applicability.

The Prompt Payment Act shall not apply to the following:

- (1) Claims subject to a good faith dispute if notice of the dispute is conveyed to the creditor in writing before the time required for payment, except that the Prompt Payment Act shall take effect on the date that the dispute is resolved;
- (2) Contracts related to highway or road construction, reconstruction, or maintenance; and
- (3) Claims, contracts, or projects which are to be paid for exclusively with federal funds.

Source: Laws 1988, LB 1079, § 7.

81-2408 Agency; reports; required.

Each agency shall report monthly to the Director of Administrative Services and the Legislative Fiscal Analyst any account that has not been paid within the applicable time period prescribed by section 81-2403. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically. Each agency shall report annually any interest charge on a past-due account, whether paid or unpaid, to the Governor and to the Appropriations Committee of the Legislature. The report submitted to the committee shall be submitted electronically.

Source: Laws 1988, LB 1079, § 8; Laws 2012, LB782, § 215.

ARTICLE 25

COMMISSION ON INDIAN AFFAIRS

- Section
- 81-2501. Commission; members; qualifications; nomination; appointment; terms.
 - 81-2502. Commission; purpose.
 - 81-2503. Commission; legal entity; executive director; qualifications; office.
 - 81-2504. Commission; functions.
 - 81-2505. Commission; alcohol rehabilitation programs; participation.
 - 81-2506. Commission; members; compensation; expenses.
 - 81-2507. Commission; meetings; quorum; attendance required; exception.
 - 81-2508. Commission; executive board; purpose; members; powers.
 - 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.
 - 81-2514. State assistance to political subdivisions and nonprofit corporations; Designated Collection Fund; created; use; investment; commission; seek and accept funds.
 - 81-2515. State assistance to political subdivisions and nonprofit corporations; sections; termination.

Section

81-2516. Commission on Indian Affairs Cash Fund; created; use; investment.

81-2517. Native American Scholarship and Leadership Fund; created; use; investment.

81-2501 Commission; members; qualifications; nomination; appointment; terms.

(1) There is hereby established the Commission on Indian Affairs. For purposes of sections 81-2501 to 81-2508, commission shall mean the Commission on Indian Affairs.

(2) The commission shall consist of fourteen members who shall be enrolled tribal members of a federally recognized Indian tribe residing within the State of Nebraska and from the following categories: Two from the Omaha Tribe reservation; two from the Winnebago Tribe reservation; two from the Santee Tribe reservation; two from the Ponca Tribe of Nebraska; one from the city of Lincoln; two from the city of Omaha; one from the district comprised of Sioux, Dawes, Sheridan, and Box Butte counties; one from the district comprised of Garden, Deuel, Cheyenne, Kimball, Banner, Morrill, and Scotts Bluff counties; and one member at large. The commission may have such nonvoting, ex officio members as shall be appointed by the commission and who need not be of Indian ancestry. The commission shall elect one of its members as chairperson. Members of the commission shall serve four-year terms or for the unexpired term in the event of a vacancy, except that when making the initial appointments of members representing new categories or districts one-half of the members shall serve two-year terms and one-half of the members shall serve four-year terms. Members of the commission serving on September 6, 1991, shall serve until their terms expire.

(3) As the terms of the voting members expire, their successors shall be appointed by the Governor from a panel of nominees submitted by the group to be represented, with three names being submitted for each appointment to be made.

(a) Nominations for successors representing the Omaha Tribe reservation, the Winnebago Tribe reservation, and the Santee Tribe reservation shall be submitted by the respective tribal councils.

(b) The initial and subsequent nominations for appointment of members to represent the Ponca Tribe of Nebraska shall be made by the Tribal Council of the tribe.

(c) The initial and subsequent nominations for appointment of members representing the districts specified in subsection (2) of this section shall be made by separate panels comprised of five residents of each district. The composition and terms of membership on such panels shall be determined by the commission. Each panel shall be governed by rules and regulations established by the commission.

(d) Nominations for successors representing the cities of Lincoln and Omaha shall be governed by rules and regulations established by the commission to insure adequate representation for those American Indian residents of the respective cities.

(e) The initial and subsequent nominations for appointment of the member at large shall be governed by rules and regulations established by the commission to insure adequate representation for those Nebraska residents of American Indian ancestry not otherwise represented on the commission.

(f) Appointments for unexpired terms shall follow the same procedure as for initial and subsequent appointments. Voting members shall be eligible for reappointment.

Source: Laws 1971, LB 904, § 1; Laws 1973, LB 37, § 1; R.S.1943, (1987), § 81-1214; Laws 1991, LB 114, § 1; Laws 1992, LB 862, § 1.

81-2502 Commission; purpose.

The purpose of the commission shall be to join representatives of all Indians in Nebraska to do all things which it may determine to enhance the cause of Indian rights and to develop solutions to problems common to all Nebraska Indians.

Source: Laws 1971, LB 904, § 2; R.S.1943, (1987), § 81-1215.

81-2503 Commission; legal entity; executive director; qualifications; office.

The commission shall be a legal entity with the power to receive and administer funds from state, federal, tribal, and other sources, and to employ and fix the compensation of an executive director of its own choosing who shall be an enrolled member of a Nebraska tribe or a legal resident of the State of Nebraska of Indian descent. An office for the executive director shall be provided.

Source: Laws 1971, LB 904, § 3; Laws 1976, LB 986, § 8; R.S.1943, (1987), § 81-1216.

81-2504 Commission; functions.

The functions of the commission shall be to:

- (1) Promote state and federal legislation beneficial to the Indian community in Nebraska;
- (2) Coordinate existing programs relating to the Indian community in such areas as housing, education, welfare, medical and dental care, employment, economic development, law and order, and related problems;
- (3) Work with other state and federal government agencies and federal and state elected officials in the development of new programs in areas mentioned under subdivision (2) of this section;
- (4) Keep the Governor's office apprised of the situation in the Indian community;
- (5) Administer sections 81-2509 to 81-2515;
- (6) Provide the public with information and education relevant to Indian affairs in the State of Nebraska; and
- (7) Develop programs to encourage the total involvement of Indian people in activities for the common benefit of the Indian community.

Source: Laws 1971, LB 904, § 4; R.S.1943, (1987), § 81-1217; Laws 2010, LB1002, § 8.

81-2505 Commission; alcohol rehabilitation programs; participation.

The Commission on Indian Affairs may participate in alcohol rehabilitation programs with any nonprofit organization.

Source: Laws 1976, LB 871, § 5; R.S.1943, (1987), § 23-362.04; Laws 1989, LB 5, § 4; R.S.1943, (1987), § 81-1217.01.

81-2506 Commission; members; compensation; expenses.

The members of the commission shall each receive fifty dollars for each day spent in the performance of their duties and shall receive reimbursement for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1971, LB 904, § 5; Laws 1973, LB 37, § 2; Laws 1981, LB 204, § 191; R.S.1943, (1987), § 81-1218; Laws 1991, LB 114, § 2; Laws 2020, LB381, § 128.

81-2507 Commission; meetings; quorum; attendance required; exception.

(1) The commission shall meet at least once every calendar quarter. Meetings shall be held on the first Friday of January, April, July, and October. If such day is a holiday, or if the commission is prevented from meeting on such day, the meeting shall be held on the following Friday. Special meetings may be called at the request of eight voting members. Eight voting members of the commission shall constitute a quorum for the transaction of business.

(2) Any member of the commission who, without a valid excuse, fails to attend quarterly or special meetings shall be terminated as a member of the commission and a successor shall be appointed to complete the term of office.

Source: Laws 1971, LB 904, § 6; Laws 1973, LB 37, § 3; Laws 1976, LB 174, § 2; Laws 1979, LB 322, § 52; Laws 1981, LB 545, § 34; R.S.1943, (1987), § 81-1219; Laws 1992, LB 862, § 2.

81-2508 Commission; executive board; purpose; members; powers.

(1) For the purpose of administration of the Commission on Indian Affairs during the interim between its regular quarterly meetings, there is hereby established an executive board of the Commission on Indian Affairs consisting of the chairperson of the commission, two members representing the reservations or tribal service areas as defined in section 43-1503, one member representing the urban areas, and one member who represents the western Nebraska areas or is the member at large.

(2) The executive board shall have the authority to enter into contracts for consultation services, supplies, and equipment if the amount contracted for does not exceed the sum of two thousand dollars in any one contract, and to supervise all programs relating to the affairs of Indian tribes instituted and authorized by the commission.

Source: Laws 1976, LB 174, § 1; R.S.1943, (1987), § 81-1219.01; Laws 1999, LB 475, § 9.

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.
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.
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.
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.
Termination date June 30, 2018.

81-2514 State assistance to political subdivisions and nonprofit corporations; Designated Collection Fund; created; use; investment; commission; seek and accept funds.

(1) The State Treasurer shall for FY2010-11 transfer on July 15, 2010, twenty-five thousand dollars from the General Fund to the Designated Collection Fund which is hereby 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.

(2) The commission may accept and shall actively seek, for the needs listed in section 81-2510, any and all grants, donations, gifts, or contributions from public or private sources. Any such grants, donations, gifts, or contributions shall be deposited in the Designated Collection Fund and shall only be expended as provided in sections 81-2509 to 81-2515.

Source: Laws 2010, LB1002, § 6.
Termination date June 30, 2018.

Cross References

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

81-2515 State assistance to political subdivisions and nonprofit corporations; sections; termination.

Sections 81-2509 to 81-2515 terminate on June 30, 2018.

Source: Laws 2010, LB1002, § 7.
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 from contracts, fees, grants, or gifts from nonfederal sources received by the state 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; Laws 2014, LB906, § 21.

Cross References

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

81-2517 Native American Scholarship and Leadership Fund; created; use; investment.

The Native American Scholarship and Leadership Fund is created. The fund shall be administered by the Commission on Indian Affairs and shall consist of money credited to the fund pursuant to section 60-3,235. The commission shall use the fund to provide scholarships to Native Americans to attend a postsecondary educational institution in this state and to provide other leadership opportunities to Native Americans as determined by the commission. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2017, LB263, § 100.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 26

COMMISSION ON AFRICAN AMERICAN AFFAIRS

Section

- 81-2601. Commission; members; qualifications; appointment; terms.
- 81-2602. Commission; purpose.
- 81-2603. Commission; funds; executive director; qualifications; office.
- 81-2604. Commission; functions.
- 81-2605. Commission; members; compensation; expenses.
- 81-2606. Commission; meetings; quorum; attendance required; exception.
- 81-2607. Commission; executive board; purpose; members; powers.
- 81-2608. Commission on African American Affairs Cash Fund; created; use; investment.

81-2601 Commission; members; qualifications; appointment; terms.

(1) There is hereby established the Commission on African American Affairs. For purposes of sections 81-2601 to 81-2607, commission means the Commission on African American Affairs.

(2) The commission shall consist of fourteen members who shall be of African ancestry. Members of the commission shall be appointed by the Governor. The commission may have such nonvoting, ex officio members as shall be appointed by the commission and who need not be of African ancestry. The commission shall elect one of its members as chairperson.

(3) Members of the commission shall serve four-year terms or for the unexpired term in the event of a vacancy. As the terms of the voting members expire, their successors shall be appointed by the Governor from a panel of nominees submitted by the public. An appointment for an unexpired term shall follow the same procedure as for initial and subsequent appointments. Voting members shall be eligible for reappointment.

Source: Laws 2020, LB918, § 1.

81-2602 Commission; purpose.

The purpose of the commission is to join representatives of African Americans in Nebraska to do all things which the commission may determine to enhance the cause of African American rights and to develop solutions to problems common to all Nebraska African Americans.

Source: Laws 2020, LB918, § 2.

81-2603 Commission; funds; executive director; qualifications; office.

The commission may receive and administer funds from state, federal, and other sources and may employ and fix the compensation of an executive director of its own choosing who shall be an African American person and a legal resident of the State of Nebraska. An office for the executive director shall be provided.

Source: Laws 2020, LB918, § 3.

81-2604 Commission; functions.

The functions of the commission are to:

- (1) Promote state and federal legislation beneficial to the African American community in Nebraska;
- (2) Coordinate programs relating to the African American community in Nebraska regarding housing, education, welfare, medical and dental care, employment, economic development, law and order, and related problems;
- (3) Work with other state and federal government agencies and federal and state elected officials in the development of programs in areas mentioned in subdivision (2) of this section;
- (4) Keep the Governor's office apprised of the situation in the African American community in Nebraska;
- (5) Administer sections 81-2601 to 81-2607;
- (6) Provide the public with information and education relevant to African American affairs in Nebraska; and
- (7) Develop programs to encourage the total involvement of African American people in activities for the common benefit of the African American community.

Source: Laws 2020, LB918, § 4.

81-2605 Commission; members; compensation; expenses.

The members of the commission shall each receive fifty dollars for each day spent in the performance of their duties and shall receive reimbursement for any actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 2020, LB918, § 5.

81-2606 Commission; meetings; quorum; attendance required; exception.

(1) The commission shall meet at least once every calendar quarter. Meetings shall be held in January, April, July, and October. Special meetings may be called at the request of eight voting members. Eight voting members of the commission shall constitute a quorum for the transaction of business.

(2) The office of any member of the commission who, without a valid excuse, fails to attend quarterly or special meetings shall be vacant.

Source: Laws 2020, LB918, § 6.

81-2607 Commission; executive board; purpose; members; powers.

(1) For purposes of administration of the commission during the interim between regular quarterly meetings, there is hereby established an executive board of the Commission on African American Affairs consisting of the chairperson of the commission and four members of the commission.

(2) The executive board may enter into contracts for consultation services, supplies, and equipment, if the amount contracted for does not exceed two thousand dollars in any one contract, and may supervise all programs relating to the affairs of African American people instituted and authorized by the commission.

Source: Laws 2020, LB918, § 7.

81-2608 Commission on African American Affairs Cash Fund; created; use; investment.

The Commission on African American Affairs Cash Fund is hereby created. The fund shall be administered by the Commission on African American Affairs. The fund shall consist of money from contracts, fees, gifts, grants, or bequests from nonfederal sources received by the state and any investment income earned on the fund. The fund may be used to support the commission's operations pursuant to sections 81-2601 to 81-2607. 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 2024, LB1413, § 30.
Effective date April 2, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 27

STATE GOVERNMENT EFFECTIVENESS ACT

Section

- 81-2701. Act, how cited.
- 81-2702. Purpose of act.
- 81-2703. Terms, defined.
- 81-2704. Allegation of wrongdoing; investigation; confidentiality; report; Public Counsel or official; duties.
- 81-2705. Employee protections.
- 81-2706. Employee protections; Public Counsel; powers and duties.
- 81-2707. Employee protections; preliminary finding of violation; hearings; relief authorized; appeal; presumption; attorney's fees.
- 81-2708. Allegation of wrongdoing or violation of employee protection; official; powers.
- 81-2709. Employee; cause of action authorized; attorney's fees; presumption.
- 81-2710. Intentional misuse of act; disciplinary action.
- 81-2711. Employee rights and responsibilities; notice required.

81-2701 Act, how cited.

Sections 81-2701 to 81-2711 shall be known and may be cited as the State Government Effectiveness Act.

Source: Laws 1993, LB 44, § 1; Laws 2005, LB 475, § 2.

81-2702 Purpose of act.

The primary purpose of the State Government Effectiveness Act is to encourage public officials and employees to disclose information concerning possible

violations of law and fiscal waste or mismanagement in state government to elected state officials or the Public Counsel and to prohibit reprisals for such disclosures by state employees.

The Legislature finds and declares that it is in the vital interest of the people of this state that their government operate in accordance with the law and without fraud, waste, or mismanagement. If this interest is to be protected, public officials and employees must work in a climate where conscientious service is encouraged and disclosures of illegalities or improprieties may be made without reprisal or fear of reprisal.

Source: Laws 1993, LB 44, § 2.

81-2703 Terms, defined.

For purposes of the State Government Effectiveness Act:

(1) Agency shall mean any agency, department, board, commission, or other governmental unit of the State of Nebraska acting or purporting to act by reason of connection with the State of Nebraska but shall not include (a) any court, (b) any member or employee of the Legislature or the Legislative Council, (c) the Governor or his or her personal staff, (d) any political subdivision or entity thereof, (e) any instrumentality formed pursuant to an interstate compact and answerable to more than one state, or (f) any entity of the federal government;

(2) Employee shall mean any person employed by an agency, regardless of rank;

(3) Official shall mean any elected state official;

(4) Personnel action shall include dismissing, demoting, transferring, reassigning, suspending, reprimanding, admonishing, reducing in rank, or reclassifying an employee, withholding work from an employee of an agency, requiring an employee to submit to a fitness-for-duty examination or take disability retirement, any other involuntary action taken against an employee, or any threat thereof made against an employee; and

(5) Wrongdoing shall include any action by an agency or employee which (a) is a violation of any law, (b) results in gross mismanagement or gross waste of funds, or (c) creates a substantial and specific danger to public health or safety.

Source: Laws 1993, LB 44, § 3.

81-2704 Allegation of wrongdoing; investigation; confidentiality; report; Public Counsel or official; duties.

(1) Within thirty working days after receiving a written allegation of wrongdoing from an employee, the Public Counsel or official may conduct a preliminary investigation and determine whether reasonable grounds exist to support the employee's allegation. The Public Counsel or official may consider the following factors in considering whether to proceed with a preliminary investigation:

(a) The employee has available to him or her another remedy which the employee could reasonably be expected to use;

(b) The complaint pertains to a matter outside the Public Counsel's or official's power;

(c) The complaint is trivial, frivolous, vexatious, or not made in good faith or has been delayed too long to justify present examination of its merit;

(d) Other complaints are more worthy of attention; or

(e) The Public Counsel's or official's resources are insufficient for adequate investigation.

(2) The identity of the employee presenting the allegation shall not be disclosed by the Public Counsel, his or her investigators, employees, or agents, or the official without the employee's prior written consent.

(3) When the Public Counsel or official finds reason to believe that reasonable grounds exist to support the employee's allegation of wrongdoing, the Public Counsel may conduct a formal investigation. The Public Counsel shall inform the employee of his or her intent to conduct a formal investigation. Upon the request of the Public Counsel, the director or chief operating officer of the agency which is the subject of the allegation shall cooperate in the investigation of the allegation and any related matters. Upon the conclusion of his or her formal investigation, the Public Counsel shall prepare a report of his or her findings.

(4) Any report prepared pursuant to subsection (3) of this section shall be transmitted to the director or chief operating officer of the agency which is the subject of the allegation, or if the allegation and report are directed against a director or chief operating officer, the report shall be transmitted to the Governor, to his or her authorized representative, or to the appropriate board or commission that has governing authority over the director or chief operating officer. The report may include, but need not be limited to, any or all of the following:

(a) A summary of the information received before the formal investigation was initiated;

(b) A description of the conduct of the formal investigation;

(c) A summary of any evidence obtained from the formal investigation;

(d) A listing of any violation or apparent violation of any law, rule, regulation, or agency policy or practice; or

(e) A description of any action taken or recommended as a result of the investigation including, but not limited to:

(i) Changes in agency rules, regulations, practices, or policies;

(ii) Disciplining the employees involved; or

(iii) Referring evidence of a criminal violation to the Attorney General.

(5) A copy of every report prepared pursuant to subsection (3) of this section shall be retained in the files of the Public Counsel. If the contents of the report indicate a wrongdoing exists or has occurred, the report shall become a matter of public record at the time it is transmitted pursuant to subsection (4) of this section unless the Public Counsel determines its release would impede an ongoing investigation.

(6) When the Public Counsel terminates a preliminary investigation or when the Public Counsel terminates a formal investigation of an allegation of wrongdoing, the Public Counsel shall, in writing, promptly notify the employee who made the allegation.

Source: Laws 1993, LB 44, § 4; Laws 1995, LB 856, § 1.

81-2705 Employee protections.

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

(1) Take personnel action against an employee because of the disclosure of information by the employee to the Public Counsel or an official which the employee reasonably believes evidences wrongdoing;

(2) Take personnel action against an employee as a reprisal for the submission of an allegation of wrongdoing or a violation of this section to the Public Counsel or official by such employee; or

(3) Take personnel action against an employee as a reprisal for providing information or testimony, pursuant to an investigation or hearing held under the State Government Effectiveness Act, to the Public Counsel, an official, the State Personnel Board, a corresponding personnel appeals board, or the director or chief operating officer of an agency.

Source: Laws 1993, LB 44, § 5.

81-2706 Employee protections; Public Counsel; powers and duties.

(1) The Public Counsel shall receive any allegation of a violation of section 81-2705 and investigate to determine whether there are grounds to believe that a violation has occurred or is about to occur.

(2) When investigating an allegation of a violation of section 81-2705, the Public Counsel shall have access to all information maintained by any agency or employee directly or indirectly involved.

(3) If the Public Counsel terminates the investigation of an alleged violation of section 81-2705, the Public Counsel shall, in writing, promptly inform the employee who raised the allegation.

(4) If the Public Counsel finds that there are grounds to believe by a preponderance of the evidence that a violation of section 81-2705 has occurred or is about to occur, he or she shall transmit his or her finding in writing to the employee who raised the allegation. The Public Counsel shall also transmit his or her finding in writing to the Governor and (a) the State Personnel Board if the employee is employed by an agency that is subject to the State Personnel System or (b) the personnel appeals board of the employee's agency if the employee is employed by an agency that is not subject to the state personnel system. If no such personnel appeals board exists, the Public Counsel shall transmit his or her finding to the director or chief operating officer of the agency, or if the director or chief operating officer has committed or is about to commit the violation of section 81-2705, the finding shall be transmitted to the Governor or his or her authorized representative.

(5) Any finding that is made and transmitted by the Public Counsel pursuant to subsection (4) of this section shall include a finding regarding whether an alleged violation of section 81-2705 has occurred or will occur within two years after the date the employee engaged in an action for which he or she is protected from retaliation pursuant to section 81-2705.

Source: Laws 1993, LB 44, § 6; Laws 1995, LB 856, § 2; Laws 1997, LB 15, § 1.

81-2707 Employee protections; preliminary finding of violation; hearings; relief authorized; appeal; presumption; attorney's fees.

(1) Upon receiving the Public Counsel's finding that a violation of section 81-2705 has occurred or is about to occur, the employee who raised the allegation may petition the State Personnel Board, personnel appeals board, or director or chief operating officer of the agency to hold a hearing to determine whether a violation of section 81-2705 has occurred or is about to occur. Upon the receipt of such a petition, the State Personnel Board, personnel appeals board, or director or chief operating officer of the agency shall within ninety days hold a hearing to determine whether a violation of section 81-2705 has occurred or is about to occur. If the finding transmitted by the Public Counsel pursuant to section 81-2706 includes a finding that the alleged violation of section 81-2705 has occurred or will occur within two years after the date the employee engaged in an action for which he or she is protected from retaliation pursuant to section 81-2705, the State Personnel Board, personnel appeals board, or director or chief operating officer of the agency may, without further proceedings, stay or reverse the personnel action until a hearing can be held to determine if a violation of section 81-2705 is contemplated or has occurred. In any case in which the personnel action is not stayed or reversed until a hearing is held pursuant to this subsection, the State Personnel Board, personnel appeals board, or director or chief operating officer of the agency shall within ten days of receipt of the employee's petition hold a hearing to determine whether a violation of section 81-2705 has occurred or is about to occur. In any case in which the personnel action is stayed or reversed pursuant to this subsection, the board, director, or chief operating officer shall within ninety days hold a hearing to determine whether a violation has occurred or is about to occur. The employee may be represented by counsel at such hearing.

(2) After determining that a violation has occurred, the State Personnel Board, personnel appeals board, or director or chief operating officer of the agency shall be authorized to grant backpay or other relief as it deems appropriate, including reasonable attorney's fees. The relief authorized in this subsection, including reasonable attorney's fees, shall be paid from funds of the agency in which the violation occurred.

(3) An employee or agency aggrieved by the decision rendered pursuant to subsection (2) of this section may appeal such decision. The appeal shall be in accordance with the Administrative Procedure Act. An employee prevailing on appeal shall receive reasonable attorney's fees incurred during the appeal and any previous hearings held on the matter appealed pursuant to this section.

(4) In any proceeding held pursuant to this section, if an employee establishes that a personnel action was taken against him or her after he or she submitted an allegation of wrongdoing or provided information to the Public Counsel, his or her investigators, employees, or agents, or an official in conjunction with a preliminary or formal investigation undertaken pursuant to section 81-2704, the personnel action shall be presumed to have been taken against such employee because of such allegation. Such presumption may be rebutted by appropriate evidence.

(5) No appeal by the state shall operate as a supersedeas of any judgment, decision, or order of a district court or the Court of Appeals in any matter relating to the enforcement of the State Government Effectiveness Act.

Source: Laws 1993, LB 44, § 7; Laws 1995, LB 856, § 3; Laws 1997, LB 15, § 2.

Cross References

Administrative Procedure Act, see section 84-920.

81-2708 Allegation of wrongdoing or violation of employee protection; official; powers.

An official who receives an allegation of wrongdoing or of a violation of section 81-2705 may conduct a preliminary investigation of such allegation or submit such allegation to the Public Counsel for investigation pursuant to section 81-2704 or 81-2706. A copy of any written findings issued by the Public Counsel pursuant to such an investigation shall be transmitted to the official submitting the allegation.

Source: Laws 1993, LB 44, § 8.

81-2709 Employee; cause of action authorized; attorney's fees; presumption.

(1) An employee aggrieved by the decision rendered pursuant to subsection (1) of section 81-2707 who has been or is about to be injured by a violation of section 81-2705 shall be entitled to maintain a cause of action pursuant to the Administrative Procedure Act for damages, reinstatement, backpay, and such other relief, including preliminary relief, as the court may deem appropriate. An employee who prevails in an action under this subsection shall receive reasonable attorney's fees incurred during the action.

(2) In an action brought pursuant to subsection (1) of this section by an employee who establishes that a personnel action was taken against him or her after he or she submitted an allegation of wrongdoing or provided information to the Public Counsel, his or her investigators, employees, or agents, or an official in conjunction with a preliminary or formal investigation undertaken pursuant to section 81-2704, the personnel action shall be presumed to have been taken against such employee because of such allegation. Such presumption may be rebutted by appropriate evidence.

Source: Laws 1993, LB 44, § 9.

Cross References

Administrative Procedure Act, see section 84-920.

81-2710 Intentional misuse of act; disciplinary action.

No employee shall intentionally misuse the State Government Effectiveness Act. Intentional misuse shall include frivolous use, attempts to treat a personnel grievance as an allegation of wrongdoing, and repeated attempts to use such procedures to obtain a resolution of views that do not satisfy the criteria prescribed in subdivision (5) of section 81-2703 for allegations of wrongdoing. The Public Counsel or official may report to the agency any employee found by the Public Counsel or official to have intentionally misused the act, and such employee may be subject to such disciplinary action as is deemed appropriate by the director or chief operating officer of the employee's agency.

Source: Laws 1993, LB 44, § 10.

81-2711 Employee rights and responsibilities; notice required.

(1) By December 31, 2005, the Public Counsel shall prepare for agencies a written notice of the rights and responsibilities of employees under the State

Government Effectiveness Act. By January 31, 2006, the Public Counsel shall distribute the written notice to each agency.

(2) Beginning January 31, 2006, each agency shall post the notice in a conspicuous manner at the place of employment. Each agency shall inform its employees of their rights and responsibilities under the State Government Effectiveness Act by distributing the notice to each employee in print or electronic format.

Source: Laws 2005, LB 475, § 1.

ARTICLE 28

RAILROAD RIGHT-OF-WAY

Section

81-2801. Railroad right-of-way; acquisition by state agency; approval of Legislature; exception.

81-2801 Railroad right-of-way; acquisition by state agency; approval of Legislature; exception.

No agency of this state shall purchase, lease, or acquire real estate from any railroad over a right-of-way outside of incorporated cities and villages which has been permitted to be abandoned by a federal agency without prior approval by the Legislature of such purchase, lease, or acquisition, except that (1) the Game and Parks Commission may acquire all or any part of a railroad right-of-way proposed to be abandoned for interim trail use pursuant to sections 37-303 and 37-914 and (2) the Department of Transportation may acquire such real estate solely for the purpose of highway construction or improvements when such right-of-way is adjacent to an existing state highway or when such right-of-way is needed to maintain existing improvements that have previously been located upon such right-of-way through agreements, easements, or leases. Real estate acquired by the department pursuant to this section which is in excess of that needed or is deemed no longer necessary shall be disposed of as provided for in section 39-1325.

Source: Laws 1971, LB 662, § 2; Laws 1983, LB 119, § 1; R.S.1943, (1990), § 74-424; Laws 1994, LB 414, § 4; Laws 1996, LB 584, § 21; Laws 1998, LB 922, § 410; Laws 2017, LB339, § 290.

ARTICLE 29

STATE CIVIL OFFICERS

Section

81-2901. State civil offices; vacancy; how filled.

81-2901 State civil offices; vacancy; how filled.

Every state civil office filled by appointment shall be vacant upon the happening of any one of the events listed in section 32-560 except as provided in section 32-561. The resignation of the incumbent of such a civil office may be made as provided in section 32-562. Vacancies in such a civil office shall be filled as provided in sections 32-567 and 32-574 and shall be subject to section 32-563.

Source: Laws 1994, LB 76, § 609; Laws 2015, LB575, § 30.

ARTICLE 30

NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM ACT

Section	
81-3001.	Repealed. Laws 2007, LB 296, § 815.
81-3001.01.	Repealed. Laws 2007, LB 296, § 815.
81-3002.	Repealed. Laws 2003, LB 467, § 22.
81-3002.01.	Repealed. Laws 2003, LB 467, § 22.
81-3003.	Repealed. Laws 2003, LB 467, § 22.
81-3004.	Repealed. Laws 2007, LB 296, § 815.
81-3005.	Repealed. Laws 2003, LB 467, § 22.
81-3006.	Repealed. Laws 2007, LB 296, § 815.
81-3007.	Repealed. Laws 2003, LB 467, § 22.
81-3007.01.	Repealed. Laws 2007, LB 296, § 815.
81-3008.	Repealed. Laws 2007, LB 296, § 815.
81-3009.	Repealed. Laws 2007, LB 296, § 815.
81-3010.	Repealed. Laws 2003, LB 467, § 22.
81-3011.	Repealed. Laws 2003, LB 467, § 22.
81-3012.	Repealed. Laws 2003, LB 467, § 22.
81-3013.	Repealed. Laws 2003, LB 467, § 22.
81-3014.	Repealed. Laws 2003, LB 467, § 22.

81-3001 Repealed. Laws 2007, LB 296, § 815.

81-3001.01 Repealed. Laws 2007, LB 296, § 815.

81-3002 Repealed. Laws 2003, LB 467, § 22.

81-3002.01 Repealed. Laws 2003, LB 467, § 22.

81-3003 Repealed. Laws 2003, LB 467, § 22.

81-3004 Repealed. Laws 2007, LB 296, § 815.

81-3005 Repealed. Laws 2003, LB 467, § 22.

81-3006 Repealed. Laws 2007, LB 296, § 815.

81-3007 Repealed. Laws 2003, LB 467, § 22.

81-3007.01 Repealed. Laws 2007, LB 296, § 815.

81-3008 Repealed. Laws 2007, LB 296, § 815.

81-3009 Repealed. Laws 2007, LB 296, § 815.

81-3010 Repealed. Laws 2003, LB 467, § 22.

81-3011 Repealed. Laws 2003, LB 467, § 22.

81-3012 Repealed. Laws 2003, LB 467, § 22.

81-3013 Repealed. Laws 2003, LB 467, § 22.

81-3014 Repealed. Laws 2003, LB 467, § 22.

ARTICLE 31

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Cross References

Uniform Credentialing Act, see section 38-101.

STATE ADMINISTRATIVE DEPARTMENTS

- Section
- 81-3101. Repealed. Laws 2007, LB 296, § 815.
- 81-3102. Repealed. Laws 2007, LB 296, § 815.
- 81-3103. Repealed. Laws 2007, LB 296, § 815.
- 81-3104. Repealed. Laws 2003, LB 467, § 22.
- 81-3105. Repealed. Laws 2003, LB 467, § 22.
- 81-3106. Repealed. Laws 2007, LB 296, § 815.
- 81-3107. Repealed. Laws 2007, LB 296, § 815.
- 81-3108. Repealed. Laws 2007, LB 296, § 815.
- 81-3109. Repealed. Laws 2007, LB 296, § 815.
- 81-3110. Act, how cited.
- 81-3111. Purposes of act.
- 81-3112. Programs, services, and duties transferred to Department of Health and Human Services.
- 81-3113. Department of Health and Human Services created; divisions.
- 81-3114. Chief executive officer; qualifications.
- 81-3115. Division directors; appointment; chief medical officer; duties.
- 81-3116. Responsibilities of divisions.
- 81-3117. Chief executive officer; duties.
- 81-3118. Confidential information; how treated; duties.
- 81-3119. Health and Human Services Cash Fund; created; use; investment.
- 81-3120. Petty cash funds authorized.
- 81-3121. Contracts, documents, funds, and records of departments transferred to Department of Health and Human Services; how treated.
- 81-3122. Rules, regulations, orders, judicial or administrative proceedings, and references in law; how treated.
- 81-3123. Employees of departments transferred to Department of Health and Human Services; how treated.
- 81-3124. Property of departments transferred to Department of Health and Human Services; how treated.
- 81-3125. Personnel who work with sex offenders; duties; department; maintain records; contents.
- 81-3126. Chief executive officer; disclosure of information relating to certain children authorized; limitations; release of criminal history record check results.
- 81-3127. Program administration; terms, defined.
- 81-3128. Program administration; staffing; considerations; caseworkers; activities; appointments; equipment.
- 81-3129. Program administration; services for clients; dedicated caseworkers; specialized department employees or units.
- 81-3130. Program administration; community support specialists; duties; training required.
- 81-3131. Program administration; contracts with community-based organizations authorized; Department of Health and Human Services; duties.
- 81-3132. Program administration; Department of Health and Human Services; implement requirements; report.
- 81-3133. Division of Children and Family Services; reports; strategic plan; key goals; benchmarks; progress reports.
- 81-3133.01. Division of Behavioral Health; strategic plan; key goals; benchmarks; progress reports.
- 81-3133.02. Division of Developmental Disabilities; strategic plan; key goals; benchmarks; progress reports.
- 81-3133.03. Division of Medicaid and Long-Term Care; strategic plan; key goals; benchmarks; progress reports.
- 81-3134. Report to legislative committees; access of individuals with co-occurring conditions of intellectual disability and mental illness to services; report; contents.
- 81-3135. Repealed. Laws 2022, LB1173, § 23.
- 81-3136. Department of Health and Human Services; develop model for alternative response to reports of child abuse or neglect; contents; report.

Section	
81-3137.	Procurement of managed care for long-term care services and support; request for proposals; restriction.
81-3138.	System of home and community-based long-term care services; grant application; department; duties; report.
81-3139.	Health Care Homes for the Medically Underserved Fund; created; purpose; investment.
81-3140.	Health Care Homes for the Medically Underserved Fund; distribution; use.
81-3141.	Limited Temporary Guardian Aid Program; covered county; state aid; legislative intent regarding appropriations.
81-3142.	HCBS Enhanced FMAP Fund; created; use; investment.
81-3143.	Department of Health and Human Services; Temporary Assistance for Needy Families program; funds; state plan amendment.
81-3144.	Temporary Assistance for Needy Families program funds; report.
81-3145.	Intergenerational Care Facility Incentive Grant Program; requirements; eligibility; use; priority.

81-3101 Repealed. Laws 2007, LB 296, § 815.

81-3102 Repealed. Laws 2007, LB 296, § 815.

81-3103 Repealed. Laws 2007, LB 296, § 815.

81-3104 Repealed. Laws 2003, LB 467, § 22.

81-3105 Repealed. Laws 2003, LB 467, § 22.

81-3106 Repealed. Laws 2007, LB 296, § 815.

81-3107 Repealed. Laws 2007, LB 296, § 815.

81-3108 Repealed. Laws 2007, LB 296, § 815.

81-3109 Repealed. Laws 2007, LB 296, § 815.

81-3110 Act, how cited.

Sections 81-3110 to 81-3124 and 81-3133.01 to 81-3133.03 shall be known and may be cited as the Health and Human Services Act.

Source: Laws 2007, LB296, § 1; Laws 2014, LB974, § 11.

81-3111 Purposes of act.

The purposes of the Health and Human Services Act are to (1) provide for the administration of publicly funded health and human services programs and services in the State of Nebraska through the Department of Health and Human Services; (2) transfer programs, services, and duties of the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support to a single state agency to be known as the Department of Health and Human Services; (3) create six divisions within the Department of Health and Human Services; (4) require the appointment by the Governor of a single chief executive officer for the department, a director for each of the six divisions of the department, and a chief medical officer; and (5) clarify the department's core missions, scope, functions, and responsibilities; ensure and improve accountability, collaboration, and coordination; and enhance services provided to Nebraskans by the department.

Source: Laws 2007, LB296, § 2.

81-3112 Programs, services, and duties transferred to Department of Health and Human Services.

Effective July 1, 2007, all programs, services, and duties of the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support shall be transferred to the Department of Health and Human Services.

Source: Laws 2007, LB296, § 3.

81-3113 Department of Health and Human Services created; divisions.

The Department of Health and Human Services is created. The department shall have five divisions to be known as (1) the Division of Behavioral Health, (2) the Division of Children and Family Services, (3) the Division of Developmental Disabilities, (4) the Division of Medicaid and Long-Term Care, and (5) the Division of Public Health.

Source: Laws 2007, LB296, § 4; Laws 2017, LB340, § 18.

81-3114 Chief executive officer; qualifications.

The Governor shall appoint the chief executive officer of the Department of Health and Human Services who shall have recognized and demonstrated knowledge and expertise in the delivery of publicly funded health and human services programs and services and administrative experience in an executive capacity. The chief executive officer shall report to the Governor and serve at the pleasure of the Governor. The chief executive officer shall be subject to confirmation by a majority vote of the members of the Legislature.

Source: Laws 2007, LB296, § 5.

81-3115 Division directors; appointment; chief medical officer; duties.

(1) The Governor shall appoint a director for each division created in section 81-3113 who shall serve at the pleasure of the Governor and shall report to the chief executive officer. Each division director shall be subject to confirmation by a majority of the members of the Legislature.

(2) If the Director of Public Health is licensed to practice medicine and surgery in the State of Nebraska, he or she shall also be the chief medical officer. If the Director of Public Health is not licensed to practice medicine and surgery in the State of Nebraska, the Governor shall appoint a chief medical officer in addition to the Director of Public Health. The chief medical officer shall be licensed to practice medicine and surgery in the State of Nebraska, shall serve at the pleasure of the Governor, and shall be subject to confirmation by a majority of the members of the Legislature.

(3) The chief medical officer shall perform duties under the Uniform Credentialing Act as provided in section 38-1,101, shall be the final decisionmaker in contested cases of health care facilities defined in the Health Care Facility Licensure Act arising under the act and sections 71-6042, 71-6732, and 81-604.03, and shall perform such other duties as provided by law.

Source: Laws 2007, LB296, § 6; Laws 2007, LB463, § 1315.

Cross References

Health Care Facility Licensure Act, see section 71-401.
Uniform Credentialing Act, see section 38-101.

81-3116 Responsibilities of divisions.

The responsibilities of the divisions created in section 81-3113 include, but are not limited to, the following:

(1) The Division of Behavioral Health shall administer (a) the state hospitals for the mentally ill designated in section 83-305 and (b) publicly funded community-based behavioral health services;

(2) The Division of Children and Family Services shall administer (a) protection and safety programs and services, including child welfare programs and services and the Office of Juvenile Services, (b) economic and family support programs and services, and (c) service areas as may be designated by the chief executive officer or by the Director of Children and Family Services under authority of the chief executive officer, except that on and after September 1, 2012, the western, central, and northern service areas shall be aligned to be coterminous with the district court judicial districts described in section 24-301.02;

(3) The Division of Developmental Disabilities shall administer (a) the Beatrice State Developmental Center and (b) publicly funded community-based developmental disabilities services;

(4) The Division of Medicaid and Long-Term Care shall administer (a) the medical assistance program also known as medicaid, (b) aging services, and (c) other related programs and services; and

(5) The Division of Public Health shall administer (a) preventive and community health programs and services, (b) the regulation and licensure of health-related professions and occupations, and (c) the regulation and licensure of health care facilities and health care services.

Source: Laws 2007, LB296, § 7; Laws 2012, LB961, § 4; Laws 2017, LB340, § 19.

81-3117 Chief executive officer; duties.

The chief executive officer of the Department of Health and Human Services shall:

(1) Supervise and be responsible for the administration of the department and the appointment and removal of employees;

(2) Manage services and programs of the department, whether contracted or delivered directly by the state, including, but not limited to: (a) Delegating appropriate powers and duties to division directors and employees of the department; (b) assuring coordination throughout the department for consumers of services; (c) providing services in accordance with established policies, desired outcomes, priorities, and goals; (d) identifying strategies jointly with communities for accomplishing identified goals and outcomes; and (e) assuring service coordination and access through public education and information, community resource development, technical assistance, and coordinated service management;

(3) Enter into such agreements as may be necessary or appropriate to provide services and manage funds as provided under the Health and Human Services

Act, including the administration of federal funds granted to the state in the furtherance of the activities of the department;

(4) Allow for the transfer of personnel and for the authority of one division of the department to act as the agent for another division of the department in carrying out certain services or functions, or a portion of them, or for the joint implementation of public or private grants or performance of contracts;

(5) Recommend to the Legislature and the Governor legislation he or she deems necessary or appropriate;

(6) Consult and cooperate with other state agencies so as to coordinate activities in an effective manner with related activities in other agencies;

(7) Adopt and promulgate necessary rules and regulations to implement programs and activities as required by state law or under federal law or regulation governing federal funds, grants, or contracts administered by the department. The authority to adopt and promulgate rules and regulations may be delegated by the chief executive officer to the division directors of the department;

(8) Under the direction and guidance of the Adjutant General and the Nebraska Emergency Management Agency, to coordinate assistance programs established by the Adjutant General under section 81-829.72 with the programs of the department;

(9) Coordinate budget, research, and data collection efforts to insure effectiveness of the department;

(10) Ensure that the Appropriations Committee of the Legislature is provided any information the committee requires to make funding determinations and budget recommendations to the Legislature, including, but not limited to, specific program budgets, internal budget requests, fiscal reports, and appearances by division directors, division administrators, program administrators, and subprogram directors before the committee to present department, division, program, and subprogram budget requests;

(11) Seek grants and other funds from federal and other public and private sources to carry out the purposes of the act and the missions and purposes of the department and to accept and administer programs or resources delegated, designated, assigned, or awarded by the Governor or by other public and private sources;

(12) Act as the agent of the federal government in matters of mutual concern in conformity with the Health and Human Services Act and the scope of authority of the department as provided by law;

(13) Facilitate joint planning initiatives in the department;

(14) Adopt and promulgate confidentiality rules and regulations as provided in section 81-3118;

(15) Delegate the authority to act as decisionmaker in contested cases to the division directors;

(16) Encourage and direct initiatives and collaboration in the department; and

(17) Perform such other duties as are provided by law.

Source: Laws 2007, LB296, § 8.

81-3118 Confidential information; how treated; duties.

(1) The chief executive officer of the Department of Health and Human Services may adopt and promulgate rules and regulations which prescribe standards and procedures for access to and security of confidential information among the divisions within the department and within each division. These include standards for collection, maintenance, and use of information in electronic or other storage media. Procedures for disclosure of confidential information among the divisions shall include a determination by the chief executive officer on whether confidential information should be shared among the divisions. In making the determination, the following factors shall be considered:

(a) The law governing the confidentiality of the information and the original purpose for which the information was collected;

(b) The potential for harm to an individual if the disclosure is made;

(c) Whether the disclosure will enhance the coordination of policy development, service provision, eligibility determination, program management, quality assurance, financial services, or support services;

(d) Whether the information is a trade secret, academic or scientific research work which is in progress and unpublished, or other proprietary or commercial information;

(e) Any limitations placed on the use of the information by the original source of the information;

(f) Whether the proposed use is for a bona fide research project or study, the procedures and methodology of which meet the standards for research in the particular body of knowledge;

(g) The security of the information, including the scope of access, ongoing security, publication, and disposal of the information at the end of its use;

(h) The degree to which aggregate or summary data may identify an individual whose privacy would otherwise be protected; and

(i) Whether such information constitutes criminal intelligence information maintained by correctional or law enforcement authorities.

(2) Otherwise confidential information may be disclosed among the divisions pursuant to subsection (1) of this section if not expressly prohibited by law. Such disclosure shall not be considered a public disclosure or make the record a public record. Any further disclosure may be made only if permitted by law or a policy governing the originating division. Each division shall observe confidentiality of human resources information and employment records, except that the divisions shall act and be considered to be one agency for purposes of human resources issues, employment records, and related matters.

(3) All officials and employees shall be informed regarding laws, rules and regulations, and policies governing confidential information and acknowledge receipt of that information.

Source: Laws 2007, LB296, § 9.

81-3119 Health and Human Services Cash Fund; created; use; investment.

(1) The Health and Human Services Cash Fund is created and shall consist of funds from contracts, grants, gifts, or fees. The fund may also consist of transfers from the Nebraska Opioid Recovery Trust Fund.

(2) Any money transferred from the Nebraska Opioid Recovery Trust Fund shall be used for staff to carry out the Overdose Fatality Review Teams Act, in accordance with the terms and conditions of the litigation or settlement that is the source of the money. Any other money in the Health and Human Services Cash Fund may be transferred to the General Fund at the direction of the Legislature.

(3) 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; Laws 2015, LB661, § 36; Laws 2024, LB1355, § 17.

Operative date July 1, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

Overdose Fatality Review Teams Act, see section 71-3422.

81-3120 Petty cash funds authorized.

The chief executive officer of the Department of Health and Human Services may request that petty cash funds be created at specific locations which may be used for fees and costs related to the prosecution of support establishment, modification, and enforcement cases, including, but not limited to, court costs, filing fees, service of process fees, sheriff's costs, garnishment and execution fees, court reporter and transcription costs, costs related to appeals, witness and expert witness fees, and fees or costs for obtaining necessary documents. The petty cash funds shall be created and administered as provided in section 81-104.01, except that the amount in each petty cash fund shall not be less than twenty-five dollars nor more than two thousand dollars.

Source: Laws 2007, LB296, § 11; Laws 2011, LB265, § 1.

81-3121 Contracts, documents, funds, and records of departments transferred to Department of Health and Human Services; how treated.

On and after July 1, 2007, whenever the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure is referred to or designated by any contract or other document in connection with the duties and functions transferred to the Department of Health and Human Services pursuant to the Health and Human Services Act, such reference or designation shall apply to such department. All contracts entered into by the agencies prior to July 1, 2007, in connection with the duties and functions transferred to the department are hereby recognized, with the department succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to the department for the payments of such obligations. All licenses, certificates, registrations, permits, seals, or other forms of approval issued by the departments in accordance with functions or duties transferred to the department shall remain valid as issued under the names of

the original departments unless revoked or their effectiveness is otherwise terminated as provided by law. All documents and records transferred, or copies of the same, may be authenticated or certified by the department for all legal purposes.

Source: Laws 2007, LB296, § 12.

81-3122 Rules, regulations, orders, judicial or administrative proceedings, and references in law; how treated.

All rules, regulations, and orders of the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure or their predecessor agencies adopted prior to July 1, 2007, in connection with the powers, duties, and functions transferred to the Department of Health and Human Services pursuant to the Health and Human Services Act, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2007, or which could have been commenced prior to that date, by or against any of such departments, or any director or employee thereof in such director's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure to the Department of Health and Human Services.

On and after July 1, 2007, unless otherwise specified, whenever any provision of law refers to the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure in connection with duties and functions transferred to the Department of Health and Human Services, such law shall be construed as referring to such department.

Source: Laws 2007, LB296, § 13.

81-3123 Employees of departments transferred to Department of Health and Human Services; how treated.

On and after July 1, 2007, positions of employment in the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, and the Department of Health and Human Services Regulation and Licensure related to the powers, duties, and functions transferred pursuant to the Health and Human Services Act are transferred to the Department of Health and Human Services. For purposes of the transition, employees of the former departments shall be considered employees of the Department of Health and Human Services and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the divisions or the chief executive officer of the Department of Health and Human Services from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not

an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2007, LB296, § 14.

81-3124 Property of departments transferred to Department of Health and Human Services; how treated.

On July 1, 2007, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, and the Department of Health and Human Services Regulation and Licensure pertaining to the duties and functions transferred to the Department of Health and Human Services pursuant to the Health and Human Services Act shall become the property of such department.

Source: Laws 2007, LB296, § 15.

81-3125 Personnel who work with sex offenders; duties; department; maintain records; contents.

(1) The personnel of the Department of Health and Human Services who work with sex offenders shall develop, maintain, and adhere to written policies or administrative rules and regulations governing the transfer and discharge of sex offenders treated in a program of the department. At a minimum, the policies or rules and regulations shall contain:

(a) Specific requirements regarding treatment that sex offenders are required to meet in order to be transferred from one sex offender treatment unit to another or to be discharged from treatment; and

(b) A list of the personnel of the department who are required to review and document their opinions regarding the treatment progress of each sex offender prior to his or her transfer or discharge.

(2) The department shall maintain, along with each sex offender's permanent medical records, complete treatment records for sex offenders treated in a program of the department, including documentation of the reason behind transfer and discharge decisions. At a minimum, each sex offender's records shall contain:

(a) Detailed documentation that the sex offender has or has not met the requirements for transfer or discharge; and

(b) Signed comments from all personnel of the department required to review the sex offender's treatment progress prior to his or her transfer or discharge.

Source: Laws 2007, LB610, § 1.

81-3126 Chief executive officer; disclosure of information relating to certain children authorized; limitations; release of criminal history record check results.

(1) For purposes of this section:

(a) Chief executive officer means the chief executive officer of the Department of Health and Human Services;

(b) Child abuse or neglect has the same meaning as in section 28-710;

(c) Child fatality means the death of a child from suspected abuse, neglect, or maltreatment as determined by the county coroner or county attorney;

- (d) Department means the Department of Health and Human Services;
 - (e) Director means the Director of Children and Family Services;
 - (f) Division means the Division of Children and Family Services of the Department of Health and Human Services; and
 - (g) Near fatality means a case in which an examining physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.
- (2) Notwithstanding any other provision of state law, the chief executive officer or director may disclose information regarding child abuse or neglect and the investigation of and any services related to the child abuse and neglect if the chief executive officer or director determines that such disclosure is not contrary to the best interests of the child, the child's siblings, or other children in the household, and any one of the following factors is present:
- (a) The alleged perpetrator of the child abuse or neglect has been charged with committing a crime related to the report of child abuse or neglect maintained by the division;
 - (b) A judge, a law enforcement agency official, a county attorney, or another state or local investigative agency or official has publicly disclosed the provision of services related to or the investigation of the child abuse or neglect;
 - (c) An individual who is the parent, custodian, foster parent, provider, or guardian of the victim or a child victim over fourteen years of age has made a prior knowing, voluntary, public disclosure;
 - (d) The information relates to a child fatality or near fatality;
 - (e) The information is released to confirm, clarify, or correct information concerning an allegation or actual instance of child abuse or neglect which has been made public by sources outside the department; or
 - (f) A child who is in the custody of the department is missing from his or her placement, in which case the chief executive officer or director may release the name and physical description of the child.
- (3) Information that may be disclosed includes, but is not limited to, child placement, whether in-home or out-of-home, terms of contact, hearing dates, the reason for removal from parents or placement, the number of placements and type, permanency objectives, court-ordered services or other services provided by the division, and status of the court process. The following information shall not be released by the chief executive officer or director absent a court order: Date of birth, social security number, protected health information, the name of the person who made the report of child abuse or neglect pursuant to section 28-711, and names of foster parents, unless the foster parent is the alleged perpetrator.
- (4) The chief executive officer or director may release the results of criminal history record checks that have been completed by the division as authorized by law.
- (5) For purposes of this section, the best interests of the child, the child's siblings, or other children in the household does not allow the disclosure of information that would impede a pending or current criminal investigation by a law enforcement agency.

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

Source: Laws 2008, LB782, § 1.

81-3127 Program administration; terms, defined.

For purposes of sections 81-3127 to 81-3132:

(1) Client means an applicant for one or more economic assistance programs or his or her legal representative;

(2) Community-based organization means:

(a) An area agency on aging established pursuant to the Nebraska Community Aging Services Act;

(b) A Nebraska-based community action agency designated under the federal Economic Opportunity Act of 1964, 42 U.S.C. 2701 et seq.;

(c) A Nebraska-based center for independent living established under the federal Rehabilitation Act of 1973, 29 U.S.C. 701 et seq., as such act existed on January 1, 2012;

(d) A Nebraska-based rural health clinic established under the federal Rural Health Clinics Act of 1983, 42 U.S.C. 201 et seq., as such act existed on January 1, 2012;

(e) A Nebraska-based federally qualified health center and rural health clinic as such terms are defined in the federal Social Security Act, 42 U.S.C. 1395x(aa), as such section existed on January 1, 2012; and

(f) Any other organization that demonstrates to the Department of Health and Human Services that it can comply with the requirements of subsection (2) of section 81-3131;

(3) Economic assistance programs includes aid to dependent children; aid to the aged, blind, and disabled; Supplemental Nutrition Assistance Program; medicaid; child care; emergency assistance; energy assistance; social services block grants; and other similar programs administered by the department; and

(4) Existing local office means all office locations for economic assistance programs of the Department of Health and Human Services that existed on January 1, 2012.

Source: Laws 2012, LB825, § 1.

Cross References

Nebraska Community Aging Services Act, see section 81-2201.

81-3128 Program administration; staffing; considerations; caseworkers; activities; appointments; equipment.

(1) The Department of Health and Human Services shall staff multiple, integrated access points for economic assistance programs administered by the department in order to assure that Nebraskans who rely on such programs will be able to utilize them effectively.

(2) The department shall staff existing local offices that provide access to economic assistance programs throughout the state with caseworkers to provide in-person services to department clients. The department shall provide sufficient numbers and hours of staff to perform the activities described in this section and section 81-3129.

(3) The department shall determine appropriate numbers and hours of staff for each existing local office based on a review of the need in each service area. In determining the appropriate numbers and hours of staff, the department shall, at a minimum, consider: (a) The need for staff to travel to community-based organizations as provided in section 81-3131; (b) the volume of economic assistance cases in the counties served by the existing local office; (c) the number of community-based organizations in the counties served by the existing local office; (d) the volume of call-center calls originating in the counties served by the existing local office; and (e) the requirements of sections 81-3127 to 81-3131.

(4) Caseworkers at existing local offices shall perform the following activities by appointment and on a drop-in basis:

- (a) Help clients complete assistance and renewal applications;
- (b) Screen clients for program eligibility;
- (c) Interview clients for assistance eligibility and assistance renewal eligibility;
- (d) Determine program eligibility of the client; and
- (e) Answer client questions in person.

(5) Department call centers for economic assistance programs shall take appointments for face-to-face help for clients regarding or relating to such assistance upon request of the client.

(6) Each existing local office shall be equipped with a reasonable number of computers, telephones, and scanning equipment for client use.

Source: Laws 2012, LB825, § 2.

81-3129 Program administration; services for clients; dedicated caseworkers; specialized department employees or units.

(1) The Department of Health and Human Services shall provide high-quality services for clients who apply for or receive benefits under public benefit programs administered by the department.

(2) The department shall utilize department caseworkers who are located in call centers, dedicated caseworkers, and specialized department employees or units who will provide in-person assistance to specific clients.

(3) Upon the request of the client, dedicated caseworkers shall, at a minimum, be utilized for persons with chronic physical or mental disorders and the elderly that require the provision of medical and personal care services on a recurring or continuing basis.

(4) Specialized department employees or units shall, at a minimum, be utilized for complex cases, including medicaid waiver cases, medicaid spousal impoverishment cases, disability cases, and other similar cases upon request of the client.

(5) The dedicated caseworkers and specialized department employees or units shall be placed in the existing local offices and shall be accessible to department caseworkers in call centers.

Source: Laws 2012, LB825, § 3.

81-3130 Program administration; community support specialists; duties; training required.

(1) Community support specialists within the Department of Health and Human Services shall:

(a) Act as a liaison between the department and community-based organizations;

(b) Facilitate client assistance by community-based organizations;

(c) Train community-based organizations in how to help clients access economic assistance programs through the department website; and

(d) Respond to client problems with the application process known as Access Nebraska or its successor.

(2) The department shall determine the appropriate numbers and hours of community support specialists but shall, at a minimum, employ eight community support specialists to perform the requirements of subsection (1) of this section. The community support specialists shall receive annual training in:

(a) Principles and practices of public administration;

(b) Procedure and policy development; and

(c) Federal and state laws, rules, regulations, and procedures pertaining to health and human services programs.

Source: Laws 2012, LB825, § 4.

81-3131 Program administration; contracts with community-based organizations authorized; Department of Health and Human Services; duties.

(1) The Department of Health and Human Services shall enter into contracts with community-based organizations which allow the department to keep caseworkers present at the community-based organization at the times specified in the contract. A contract under this section shall specify sufficient times to allow caseworkers to:

(a) Screen and conduct interviews for assistance eligibility and assistance renewal;

(b) Assist clients with assistance applications and renewals;

(c) Receive assistance applications and renewals;

(d) Answer questions in person;

(e) Train and provide technical assistance to staff of community-based organizations; and

(f) Conduct face-to-face interviews with clients by appointment and on a drop-in basis.

(2) In addition to the requirements specified in subsection (1) of this section, each such contract shall allow the community-based organization to:

(a) Provide quality, accurate information relating to economic assistance programs that are targeted at populations known to have low participation rates in or difficulty accessing such assistance programs;

(b) Provide quality outreach to clients in the target populations who utilize economic assistance programs;

(c) Assist clients in scheduling appointments with caseworkers at a community-based organization facility or local office that provides access to economic assistance programs, whichever the client prefers;

(d) Assist with organization of information required for economic assistance application or renewal; and

(e) Negotiate fair compensation for services provided to applicants for economic assistance benefits as described in this section.

(3) The department shall maintain a sufficient number of contracts to provide access to assistance for all Nebraska citizens in establishing and maintaining eligibility for economic assistance programs. In determining the number of contracts with community-based organizations, the department shall, at a minimum, consider:

(a) The geographic distance applicants would be required to travel to meet with a caseworker in person and how to minimize that distance;

(b) The volume of economic assistance cases in the service area and how to adequately serve those cases;

(c) The number of clients in an area who have difficulty in verbal and written communication due to hearing or vision impairment, language barriers, or literacy challenges and how to accommodate their needs;

(d) The community-based organization's ability to serve the need; and

(e) The number of existing local offices in the service area.

Source: Laws 2012, LB825, § 5.

81-3132 Program administration; Department of Health and Human Services; implement requirements; report.

The Department of Health and Human Services shall fulfill the requirements of sections 81-3127 to 81-3131 by September 1, 2012. The department shall train community-based organizations by September 1, 2012. The department shall report back to the Health and Human Services Committee of the Legislature by September 15, 2012, regarding the implementation of sections 81-3127 to 81-3131, including, but not limited to, the reasons for the department's determinations of the appropriate number of staff and hours pursuant to section 81-3128 and the number of community-based organization contracts pursuant to section 81-3131.

Source: Laws 2012, LB825, § 6.

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, the biennium ending June 30, 2017, and the biennium ending June 30, 2019, 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 subsection (1) of 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 (3) of section 81-1113.

(b) Not later than September 15, 2013, not later than September 15, 2015, and not later than September 15, 2017, 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. The division shall annually appear at a joint hearing of the two legislative committees and present the report.

(3) On or before December 1, 2016, and each year thereafter, the Division of Children and Family Services of the Department of Health and Human Services shall report electronically to the Governor and the Legislature the number of families in all transitional child care assistance programs and the number of families no longer eligible for all transitional child care assistance programs due to failure to meet income guidelines.

Source: Laws 2012, LB949, § 1; Laws 2013, LB222, § 40; Laws 2013, LB269, § 13; Laws 2014, LB974, § 15; Laws 2015, LB81, § 2; Laws 2016, LB1092, § 7.

81-3133.01 Division of Behavioral Health; strategic plan; key goals; benchmarks; progress reports.

(1) For the biennium ending June 30, 2017, and the biennium ending June 30, 2019, the Division of Behavioral Health of the Department of Health and Human Services shall, as part of the appropriations request process pursuant to subsection (1) of 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. 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 with the assistance of the budget division of the Department of Administrative Services pursuant to subdivision (3) of section 81-1113.

(2) Not later than September 15, 2015, and not later than September 15, 2017, the Division of Behavioral Health 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 section that occurred in the previous twelve months. The division shall annually appear at a joint hearing of the two legislative committees and present the report.

Source: Laws 2014, LB974, § 12; Laws 2016, LB1092, § 8.

81-3133.02 Division of Developmental Disabilities; strategic plan; key goals; benchmarks; progress reports.

(1) For the biennium ending June 30, 2017, and the biennium ending June 30, 2019, the Division of Developmental Disabilities of the Department of Health and Human Services shall, as part of the appropriations request process pursuant to subsection (1) of 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. 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 with the assistance of the budget division of the Department of Administrative Services pursuant to subdivision (3) of section 81-1113.

(2) Not later than September 15, 2015, and not later than September 15, 2017, the Division of Developmental Disabilities 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 section that occurred in the previous twelve months. The division shall annually appear at a joint hearing of the two legislative committees and present the report.

Source: Laws 2014, LB974, § 13; Laws 2016, LB1092, § 9.

81-3133.03 Division of Medicaid and Long-Term Care; strategic plan; key goals; benchmarks; progress reports.

(1) For the biennium ending June 30, 2017, and the biennium ending June 30, 2019, the Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall, as part of the appropriations request process pursuant to subsection (1) of 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. 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 with the assistance of the budget division of the Department of Administrative Services pursuant to subdivision (3) of section 81-1113.

(2) Not later than September 15, 2015, and not later than September 15, 2017, the Division of Medicaid and Long-Term Care 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 section that occurred in the previous twelve months. The division shall annually appear at a joint hearing of the two legislative committees and present the report.

Source: Laws 2014, LB974, § 14; Laws 2016, LB1092, § 10.

81-3134 Report to legislative committees; access of individuals with co-occurring conditions of intellectual disability and mental illness to services; report; contents.

On or before December 1, 2012, the Director of Children and Family Services of the Division of Children and Family Services of the Department of Health and Human Services, the Director of Developmental Disabilities of the Division of Developmental Disabilities of the Department of Health and Human Services, the Director of Behavioral Health of the Division of Behavioral Health of the Department of Health and Human Services, and the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall provide a report to the Health and Human Services Committee of the Legislature and the Developmental Disabilities Special Investigative Committee of the Legislature concerning the access of individuals with co-occurring conditions of an intellectual disability and mental illness to the full array of services needed to appropriately treat their specific conditions. The report shall include, but not be limited, to:

(1) A summary of how these individuals are currently served, including eligibility determinations, by the Division of Children and Family Services, the Division of Developmental Disabilities, the Division of Behavioral Health, and the Division of Medicaid and Long-Term Care;

(2) An identification and further defining of individuals who currently fall in the gap between the divisions or who move from one division to another in a search for appropriate services;

(3) Information on the individuals currently receiving services from more than one division who have these co-occurring conditions, including the costs of the services, the types of services provided, the unmet demand for such services, and an estimate of the number of individuals served by one division who would also qualify for services through another division;

(4) An explanation of the differences and similarities in funding for services provided by the divisions and how funds from each division are being blended or can be blended to best serve these individuals;

(5) A plan that could be implemented by the divisions that would provide more integrated and coordinated treatment for these individuals by the divisions; and

(6) Any recommendations for potential legislation that would assist the Division of Children and Family Services, the Division of Developmental Disabilities, the Division of Behavioral Health, and the Division of Medicaid and Long-Term Care in carrying out the plan provided in subdivision (5) of this section.

Source: Laws 2012, LB1160, § 19.

81-3135 Repealed. Laws 2022, LB1173, § 23.

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 and Family Safety 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 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 registry 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; Laws 2014, LB853, § 50.

Cross References

Child Protection and Family Safety Act, see section 28-710.

81-3137 Procurement of managed care for long-term care services and support; request for proposals; restriction.

The Legislature finds that sufficient planning and meaningful input from stakeholders, including, but not limited to, service providers and consumers, is critical for establishing an effective managed care system for medicaid recipients. To ensure the safety and well-being of the state's most vulnerable population, the Department of Health and Human Services shall not release a request for proposals relating to procurement of managed care for long-term care services and support prior to September 1, 2015.

Source: Laws 2014, LB854, § 1.

81-3138 System of home and community-based long-term care services; grant application; department; duties; report.

(1) The Department of Health and Human Services shall apply to the United States Department of Health and Human Services for a grant under the State Balancing Incentive Payments Program enacted in section 10202 of the federal Patient Protection and Affordable Care Act. Funds from the grant shall be used to develop a comprehensive and coordinated system of home and community-based long-term care services. The department shall file the grant application not later than July 31, 2014, and the application shall meet the requirements of section 10202 of the federal Patient Protection and Affordable Care Act.

(2) On or before December 1, 2014, the Department of Health and Human Services shall report electronically to the Health and Human Services Committee of the Legislature on the status of the grant application.

Source: Laws 2014, LB690, § 1.

81-3139 Health Care Homes for the Medically Underserved Fund; created; purpose; investment.

The Health Care Homes for the Medically Underserved Fund is created within the Department of Health and Human Services. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The purpose of the fund is to enhance the ability of Nebraska's federally qualified health centers to provide patient-centered medical homes to low-income medically underserved populations.

Source: Laws 2015, LB661, § 18.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-3140 Health Care Homes for the Medically Underserved Fund; distribution; use.

(1)(a) The purpose of the Health Care Homes for the Medically Underserved Fund is to enhance the ability of Nebraska's federally qualified health centers to provide patient-centered medical homes to low-income medically underserved populations. Twenty-five percent of the state portion of medicaid fraud settlement funds deposited into the Medicaid Fraud Settlement Fund in the Department of Health and Human Services annually shall be transferred to the Health Care Homes for the Medically Underserved Fund for distribution to federally qualified health centers in Nebraska. Such funds shall be distributed proportionately based on the unduplicated number of patients served in the previous year by such federally qualified health centers as reported through the uniform data system of the Health Resources and Services Administration of the United States Department of Health and Human Services.

(b) Five percent of the state portion of the medicaid fraud settlement funds deposited into the Medicaid Fraud Settlement Fund in the Department of Health and Human Services annually shall be transferred to the Health Care Homes for the Medically Underserved Fund for distribution to federally qualified health centers in Nebraska. Such funds shall be used for persons receiving services under section 330(h) or 330(i) of the federal Public Health Service Act, 42 U.S.C. 254b, as such section existed on January 1, 2016.

(2) Funds distributed pursuant to subsection (1) of this section shall be used for the following purposes:

(a) Hiring, training, certifying, and maintaining staff dedicated to patient-centered chronic disease management, including, but not limited to, case managers, health educators, social workers, outreach and enrollment workers, and community health workers;

(b) Providing services, including, but not limited to, interpreter services, transportation services, and social work assistance;

(c) Capital improvements, including, but not limited to, facility expansion, leasing additional space, and furnishing, equipment, or redesign of facilities to support patient-centered care;

(d) Medication management, including, but not limited to, clinical pharmacy services, pharmacists, clinical pharmacists, technology for monitoring and real-time notification, and care managers;

(e) Information technology, including, but not limited to, telehealth services, analytics tools, patient registries, and updates to electronic health records systems; and

(f) Reimbursement to health care providers, including, but not limited to, physicians, nurse practitioners, dietitians, diabetic educators, behavioral health providers, and oral health providers.

Source: Laws 2015, LB661, § 19; Laws 2016, LB957, § 8.

81-3141 Limited Temporary Guardian Aid Program; covered county; state aid; legislative intent regarding appropriations.

(1) For purposes of this section:

(a) Covered county means a county containing a city of the metropolitan class or a city of the primary class; and

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

(2) There is created a separate and distinct budgetary subprogram within the department to be known as the Limited Temporary Guardian Aid Program. Funds appropriated for the program shall be used to provide state aid to counties in the form of reimbursement to covered counties as provided in this section.

(3) A covered county that has paid expenses and fees for limited temporary guardians as provided in subdivision (k)(2) of section 30-2626 may apply to the department for reimbursement for such amounts and for reasonable administrative fees incurred by the county in paying such amounts and applying for reimbursement. The application shall be in a form and manner prescribed by the department and shall be submitted on a quarterly basis.

(4) It is the intent of the Legislature to appropriate the following amounts to the department to carry out the Limited Temporary Guardian Aid Program:

(a) For fiscal year 2024-25:

(i) One hundred sixty thousand dollars for state aid to covered counties containing a city of the metropolitan class; and

(ii) Ninety thousand dollars for state aid to covered counties containing a city of the primary class; and

(b) For fiscal year 2025-26:

(i) One hundred sixty thousand dollars for state aid to covered counties containing a city of the metropolitan class; and

(ii) Ninety thousand dollars for state aid to covered counties containing a city of the primary class.

(5) The department may adopt and promulgate rules and regulations as necessary to carry out this section.

Source: Laws 2023, LB157, § 10.

Cross References

Appointment of limited temporary guardian, see section 30-2626.

81-3142 HCBS Enhanced FMAP Fund; created; use; investment.

The HCBS Enhanced FMAP Fund is created. The fund shall be used to enhance and expand home and community-based services (HCBS) spending as outlined in the federal American Rescue Plan Act of 2021, 42 U.S.C. 802, as amended. The fund shall be administered by the Department of Health and Human Services. The fund shall consist of transfers authorized by the Legislature and any gifts, grants, or bequests for such purposes from any source, including federal, state, public, and private sources. Any money in the fund available for investment may be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 2023, LB818, § 37; Laws 2024, First Spec. Sess., LB3, § 43.

Effective date August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-3143 Department of Health and Human Services; Temporary Assistance for Needy Families program; funds; state plan amendment.

The Department of Health and Human Services shall submit a state plan amendment to the federal Administration for Children and Families, pursuant to section 404(a)(2) of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to allow the funds provided to the state for the Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq., as such sections existed on January 1, 2023, to be used for the following purposes:

- (1) Activities of child advocacy centers pursuant to sections 28-728 to 28-730;
- (2) Coordination activities of the state chapter of child advocacy centers as defined in 34 U.S.C. 20302, as such section existed on January 1, 2023, including, but not limited to, development of a distribution formula for funding provided pursuant to subdivision (1) of this section, data collection and analysis required for reports to the federal Administration for Children and Families, accounting of the fund expenditures per state and federal requirements, and preparing the annual Temporary Assistance for Needy Families reports for funds appropriated pursuant to this subdivision and subdivision (1) of this section, which shall be filed with the Department of Health and Human Services on a date specified by the department;
- (3) Domestic violence services; and
- (4) Grants to nonprofit organizations holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code that distribute food in ten or more counties in Nebraska and qualify for the Emergency Food Assistance Program administered by the United States Department of Agriculture, which shall be applicable for FY2023-24 only.

Source: Laws 2023, LB818, § 38.

81-3144 Temporary Assistance for Needy Families program funds; report.

The Department of Health and Human Services shall electronically submit a report to the Health and Human Services Committee of the Legislature by November 1 of each year on the current and anticipated expenditures for the Temporary Assistance for Needy Families program funds allocated pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193. Such report shall provide the committee with all necessary and appropriate information to enable the committee to conduct a meaningful evaluation of such expenditures. Such information shall include, but not be limited to:

- (1) A clear description of programs and services currently funded by the Temporary Assistance for Needy Families program;
- (2) A clear explanation of each purpose met by such program or service;
- (3) For programs and services provided by entities other than the state, a clear description of the recipient of Temporary Assistance to Needy Families funds;
- (4) For programs other than the aid to dependent children program, a clear statement explaining how an expenditure for that program or service is more likely to help families achieve economic mobility and self-sufficiency than an increase in expenditures for the aid to dependent children program;

- (5) The number of persons served under each program or service; and
- (6) All costs and expenditures associated with each program or service.

Source: Laws 2024, LB62, § 4.

Effective date July 19, 2024.

81-3145 Intergenerational Care Facility Incentive Grant Program; requirements; eligibility; use; priority.

(1) The Intergenerational Care Facility Incentive Grant Program is created. It is the intent of the Legislature to appropriate three hundred thousand dollars from the Medicaid Managed Care Excess Profit Fund for fiscal year 2024-25 to the Department of Health and Human Services to provide grants pursuant to this section.

(2) The Department of Health and Human Services shall develop requirements for eligibility, application, and audits for grants in collaboration with statewide associations representing nursing homes as defined in section 38-2414 and other stakeholders. The department shall meet with such associations prior to October 1, 2024, to identify any statutes, rules, regulations, or other regulatory barriers that impede the development of an intergenerational care facility in which nursing services and child care are provided and develop recommendations to remediate such barriers that do not impact the safety of the staff or recipients of the nursing services and child care or the quality of nursing services and child care.

(3) The grants shall be awarded to facilities that are nursing homes as defined in section 38-2414 or assisted-living facilities as defined in section 71-5903 and that have been certified for participation in medicare or medicaid. The grants shall be used for one-time startup costs to provide for child care in such facilities. A facility may be awarded one grant under this section of up to one hundred thousand dollars. The grants shall be awarded for modification of structures, modification of outside campus space of the nursing facilities, purchase of child care equipment and supplies, or any combination of such purposes. A facility that is applying for or awarded a grant is not required to own or operate the child care services for which the grant is awarded.

(4) The department shall award the grants on the basis of date of application with priority given to rural communities, as defined in section 81-1228, for applications filed on the same date. A facility that was cited for substandard quality of care during its most recent survey is not eligible for a grant under this section. Each grant recipient shall establish a plan to participate in the quality rating and improvement system described in section 71-1956 within three years after the date the grant is awarded.

Source: Laws 2024, LB904, § 2.

Effective date July 19, 2024.

ARTICLE 32

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE**

Section

- 81-3201. Repealed. Laws 2007, LB 296, § 815.
- 81-3202. Repealed. Laws 2007, LB 296, § 815.
- 81-3203. Repealed. Laws 2007, LB 296, § 815.
- 81-3204. Repealed. Laws 2003, LB 467, § 22.

Section

- 81-3205. Repealed. Laws 2003, LB 467, § 22.
- 81-3206. Repealed. Laws 2007, LB 296, § 815.
- 81-3207. Repealed. Laws 2007, LB 296, § 815.
- 81-3208. Repealed. Laws 2007, LB 296, § 815.
- 81-3209. Repealed. Laws 2007, LB 296, § 815.
- 81-3210. Repealed. Laws 2007, LB 296, § 815.
- 81-3211. Repealed. Laws 2007, LB 296, § 815.

81-3201 Repealed. Laws 2007, LB 296, § 815.

81-3202 Repealed. Laws 2007, LB 296, § 815.

81-3203 Repealed. Laws 2007, LB 296, § 815.

81-3204 Repealed. Laws 2003, LB 467, § 22.

81-3205 Repealed. Laws 2003, LB 467, § 22.

81-3206 Repealed. Laws 2007, LB 296, § 815.

81-3207 Repealed. Laws 2007, LB 296, § 815.

81-3208 Repealed. Laws 2007, LB 296, § 815.

81-3209 Repealed. Laws 2007, LB 296, § 815.

81-3210 Repealed. Laws 2007, LB 296, § 815.

81-3211 Repealed. Laws 2007, LB 296, § 815.

ARTICLE 33

DEPARTMENT OF HEALTH AND HUMAN
SERVICES FINANCE AND SUPPORT

Section

- 81-3301. Repealed. Laws 2007, LB 296, § 815.
- 81-3302. Repealed. Laws 2007, LB 296, § 815.
- 81-3303. Repealed. Laws 2007, LB 296, § 815.
- 81-3304. Repealed. Laws 2003, LB 467, § 22.
- 81-3305. Repealed. Laws 2003, LB 467, § 22.
- 81-3306. Repealed. Laws 2007, LB 296, § 815.
- 81-3307. Repealed. Laws 2007, LB 296, § 815.
- 81-3308. Repealed. Laws 2007, LB 296, § 815.
- 81-3309. Repealed. Laws 2007, LB 296, § 815.
- 81-3310. Repealed. Laws 2007, LB 296, § 815.
- 81-3311. Repealed. Laws 2007, LB 296, § 815.

81-3301 Repealed. Laws 2007, LB 296, § 815.

81-3302 Repealed. Laws 2007, LB 296, § 815.

81-3303 Repealed. Laws 2007, LB 296, § 815.

81-3304 Repealed. Laws 2003, LB 467, § 22.

81-3305 Repealed. Laws 2003, LB 467, § 22.

81-3306 Repealed. Laws 2007, LB 296, § 815.

81-3307 Repealed. Laws 2007, LB 296, § 815.

81-3308 Repealed. Laws 2007, LB 296, § 815.

81-3309 Repealed. Laws 2007, LB 296, § 815.

81-3310 Repealed. Laws 2007, LB 296, § 815.

81-3311 Repealed. Laws 2007, LB 296, § 815.

ARTICLE 34

ENGINEERS AND ARCHITECTS REGULATION ACT

Cross References

License Suspension Act, see section 43-3301.

Nebraska Consultants' Competitive Negotiation Act, see section 81-1702.

Section

- 81-3401. Act, how cited.
- 81-3402. Architecture and engineering; regulation.
- 81-3403. Definitions, where found.
- 81-3403.01. ABET, defined.
- 81-3404. Architect, defined.
- 81-3405. Board, defined.
- 81-3405.01. Building official, defined.
- 81-3405.02. Building, defined.
- 81-3406. Repealed. Laws 2015, LB 23, § 51.
- 81-3407. Continuing education, defined.
- 81-3408. Coordinating professional, defined.
- 81-3409. Design, defined.
- 81-3410. Repealed. Laws 2015, LB 23, § 51.
- 81-3411. Direct supervision, defined.
- 81-3412. Emeritus, defined.
- 81-3413. Repealed. Laws 2015, LB 23, § 51.
- 81-3414. Engineer-intern, defined.
- 81-3415. Estimator, technician, or other similar titles, defined.
- 81-3416. Good ethical character, defined.
- 81-3416.01. Intern architect, defined.
- 81-3416.02. Licensee, defined.
- 81-3417. Repealed. Laws 2015, LB 23, § 51.
- 81-3418. Organization, defined.
- 81-3419. Repealed. Laws 2015, LB 23, § 51.
- 81-3420. Practice of architecture, defined.
- 81-3421. Practice of engineering, defined.
- 81-3422. Professional engineer, defined.
- 81-3422.01. Project, defined.
- 81-3423. Public service provider, defined.
- 81-3424. Repealed. Laws 2015, LB 23, § 51.
- 81-3425. Responsible charge, defined.
- 81-3426. Rules and regulations, defined.
- 81-3427. Technical submissions, defined.
- 81-3428. Board of Engineers and Architects; created; members; terms; location.
- 81-3429. Board; members; per diem; expenses.
- 81-3430. Certificate of appointment; oath; Attorney General; legal advisor; seal; rules and regulations.
- 81-3431. Board; meetings; officers; quorum.
- 81-3432. Engineers and Architects Regulation Fund; created; use; investment.
- 81-3432.01. Repayment of qualified educational debt; authorized; eligibility.
- 81-3433. Roster.
- 81-3434. Code of practice; contents.

Section	
81-3435.	Application for licensure, examination, intern enrollment, certificate of authorization, or emeritus status; form; fees.
81-3436.	Organizational practice; certificate of authorization; when required; application; immunity; Secretary of State; registration of trade name or service mark; limitation.
81-3436.01.	Combined services with construction services; authorized; conditions.
81-3437.	Certificate of licensure; issuance; certificate of enrollment; issuance.
81-3437.01.	Seal; contents; use; prohibited acts.
81-3437.02.	Coordinating professional; designation; duties.
81-3438.	Certificates; expiration; renewal; fees; continuing education.
81-3439.	Replacement certificates; fee.
81-3440.	Enforcement.
81-3441.	Use of title; unlawful practice.
81-3442.	Prohibited acts; penalties.
81-3443.	Enforcement procedures.
81-3444.	Disciplinary actions authorized; civil penalties.
81-3445.	State and political subdivisions; construction projects.
81-3446.	Construction projects on private lands; applicability of act; owner; duties.
81-3447.	Repealed. Laws 2004, LB 599, § 7.
81-3448.	Architect; license; application; fee; requirements; examination; temporary permit.
81-3449.	Practice of architecture; exempted activities.
81-3450.	Technical submissions by architect; affix seal and signature; conditions.
81-3451.	Engineer-intern; enrollment; requirements; application; fee; professional engineer; license; application; fee; examination; requirements; temporary permit.
81-3452.	Repealed. Laws 2015, LB 23, § 51.
81-3453.	Practice of engineering; exempted activities.
81-3454.	Technical submissions by professional engineer; affix seal and signature; conditions.
81-3455.	Act, how construed.

81-3401 Act, how cited.

Sections 81-3401 to 81-3455 shall be known and may be cited as the Engineers and Architects Regulation Act.

Source: Laws 1997, LB 622, § 1; Laws 2009, LB446, § 1; Laws 2011, LB45, § 2; Laws 2015, LB23, § 1; Laws 2020, LB755, § 34.

81-3402 Architecture and engineering; regulation.

In order to safeguard life, health, and property and to promote the public welfare, the professions of architecture and engineering are declared to be subject to regulation in the public interest. The practice of architecture and engineering and use of the titles architect or professional engineer is a privilege granted by the state through the board based on the qualifications of the individual as evidenced by a certificate of licensure which is not transferable.

Source: Laws 1997, LB 622, § 2; Laws 2015, LB23, § 2.

81-3403 Definitions, where found.

For purposes of the Engineers and Architects Regulation Act, the definitions found in sections 81-3403.01 to 81-3427 shall be used.

Source: Laws 1997, LB 622, § 3; Laws 2011, LB45, § 3; Laws 2015, LB23, § 3; Laws 2020, LB755, § 35.

81-3403.01 ABET, defined.

ABET means an entity incorporated as the Accreditation Board for Engineering and Technology, Inc., which is a nongovernmental organization that accredits postsecondary education programs.

Source: Laws 2020, LB755, § 36.

81-3404 Architect, defined.

Architect means a person who is licensed by the board to practice architecture.

Source: Laws 1997, LB 622, § 4; Laws 2015, LB23, § 4.

81-3405 Board, defined.

Board means the Board of Engineers and Architects.

Source: Laws 1997, LB 622, § 5.

81-3405.01 Building official, defined.

Building official means a person appointed by the state or a political subdivision having responsibility for the public safety and welfare and the enforcement of building codes with regard to buildings and other structures within such person's jurisdiction.

Source: Laws 2011, LB45, § 4; Laws 2015, LB23, § 6.

81-3405.02 Building, defined.

Building means any structure used, or intended to be used, to support, shelter, or enclose any use or occupancy.

Source: Laws 2015, LB23, § 5.

81-3406 Repealed. Laws 2015, LB 23, § 51.

81-3407 Continuing education, defined.

Continuing education means lifelong learning and training relevant to a licensee's professional practice.

Source: Laws 1997, LB 622, § 7; Laws 2015, LB23, § 7.

81-3408 Coordinating professional, defined.

Coordinating professional means a licensee who coordinates, as appropriate, the work of all licensees involved in a project.

Source: Laws 1997, LB 622, § 8; Laws 2015, LB23, § 8.

81-3409 Design, defined.

Design means the preparation of schematics, layouts, plans, drawings, specifications, calculations, and other diagnostic documents which show the features of an architectural or engineering project.

Source: Laws 1997, LB 622, § 9; Laws 2015, LB23, § 9.

81-3410 Repealed. Laws 2015, LB 23, § 51.

81-3411 Direct supervision, defined.

Direct supervision means having full professional knowledge and control over work that constitutes the practice of architecture or engineering.

Source: Laws 1997, LB 622, § 11; Laws 2015, LB23, § 10.

81-3412 Emeritus, defined.

Emeritus means an architect or professional engineer who has relinquished his or her license and who is approved by the board to use the honorary title emeritus.

Source: Laws 1997, LB 622, § 12; Laws 2015, LB23, § 11.

81-3413 Repealed. Laws 2015, LB 23, § 51.

81-3414 Engineer-intern, defined.

Engineer-intern means a person who has been duly enrolled as an engineer-intern by the board.

Source: Laws 1997, LB 622, § 14; Laws 2015, LB23, § 12.

81-3415 Estimator, technician, or other similar titles, defined.

Estimator, technician, or other similar titles means a person who through training or experience is performing tasks associated with the practice of architecture or engineering under the supervision of an architect or professional engineer, respectively.

Source: Laws 1997, LB 622, § 15; Laws 2015, LB23, § 13.

81-3416 Good ethical character, defined.

Good ethical character means such character as will enable a person to discharge the fiduciary duties of an architect or professional engineer to his or her client and to the public for the protection of the public health, safety, and welfare.

Source: Laws 1997, LB 622, § 16; Laws 2015, LB23, § 14.

81-3416.01 Intern architect, defined.

Intern architect means a person who has enrolled in the Architectural Experience Program of the National Council of Architectural Registration Boards and holds a degree from a program accredited by the National Architectural Accrediting Board or equivalent.

Source: Laws 2015, LB23, § 15; Laws 2020, LB755, § 37.

81-3416.02 Licensee, defined.

Licensee means a licensed architect or professional engineer.

Source: Laws 2015, LB23, § 16.

81-3417 Repealed. Laws 2015, LB 23, § 51.

81-3418 Organization, defined.

Organization means a business entity created by law, including, but not limited to, a partnership, limited liability company, corporation, or joint venture.

Source: Laws 1997, LB 622, § 18; Laws 2015, LB23, § 17.

81-3419 Repealed. Laws 2015, LB 23, § 51.

81-3420 Practice of architecture, defined.

(1) Practice of architecture means providing or offering to provide design services in connection with the construction, enlargement, or alteration of a building or group of buildings and the space within and surrounding the buildings. The services may include, but not be limited to, planning, providing studies, designs, drawings, specifications, and other technical submissions, and administering construction contracts. The practice of architecture does not include the practice of engineering.

(2) A person shall be construed to practice architecture, within the meaning and intent of the Engineers and Architects Regulation Act, if he or she:

(a) Practices the profession of architecture or holds himself or herself out as able and entitled to practice architecture;

(b) By verbal claim, sign, advertisement, letterhead, or card or in any other way, represents himself or herself to be an architect; or

(c) Through the use of some other title, implies that he or she is an architect or licensed under the Engineers and Architects Regulation Act.

Source: Laws 1997, LB 622, § 20; Laws 2015, LB23, § 18.

81-3421 Practice of engineering, defined.

(1) Practice of engineering means any service or creative work that requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences. The services may include, but not be limited to, planning, providing studies, designs, drawings, specifications, and other technical submissions, and administering construction contracts. The practice of engineering does not include the practice of architecture.

(2) A person shall be construed to practice engineering, within the meaning and intent of the Engineers and Architects Regulation Act, if he or she:

(a) Practices any discipline of the profession of engineering or holds himself or herself out as able and entitled to practice any discipline of engineering;

(b) By verbal claim, sign, advertisement, letterhead, or card or in any other way, represents himself or herself to be a professional engineer; or

(c) Through the use of some other title, implies that he or she is a professional engineer or licensed under the Engineers and Architects Regulation Act.

Source: Laws 1997, LB 622, § 21; Laws 2015, LB23, § 19.

81-3422 Professional engineer, defined.

Professional engineer means a person who is licensed by the board to practice engineering. The board may designate a professional engineer, on the basis of education, experience, and examination, as being licensed in a specific

discipline of engineering signifying an area in which the professional engineer has demonstrated competence.

Source: Laws 1997, LB 622, § 22; Laws 2015, LB23, § 20.

81-3422.01 Project, defined.

Project means one or more related activities that require the practice of architecture or engineering for completion.

Source: Laws 2011, LB45, § 5; Laws 2015, LB23, § 21.

81-3423 Public service provider, defined.

Public service provider means any political subdivision which employs or appoints an architect or a professional engineer to be in responsible charge of the political subdivision's architectural or engineering work.

Source: Laws 1997, LB 622, § 23; Laws 2015, LB23, § 22.

81-3424 Repealed. Laws 2015, LB 23, § 51.

81-3425 Responsible charge, defined.

Responsible charge means the management of the technical and financial aspects of engineering or architectural work through an organization.

Source: Laws 1997, LB 622, § 25; Laws 2015, LB23, § 23.

81-3426 Rules and regulations, defined.

Rules and regulations means rules and regulations adopted and promulgated under the Engineers and Architects Regulation Act by the board.

Source: Laws 1997, LB 622, § 26.

81-3427 Technical submissions, defined.

Technical submissions means designs, drawings, specifications, studies, and other technical reports that constitute, or may be prepared in conjunction with, a project.

Source: Laws 1997, LB 622, § 27; Laws 2015, LB23, § 24.

81-3428 Board of Engineers and Architects; created; members; terms; location.

(1) The Board of Engineers and Architects is created to administer the Engineers and Architects Regulation Act. The board shall consist of eight members appointed by the Governor for terms of five years terminating on the last day of February. The board shall consist of:

(a) Three architect members, two of whom shall be appointed after consulting with the appropriate architectural professional organizations, and one education member who is a faculty member of the University of Nebraska appointed upon the recommendation of the Dean of Architecture of the University of Nebraska;

(b) Four professional engineer members, three of whom shall be appointed after consulting with the appropriate engineering professional organizations, and one education member who is a faculty member of the University of

Nebraska appointed upon the recommendation of the Dean of Engineering of the University of Nebraska; and

(c) One public member.

(2) Each member shall hold office after the expiration of his or her term until his or her successor is duly appointed and qualified. Vacancies in the membership of the board, however created, shall be filled for the unexpired term by appointment by the Governor. The Governor shall reappoint or replace existing members as their terms expire, and the public member shall be reappointed or replaced in the fifth year of his or her term. The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty.

(3) Each member of the board shall be a citizen of the United States and a resident of the State of Nebraska for at least one year immediately preceding appointment. Each architect or professional engineer member shall have been engaged in the active practice of the design profession for at least ten years and shall have been licensed in the relevant profession for at least five years at the time of his or her appointment.

(4) The board may designate a former member of the board as an emeritus member, but for no more than ten years after his or her original board membership expires. Emeritus member status, when conferred, must be renewed annually.

(5) The board offices shall be located in Lincoln, Nebraska.

Source: Laws 1997, LB 622, § 28; Laws 2015, LB23, § 25; Laws 2020, LB755, § 38.

81-3429 Board; members; per diem; expenses.

(1) Each member of the board shall receive as compensation not more than one hundred dollars per day or portion of a day for (a) participating in meetings of the board and its committees, (b) traveling to or attending authorized meetings of the National Council of Architectural Registration Boards, the National Council of Examiners for Engineering and Surveying, or their subdivisions or committees on which the member serves, and (c) other business as authorized by the board. Participation in, attendance at, and conduct of such authorized activities by telephone or electronic means shall be eligible for such compensation.

(2) Each member of the board shall be reimbursed for all necessary and authorized expenses incident to the performance of his or her duties under the Engineers and Architects Regulation Act as provided in sections 81-1174 to 81-1177.

Source: Laws 1997, LB 622, § 29; Laws 2011, LB45, § 6; Laws 2015, LB23, § 26; Laws 2020, LB755, § 39.

81-3430 Certificate of appointment; oath; Attorney General; legal advisor; seal; rules and regulations.

Each member of the board shall receive a certificate of appointment from the Governor and, before beginning his or her term of office, shall file with the Secretary of State the constitutional oath of office. The board or any committee of the board is entitled to the services of the Attorney General in connection with the affairs of the board, and the board may compel the attendance of witnesses, administer oaths, and take testimony and proofs concerning all

matters within its jurisdiction. The Attorney General shall act as legal advisor to the board and render such legal assistance as may be necessary in carrying out the Engineers and Architects Regulation Act. The board shall adopt and have an official seal, which shall be affixed to all certificates of licensure granted, and shall adopt and promulgate rules and regulations to carry out the act.

Source: Laws 1997, LB 622, § 30; Laws 2015, LB23, § 27.

81-3431 Board; meetings; officers; quorum.

The board shall hold at least one regular meeting each year. Special meetings shall be held as the rules and regulations provide and at such places as the board elects. Notice of all meetings shall be given in such manner as the rules and regulations provide. The board shall elect from its members, annually at its first meeting after March 1, a chairperson, vice-chairperson, and secretary. A quorum of the board shall consist of not less than five members.

Source: Laws 1997, LB 622, § 31.

81-3432 Engineers and Architects Regulation Fund; created; use; investment.

The Engineers and Architects Regulation Fund is created. The board shall receive and account for all money derived from the operation of the Engineers and Architects Regulation Act and shall remit the money to the State Treasurer for credit to the Engineers and Architects Regulation Fund. All expenses certified by the board as properly and necessarily incurred in the discharge of duties, including compensation and administrative staff, and any expense incident to the administration of the act relating to other states shall be paid out of the fund. Debt repayments payable pursuant to section 81-3432.01 shall be paid out of the fund. Warrants for the payment of expenses shall be issued by the Director of Administrative Services and paid by the State Treasurer upon presentation of vouchers regularly drawn by the chairperson and secretary of the board and approved by the board. At no time shall the total amount of warrants exceed the total amount of the fees collected under the act and to the credit of the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Money in the Engineers and Architects Regulation Fund may be transferred to the General Fund at the direction of the Legislature.

Source: Laws 1997, LB 622, § 32; Laws 2009, LB446, § 2; Laws 2009, First Spec. Sess., LB3, § 86; Laws 2015, LB23, § 28; Laws 2017, LB331, § 54; Laws 2020, LB755, § 40.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-3432.01 Repayment of qualified educational debt; authorized; eligibility.

(1) The board may repay qualified educational debt owed by an eligible graduate. Such repayment shall be made from the Engineers and Architects Regulation Fund. To be eligible for debt repayment, a recipient shall be a graduate of (a) a National Architectural Accrediting Board-accredited architecture program in Nebraska or (b) an ABET-accredited engineering program in Nebraska and shall have obtained qualified educational debt.

(2) For purposes of this section, qualified educational debt means government and commercial loans obtained by a student for postsecondary education tuition, other educational expenses, and reasonable living expenses, as determined by the board.

(3) The board may adopt and promulgate rules and regulations governing any debt repayment under this section.

Source: Laws 2009, LB446, § 3; Laws 2015, LB23, § 29.

81-3433 Roster.

The board shall maintain and make available to the public a complete roster of all architects and professional engineers showing their names and last-known addresses. The board may distribute a copy of the roster to each licensed person as well as county and municipal officials. The board may charge a fee for distributing the roster.

Source: Laws 1997, LB 622, § 33; Laws 2015, LB23, § 30; Laws 2020, LB755, § 41.

81-3434 Code of practice; contents.

(1) The Legislature hereby finds and declares that a code of practice established by the board by which architects and professional engineers could govern their professional conduct would be beneficial to the state and would safeguard the life, health, and property and promote the public welfare of the citizens of this state.

(2) The code of practice established by this section shall include provisions on:

- (a) Professional competence;
- (b) Conflict of interest;
- (c) Full disclosure of financial interest;
- (d) Full disclosure of matters affecting public safety, health, and welfare;
- (e) Compliance with laws;
- (f) Professional conduct and good ethical character standards; and
- (g) Practice of architecture and engineering.

(3) The board may adopt and promulgate rules and regulations to implement the code of practice.

(4) The board may publish commentaries regarding the code of practice. The commentaries shall explain the meaning of interpretations given to the code by the board.

Source: Laws 1997, LB 622, § 34; Laws 2015, LB23, § 31.

81-3435 Application for licensure, examination, intern enrollment, certificate of authorization, or emeritus status; form; fees.

(1) Applications for licensure, examination, intern enrollment, a certificate of authorization, or emeritus status shall be made on a form prescribed and furnished by the board. Applications shall be made under oath.

(2) The board may accept the verified information contained in a valid Council Record issued by the National Council of Architectural Registration Boards or the National Council of Examiners for Engineering and Surveying in

lieu of the same information that is required on the form prescribed and furnished by the board.

(3)(a) The board shall establish application and licensure fees as provided in this subsection. All fees are nonrefundable.

(b) The fee for license applications may not exceed three hundred dollars.

(c) The fee for examination applications may be set to recover the costs of examination and its administration.

(d) The fee for intern enrollment may not exceed one hundred dollars.

(e) The certificate of authorization fee for organizations may not exceed three hundred dollars per year.

(f) The fee for emeritus status may not exceed one hundred dollars per year.

Source: Laws 1997, LB 622, § 35; Laws 2015, LB23, § 32.

81-3436 Organizational practice; certificate of authorization; when required; application; immunity; Secretary of State; registration of trade name or service mark; limitation.

(1) An individual licensed under the Engineers and Architects Regulation Act may practice or offer to practice the profession of architecture or engineering through an organization 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.

(2) An organization applying for a certificate of authorization shall designate at least one licensed architect as the person in responsible charge of any practice of architecture by the organization and at least one professional engineer as the person in responsible charge of any practice of engineering by the organization. One who renders only occasional professional services for an organization may not be designated as being in responsible charge of the professional activities of an organization under this section.

(3) To obtain a certificate of authorization, a board-approved application shall be filed with the board. The application shall contain the names and license numbers of the individual or individuals designated as in responsible charge and licensed to practice architecture or engineering in Nebraska. Certificates of authorization shall be for a defined period and may be renewed.

(4) An organization shall notify the board of any changes in the status of any individual designated as in responsible charge within thirty days after the effective date of the change.

(5) All technical submissions issued or filed for public record through an organization involving the practice of architecture or engineering shall be sealed in accordance with the act by the licensee who prepared the submissions or under whose direct supervision they were prepared.

(6) 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.

(7) 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 in the state to an organization which intends to engage in the practice of architecture or

engineering unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive a certificate or to register the name.

(8) Except as otherwise authorized in the Engineers and Architects Regulation Act or in the Professional Landscape Architects Act, 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 an applicant's firm name or logotype unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to register the trade name or service mark.

(9) A public service provider or an organization may engage in the practice of architecture or engineering for itself without obtaining a certificate of authorization.

Source: Laws 1997, LB 622, § 36; Laws 2013, LB7, § 1; Laws 2015, LB23, § 33.

Cross References

Facilitating Business Rapid Response to State Declared Disasters Act, see section 48-3201.

Professional Landscape Architects Act, see section 81-8,183.01.

81-3436.01 Combined services with construction services; authorized; conditions.

(1) Providing combined services involving the practice of architecture or engineering, or both, with construction services is allowed if:

(a) An architect participates substantially in, and has direct supervision of, the architectural services provided on the project;

(b) A professional engineer participates substantially in, and has direct supervision of, the engineering services provided on the project; and

(c) The rendering of architectural or professional engineering services conforms to the Engineers and Architects Regulation Act and the rules and regulations.

(2) A temporary permit holder under the act may perform engineering or architectural services pursuant to this section.

Source: Laws 2015, LB23, § 34.

81-3437 Certificate of licensure; issuance; certificate of enrollment; 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. If a professional engineer's license has been issued in a specific discipline, the discipline shall be specified on the certificate of licensure. 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 one other board member.

(2) The certificate of licensure 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) The board shall issue to any applicant who, on the basis of education and examination, has met the requirements of the Engineers and Architects Regulation Act a certificate of enrollment as an engineer-intern. The engineer-intern certificate does not authorize the holder to practice as a professional engineer.

Source: Laws 1997, LB 622, § 37; Laws 2013, LB7, § 2; Laws 2015, LB23, § 35.

81-3437.01 Seal; contents; use; prohibited acts.

(1) Each licensee authorized to practice architecture or engineering must obtain a seal. The design of the seal shall be determined by the board. If a professional engineer's license has been issued in a specific discipline, the discipline shall be specified on the seal. 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.

(2) 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.

(3) 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 Engineers and Architects Regulation Act.

(4) 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.

(5) 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.

Source: Laws 2015, LB23, § 36.

81-3437.02 Coordinating professional; designation; duties.

(1) Projects involving more than one licensed architect or professional engineer shall have an architect or professional engineer designated as the coordinating professional for the entire project. The coordinating professional may, but need not, provide architectural or engineering services on the project. The coordinating professional shall apply his or her seal in accordance with the Engineers and Architects Regulation Act to the cover sheet of all documents and denote the seal as that of the coordinating professional.

(2) The coordinating professional shall be responsible for reviewing and coordinating technical documents prepared by others for compatibility with the design of the project.

Source: Laws 2015, LB23, § 37.

81-3438 Certificates; expiration; renewal; fees; continuing education.

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 board shall notify every person licensed under the Engineers and Architects 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 provided at least one month in advance of the date of the expiration to the licensee or organization at the last-known address on file with the board. Valid certificates may be renewed prior to expiration upon application and payment of applicable fees. Expired certificates may be renewed in accordance with rules and regulations of the board. Renewal fees shall not exceed two hundred dollars per year. The board may require licensees to obtain continuing education as a condition of license renewal.

Source: Laws 1997, LB 622, § 38; Laws 2015, LB23, § 38; Laws 2020, LB755, § 42.

81-3439 Replacement certificates; fee.

The board may issue a new certificate of licensure or certificate of authorization to replace any lost, destroyed, or mutilated certificate. A fee not to exceed one hundred dollars shall be charged for each such issuance.

Source: Laws 1997, LB 622, § 39.

81-3440 Enforcement.

The board shall enforce the Engineers and Architects Regulation Act and the rules and regulations, including enforcement against any unlicensed person. If any person refuses to obey any decision or order of the board, the board or, upon the request of the board, the Attorney General or the appropriate county attorney shall file an action for the enforcement of the decision or order, including injunctive relief, in the district court. After a hearing, the court shall order enforcement of the decision or order, or any part thereof, if legally and properly made by the board and, if appropriate, injunctive relief.

Source: Laws 1997, LB 622, § 40.

81-3441 Use of title; unlawful practice.

Except as provided in sections 81-3414, 81-3415, 81-3449, and 81-3453, an individual shall not directly or indirectly engage in the practice of architecture or engineering in the state or use the title architect or professional engineer or display or use any words, letters, figures, titles, sign, card, advertisement, or other symbol or device indicating or tending to indicate that he or she is an architect or professional engineer or is practicing architecture or engineering unless he or she is licensed under the Engineers and Architects Regulation Act. A licensee shall not aid or abet any person not licensed under the act in the practice of architecture or engineering.

Source: Laws 1997, LB 622, § 41; Laws 2011, LB45, § 7; Laws 2015, LB23, § 39.

81-3442 Prohibited acts; penalties.

(1) It is unlawful for any person to:

(a) Practice or offer to practice architecture or engineering in this state without being licensed in accordance with the Engineers and Architects Regulation Act unless such practice or offer to practice is otherwise exempt under the act;

(b) Knowingly and intentionally employ or retain a person to practice architecture or engineering in this state who is not licensed in accordance with the act, except as provided in sections 81-3414 and 81-3415, and who is not exempted by section 81-3449 or 81-3453;

(c) Use the words architect, engineer, or any modification or derivative of such words in its name or form of business activity except as authorized in the act or in the Professional Landscape Architects Act;

(d) Advertise any title or description tending to convey the impression that he or she is a licensed architect or professional engineer unless the person is duly licensed under the Engineers and Architects Regulation Act;

(e) Present or attempt to use the certificate of licensure or the seal of another person;

(f) Give any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate;

(g) Falsely impersonate any other licensee of like or different name;

(h) Attempt to use an expired, suspended, revoked, or nonexistent certificate of licensure or practice or offer to practice when not qualified;

(i) Falsely claim that he or she is licensed or authorized under the act; or

(j) Violate the act.

(2) Any person who performs any of the actions described in subsection (1) of this section is guilty of a Class I misdemeanor for the first offense and a Class IV felony for the second or any subsequent offense.

Source: Laws 1997, LB 622, § 42; Laws 2011, LB45, § 8; Laws 2015, LB23, § 40.

Cross References

Professional Landscape Architects Act, see section 81-8,183.01.

81-3443 Enforcement procedures.

(1) A complaint against any person or organization involving any matter coming within the jurisdiction of the board shall be in writing and shall be filed with the board.

(2) A hearing on the complaint shall be held within a reasonable time in accordance with the rules and regulations and may be heard through the use of a hearing officer. The accused shall have the right to appear personally with or without counsel, to cross-examine adverse witnesses, and to produce evidence and witnesses in his, her, or its defense.

(3) The board shall set the time and place for the hearing and shall cause a copy of the complaint, together with a notice of the time and place fixed for the hearing, to be sent by registered mail to the accused, at his, her, or its last-known business or residence address known to the board, at least thirty days before the hearing.

(4) If after the hearing the board finds the accused has violated the Engineers and Architects Regulation Act or any rules or regulations, it may issue any

order or take any action described in section 81-3444. If the order revokes, suspends, or cancels a license, the board shall notify, in writing, the Secretary of State. If the board finds no violation, it shall enter an order dismissing the complaint.

(5) The board may reissue a license that has been revoked. Application for the reissuance of a license shall be made in such a manner as the board directs and shall be accompanied by a fee established by the board.

Source: Laws 1997, LB 622, § 43; Laws 2011, LB45, § 9; Laws 2015, LB23, § 41.

81-3444 Disciplinary actions authorized; civil penalties.

(1) The board, after hearing and upon proof satisfactory to the board, may determine by two-thirds majority vote that any person or organization has violated the Engineers and Architects Regulation Act or any rules or regulations.

(2) Upon a finding that a person or organization has committed a violation, one or more of the following actions may be taken against such person or organization upon a two-thirds majority vote of the board:

(a) Issuance of censure or reprimand;

(b) Suspension of judgment;

(c) Placement of the offender on probation;

(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 for each offense. 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 reasonable 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.

(3) The board may take into account suitable evidence of reform when determining appropriate action.

(4) Civil penalties collected under subdivision (2)(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 (2)(h) of this section shall be remitted to the State Treasurer for credit to the Engineers and Architects Regulation Fund.

Source: Laws 1997, LB 622, § 44; Laws 2011, LB45, § 10; Laws 2015, LB23, § 42.

81-3445 State and political subdivisions; construction projects.

Except as otherwise provided in this section and sections 81-3449 and 81-3453, the state and its political subdivisions shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer. This section shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this section every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount.

Source: Laws 1997, LB 622, § 45; Laws 1999, LB 253, § 2; Laws 2004, LB 599, § 2; Laws 2011, LB45, § 11.

81-3446 Construction projects on private lands; applicability of act; owner; duties.

(1) A project on private land is subject to the provisions of the Engineers and Architects Regulation Act unless exempt under section 81-3449 or 81-3453.

(2) The owner of any real property who allows a project to be constructed on his or her real property is engaged in the practice of architecture or engineering unless he or she employs or causes others to employ licensed architects or professional engineers or persons under the direct supervision of licensed architects or professional engineers to furnish at least minimum construction phase services with respect to the project or is exempt from the Engineers and Architects Regulation Act under sections 81-3449 and 81-3453.

(3) For purposes of this section:

(a) Construction phase service includes at least the following services: (i) Visiting the project site on a regular basis as is necessary to determine that the work is proceeding generally in accordance with the technical submissions submitted to the building official at the time the project permit was issued; and (ii) processing technical submissions required of the contractor by the terms of contract documents. The term does not include supervision of construction, review of payment applications, resolution of disputes between the owner and contractor, and other such items which are considered additional construction administration services which the owner may or may not elect to include in the architect's or engineer's scope of work; and

(b) Owner means with respect to any real property the following persons: (i) The record owner of such real property; (ii) the lessee of all or any portion of the real property when the lease covers all of that portion of the real property upon which the project is being constructed, the lessee has significant approval rights with respect to the project, and the lease, at the time the project begins, has a remaining term of not less than ten years; or (iii) the grantee of an easement granting right-of-way to construct the project.

Source: Laws 1997, LB 622, § 46; Laws 2011, LB45, § 12; Laws 2015, LB23, § 43.

81-3447 Repealed. Laws 2004, LB 599, § 7.**81-3448 Architect; license; application; fee; requirements; examination; temporary permit.**

(1) The following shall be considered as the minimum evidence satisfactory to the board that an applicant is eligible for initial licensure as an architect:

(a)(i) Graduation from a program accredited by the National Architectural Accrediting Board;

(ii) Graduation from a program accredited by the Canadian Architectural Certification Board; or

(iii) Satisfying the requirements of the Education Standard of the National Council of Architectural Registration Boards as determined by the council;

(b) Passage of an examination on technical and professional subjects of architecture;

(c) Completion of the Architectural Experience Program of the National Council of Architectural Registration Boards, or its equivalent as determined by the council or the Board of Engineers and Architects;

(d) Passage of an examination on the statutes, rules, and other requirements unique to this state; and

(e) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure.

(2) An individual holding a license to practice architecture issued by a proper authority of any jurisdiction, based on credentials that do not conflict with subsection (1) of this section and other provisions of the Engineers and Architects Regulation Act, may, upon application, be licensed as an architect after:

(a) Successful passage of an examination on the statutes, rules, and other requirements unique to this state; and

(b) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure.

(3) An individual who holds a current and valid certification issued by the National Council of Architectural Registration Boards and who submits satisfactory evidence of such certification to the board may, upon application, be licensed as an architect after:

(a) Successful passage of an examination on the statutes, rules, and other requirements unique to this state; and

(b) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure.

(4) An individual who has been licensed to practice architecture for fifteen years or more in one or more jurisdictions and who has practiced architecture for fifteen years in compliance with the licensing laws in the jurisdictions where his or her architectural practice has occurred since initial licensure may, upon application, be licensed as an architect after:

(a) Successful passage of an examination on the statutes, rules, and other requirements unique to this state; and

(b) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure.

(5) Upon application to the board in writing and payment of a fee established by the board, an individual who holds a valid license to practice architecture in another jurisdiction may be issued a temporary permit, valid for a definite period of time, to provide architectural services for a specific project. An individual may not be issued more than one temporary permit. No right to practice architecture accrues to such applicant with respect to any other work not set forth in the temporary permit. Temporary permit holders are subject to all of the provisions of the Engineers and Architects Regulation Act governing the practice of architecture.

(6) None of the examination materials described in this section shall be considered public records.

(7) The board or its agent shall direct the time and place of the architectural examinations referenced in subsection (1) of this section.

(8) The board may adopt the examinations and grading procedures of the National Council of Architectural Registration Boards. The board may also adopt guidelines published by the council.

(9) Licensure shall be effective upon issuance.

Source: Laws 1997, LB 622, § 48; Laws 2011, LB45, § 13; Laws 2015, LB23, § 44; Laws 2020, LB755, § 43.

81-3449 Practice of architecture; exempted activities.

The provisions of the Engineers and Architects Regulation Act regulating the practice of architecture do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet of above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet of above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and

regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(4) Any public works project with contemplated expenditures for a completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;

(5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(6) The teaching, including research and service, of architectural subjects in a college or university offering a degree in architecture accredited by the National Architectural Accrediting Board;

(7) The preparation of submissions to architects, building officials, or other regulating authorities by the manufacturer, supplier, or installer of any materials, assemblies, components, or equipment that describe or illustrate the use of such items, the preparation of any details or shop drawings required of the contractor by the terms of the construction documents, or the management of construction contracts by persons customarily engaged in contracting work;

(8) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged in the practice of architecture if such employees are acting under the direct supervision of an architect;

(9) A public service provider or an organization who employs a licensee performing professional services for itself;

(10) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards offering to render the professional services involved in the practice of architecture. The nonresident shall not perform any of the professional services involved in the practice of architecture until licensed as provided in the Engineers and Architects Regulation Act. The nonresident shall notify the board in writing that (a) he or she holds a National Council of Architectural Registration Boards certificate and is not currently licensed in Nebraska but will be present in Nebraska for the purpose of offering to render architectural services, (b) he or she will deliver a copy of the notice to every potential client to whom the applicant offers to render architectural services, and (c) he or she promises to apply immediately to the board for licensure if selected as the architect for the project;

(11) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of the respective profession, if such qualified member does not represent himself or herself to be practicing architecture and does not represent himself or herself to be an architect;

(12) Financial institutions making disbursements of funds in connection with construction projects;

(13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environment and Energy; and

(14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

Source: Laws 1997, LB 622, § 49; Laws 1999, LB 253, § 3; Laws 1999, LB 440, § 1; Laws 2000, LB 900, § 251; Laws 2004, LB 599, § 3; Laws 2011, LB45, § 14; Laws 2015, LB23, § 45; Laws 2019, LB302, § 173.

Cross References

Negotiated Rulemaking Act, see section 84-921.

81-3450 Technical submissions by architect; affix seal and signature; conditions.

(1) An architect shall not affix his or her seal and signature to technical submissions that are subject to the Engineers and Architects Regulation Act unless the technical submissions were:

- (a) Prepared entirely by the architect;
- (b) Prepared entirely under the direct supervision of the architect; or
- (c) Prepared partially by others if the architect has reviewed and integrated the work into his or her own technical submissions.

(2) An architect may affix his or her seal to technical submissions not subject to the act 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; Laws 2015, LB23, § 46.

81-3451 Engineer-intern; enrollment; requirements; application; fee; professional engineer; license; application; fee; examination; requirements; temporary permit.

(1) The following shall be considered as the minimum evidence satisfactory to the board that an applicant is eligible for enrollment as an engineer-intern:

- (a)(i) Graduation from a program accredited by the Engineering Accreditation Commission of ABET;
- (ii) Graduation from a program accredited by the Canadian Engineering Accreditation Board; or
- (iii) Meeting the Education Standard of the National Council of Examiners for Engineering and Surveying as determined by the council;

(b) Passage of an examination in the fundamentals of engineering as accepted by the Board of Engineers and Architects;

(c) Submittal of an application accompanied by the fee established by the board; and

(d) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for enrollment.

(2)(a) The following shall be considered as the minimum evidence satisfactory to the board that an applicant is eligible for admission to the examination on the principles and practice of engineering that is adopted by the board:

(i)(A) Graduation from a program accredited by the Engineering Accreditation Commission of ABET;

(B) Graduation from a program accredited by the Canadian Engineering Accreditation Board; or

(C) Meeting the Education Standard of the National Council of Examiners for Engineering and Surveying as determined by the council;

(ii) Passage of an examination in the fundamentals of engineering as accepted by the Board of Engineers and Architects;

(iii) Submittal of an application accompanied by the fee established by the board; and

(iv) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application.

(b) A candidate who fails the principles and practice of engineering examination may apply for reexamination, which may be granted upon payment of a fee established by the board. In the event of a second or subsequent 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.

(3) The following shall be considered as the minimum evidence satisfactory to the board that an applicant is eligible for licensure as a professional engineer:

(a) Passage of the principles and practice of engineering examination as set forth in subsection (2) of this section;

(b) A record of four years or more of progressive post-accredited-degree experience on engineering projects of a grade and character which indicates to the board that the applicant may be competent to practice engineering;

(c) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure; and

(d) Successful passage of an examination on the statutes, rules, and other requirements unique to this state.

(4) An individual holding a license to practice engineering issued by a proper authority of any jurisdiction, based on credentials that do not conflict with subsections (2) and (3) of this section and other provisions of the Engineers and Architects Regulation Act, may, upon application, be licensed as a professional engineer after:

(a) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure; and

(b) Successful passage of an examination on the statutes, rules, and other requirements unique to this state.

(5) An individual who has been licensed to practice engineering for fifteen years or more in one or more jurisdictions and who has practiced engineering for fifteen years in compliance with the licensing laws in the jurisdictions where his or her engineering practice has occurred since initial licensure may, upon application, be licensed as a professional engineer after:

(a) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the board shall be included in the application for licensure; and

(b) Successful passage of an examination on the statutes, rules, and other requirements unique to this state.

(6) The board may designate a professional engineer as being licensed in a specific discipline or branch of engineering signifying the area in which the professional engineer has demonstrated competence.

(7) Upon application to the board in writing and payment of a fee established by the board, an individual who holds a valid license to practice engineering in another jurisdiction may be issued a temporary permit, valid for a definite period of time, to provide engineering services for a specific project. An individual may not be issued more than one temporary permit. No right to practice engineering accrues to such applicant with respect to any other work not set forth in the temporary permit. Temporary permit holders are subject to all of the provisions of the Engineers and Architects Regulation Act governing the practice of engineering.

(8) None of the examination materials described in this section shall be considered public records.

(9) The board or its agent shall direct the time and place of the engineering examinations referenced in subsections (1), (2), and (3) of this section.

(10) The board may adopt the examinations and grading procedures of the National Council of Examiners for Engineering and Surveying. The board may also adopt guidelines published by the council.

(11) Licensure shall be effective upon issuance.

Source: Laws 1997, LB 622, § 51; Laws 2004, LB 599, § 4; Laws 2004, LB 1069, § 1; Laws 2011, LB45, § 15; Laws 2015, LB23, § 47; Laws 2020, LB755, § 44.

81-3452 Repealed. Laws 2015, LB 23, § 51.

81-3453 Practice of engineering; exempted activities.

The provisions of the Engineers and Architects Regulation Act regulating the practice of engineering do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the

board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage and if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(4) Any public works project with contemplated expenditures for the completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;

(5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(6) The teaching, including research and service, of engineering subjects in a college or university offering an ABET-accredited engineering curriculum of four years or more;

(7) A public service provider or an organization who employs a licensee performing professional services for itself;

(8) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of such profession, if such qualified member does not represent himself or herself to be practicing engineering and does not represent himself or herself to be a professional engineer;

(9) The work of an employee or a subordinate of a person holding a certificate of licensure or a temporary permit under the Engineers and Architects Regulation Act if the work is done under the direct supervision of a person holding a certificate of licensure or a temporary permit under the act;

(10) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

(11) Financial institutions making disbursements of funds in connection with construction projects;

(12) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environment and Energy;

(13) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;

(14) Work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, which does not have a substantial impact upon public health, safety, and welfare, as determined by the board, or require the submission of reports or documents to public agencies;

(15) The construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the owner thereof to be designed or supervised by an engineer or unless legal requirements are imposed upon the owner of a water well as a part of a public water supply;

(16) Work performed in the exploration, development, and production of oil and gas or before the Nebraska Oil and Gas Conservation Commission; and

(17) Siting, layout, construction, and reconstruction of a private onsite wastewater treatment system with a maximum flow from the facility of one thousand gallons of domestic wastewater per day if such system meets all of the conditions required pursuant to the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act unless the siting, layout, construction, or reconstruction by an engineer is required by the Department of Environment and Energy, mandated by law or rules and regulations imposed upon the owner of the system, or required by the owner.

Source: Laws 1997, LB 622, § 53; Laws 1999, LB 253, § 4; Laws 1999, LB 440, § 2; Laws 2000, LB 900, § 252; Laws 2003, LB 94, § 19; Laws 2004, LB 599, § 5; Laws 2011, LB45, § 17; Laws 2015, LB23, § 48; Laws 2019, LB302, § 174; Laws 2020, LB755, § 45.

Cross References

Negotiated Rulemaking Act, see section 84-921.

Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act, see section 81-15,236.

81-3454 Technical submissions by professional engineer; affix seal and signature; conditions.

(1) A professional engineer shall not affix his or her seal and signature to technical submissions that are subject to the Engineers and Architects Regulation Act unless the technical submissions were:

- (a) Prepared entirely by the professional engineer;
- (b) Prepared entirely under the direct supervision of the professional engineer; or
- (c) Prepared partially by others if the professional engineer has reviewed and integrated the work into his or her own technical submissions.

(2) A professional engineer may affix his or her seal to technical submissions not subject to the act if the professional engineer has reviewed or adapted in whole or in part such submissions and integrated them into his or her work.

Source: Laws 1997, LB 622, § 54; Laws 2013, LB7, § 4; Laws 2015, LB23, § 49.

81-3455 Act, how construed.

The Legislature declares that the Engineers and Architects Regulation Act is necessary for the public convenience and welfare, is remedial in nature, and shall be construed liberally. Nothing in the act shall be construed to establish a statewide building code.

Source: Laws 1997, LB 622, § 55.

ARTICLE 35

GEOLOGISTS REGULATION ACT

Cross References

License Suspension Act, see section 43-3301.
Nebraska Consultants' Competitive Negotiation Act, see section 81-1702.

Section	
81-3501.	Act, how cited.
81-3502.	Geology; regulation; prohibited acts.
81-3503.	Definitions, where found.
81-3504.	Board, defined.
81-3505.	Consulting geologist, defined.
81-3506.	Continuing education, defined.
81-3507.	Direct supervision, defined.
81-3508.	Emeritus, referring to a geologist, defined.
81-3509.	Geologist, defined.
81-3509.01.	Geologist-intern, defined.
81-3510.	Geology, defined.
81-3511.	Geology specialty, defined.
81-3512.	Good character, defined.
81-3513.	Occasional, part-time, or consulting services, defined.
81-3514.	Organization, defined.
81-3515.	Practice of geology, defined.
81-3516.	Professional geologist, defined.
81-3517.	Registration (or licensure), defined.
81-3518.	Responsible charge, defined.
81-3519.	Technical submissions, defined.
81-3520.	Board of Geologists; created; membership; terms.
81-3521.	Board; membership requirements; expenses.
81-3522.	Board; certificate of appointment; Attorney General; duties; official seal; rules and regulations.
81-3523.	Board; meetings; quorum.
81-3524.	Geologists Regulation Fund; created; use; investment.
81-3525.	Roster.

Section	
81-3526.	Code of practice; board; powers and duties.
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.
81-3532.	Certificates; replacement; fee.
81-3533.	Enforcement of act.
81-3534.	Practice of geology; restrictions.
81-3535.	Prohibited acts; penalties.
81-3536.	Violation of act; charges; board; duties; hearing.
81-3537.	Violation of act; disciplinary action; penalties.
81-3538.	Repealed. Laws 2005, LB 544, § 1.
81-3539.	Licensure; enrollment; applicant; qualifications; waiver.
81-3540.	Geology examinations.
81-3541.	Licensure; activities exempt.

81-3501 Act, how cited.

Sections 81-3501 to 81-3541 shall be known and may be cited as the Geologists Regulation Act.

Source: Laws 1998, LB 1161, § 49; Laws 2004, LB 890, § 1.

81-3502 Geology; regulation; prohibited acts.

In order to safeguard life, health, and property and to promote the public welfare, the profession of geology is declared to be subject to regulation in the public interest. It is unlawful for any person to (1) practice or offer to practice geology in this state, (2) use in connection with his or her name or otherwise assume the title professional geologist, or (3) advertise any title or description tending to convey the impression that he or she is a licensed geologist, unless the person is duly licensed or exempt from licensure under the Geologists Regulation Act. The practice of geology and use of the title geologist is a privilege granted by the state.

Source: Laws 1998, LB 1161, § 50.

81-3503 Definitions, where found.

For purposes of the Geologists Regulation Act, the definitions found in sections 81-3504 to 81-3519 shall be used.

Source: Laws 1998, LB 1161, § 51; Laws 2004, LB 890, § 2.

81-3504 Board, defined.

Board means the Board of Geologists.

Source: Laws 1998, LB 1161, § 52.

81-3505 Consulting geologist, defined.

Consulting geologist means a professional geologist whose principal occupation is the independent practice of geology; whose livelihood is obtained by offering geologic services to the public; who serves clients as an independent fiduciary; who is devoid of public, commercial, and product affiliation that

might tend to imply a conflict of interest; and who is cognizant of his or her public and legal responsibilities and is capable of discharging them.

Source: Laws 1998, LB 1161, § 53.

81-3506 Continuing education, defined.

Continuing education means the process of training and developing knowledge related to a profession after licensure is attained.

Source: Laws 1998, LB 1161, § 54.

81-3507 Direct supervision, defined.

Direct supervision means the degree of supervision by a person overseeing the work of another person by which the supervisor has control over and detailed professional knowledge of the work being done.

Source: Laws 1998, LB 1161, § 55.

81-3508 Emeritus, referring to a geologist, defined.

Emeritus, referring to a geologist, means a professional who relinquishes or does not renew his or her licensure and who is approved by the board to receive publications and use the honorary title emeritus.

Source: Laws 1998, LB 1161, § 56.

81-3509 Geologist, defined.

Geologist means a person who is qualified to practice geology by reason of special knowledge and use of the earth sciences and the principles of geology and geologic data collection and analysis acquired by geologic education and geologic experience as provided in section 81-3539.

Source: Laws 1998, LB 1161, § 57.

81-3509.01 Geologist-intern, defined.

Geologist-intern means a person who has passed an examination in the fundamentals of geology as provided in section 81-3540.

Source: Laws 2004, LB 890, § 3.

81-3510 Geology, defined.

Geology means the science which includes treatment of the earth and its origin and history, in general; investigation of the earth's constituent rocks, soils, minerals, solids, fluids including underground waters, gases, and other materials; the study of the natural agents, forces, and processes which cause changes in the earth or on its surface; and the application of this knowledge of the earth.

Source: Laws 1998, LB 1161, § 58.

81-3511 Geology specialty, defined.

Geology specialty means a branch of geology which has been recognized for the purposes of licensure, including, but not limited to, environmental geology,

engineering geology, geophysics, hydrogeology, petroleum geology, mining geology, and structural geology.

Source: Laws 1998, LB 1161, § 59.

81-3512 Good character, defined.

Good character means such character as will enable a person to discharge the fiduciary duties of a geologist to his or her client and to the public for the protection of the public health, safety, and welfare. Evidence of inability to discharge such duties includes the commission of an offense justifying discipline.

Source: Laws 1998, LB 1161, § 60.

81-3513 Occasional, part-time, or consulting services, defined.

Occasional, part-time, or consulting services means services not provided by a full-time member of an organization engaged in geology.

Source: Laws 1998, LB 1161, § 61.

81-3514 Organization, defined.

Organization includes a partnership, limited liability company, corporation, or other form of business entity.

Source: Laws 1998, LB 1161, § 62.

81-3515 Practice of geology, defined.

Practice of geology means any service or creative work if the adequate performance of the service or work requires geologic education, training, and experience to include such services or creative work as geological consultation, investigation, planning, surveying, mapping, and inspection of geological work, and the responsible supervision thereof, the performance of which is related to public welfare or the safeguarding of life, health, property, and the environment, and teaching, including research and service, of advanced geological subjects. A person shall be construed to practice or offer to practice geology if he or she: (1) Practices any branch of the profession of geology; (2) by verbal claim, sign, advertisement, letterhead, or card or in any other way, represents himself or herself to be a professional geologist; (3) through the use of some other title, implies that he or she is licensed under the Geologists Regulation Act; or (4) holds himself or herself out as able to perform or does perform any geologic service or work recognized by the board as the practice of geology.

Source: Laws 1998, LB 1161, § 63.

81-3516 Professional geologist, defined.

Professional geologist means a geologist who has a current certificate of licensure issued by the board.

Source: Laws 1998, LB 1161, § 64.

81-3517 Registration (or licensure), defined.

Registration (or licensure) means a certificate of registration (or licensure) issued by the board. For the purposes of the Geologists Regulation Act, license and registration have the same meaning.

Source: Laws 1998, LB 1161, § 65.

81-3518 Responsible charge, defined.

Responsible charge means direct control, direction, and personal supervision by use of initiative and independent judgment for geological work.

Source: Laws 1998, LB 1161, § 66.

81-3519 Technical submissions, defined.

Technical submissions means designs, drawings, specifications, studies, and other technical reports.

Source: Laws 1998, LB 1161, § 67.

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.

81-3521 Board; membership requirements; expenses.

Each member of the board shall be a citizen of the United States and a resident of the State of Nebraska for at least one year immediately preceding his or her appointment. Each professional member shall have been engaged in the active practice of geology for at least ten years, shall have had responsible charge of work for at least five years at the time of his or her appointment, and shall be licensed in geology. Each member of the board shall receive a

compensation the same per diem and travel expenses as other state employees for each day actually spent in traveling to and from and while attending sessions of the board and its committees or authorized meetings of the National Association of State Boards of Geology, or its subdivisions or committees, and shall be reimbursed for expenses incident to the performance of his or her duties under the Geologists Regulation Act as provided in sections 81-1174 to 81-1177.

Source: Laws 1998, LB 1161, § 69; Laws 2020, LB381, § 129.

81-3522 Board; certificate of appointment; Attorney General; duties; official seal; rules and regulations.

Each member of the board shall receive a certificate of appointment from the Governor and, before beginning the term of office, shall file with the Secretary of State the constitutional oath of office. The board or any committee of the board is entitled to the services of the Attorney General in connection with the affairs of the board, and the board may compel the attendance of witnesses, administer oaths, and take testimony and proofs concerning all matters within its jurisdiction. The Attorney General shall act as legal advisor to the board and render such legal assistance as may be necessary in carrying out the Geologists Regulation Act. The board may employ counsel and necessary assistance to aid in carrying out the act. The board shall adopt and have an official seal, which shall be affixed to all certificates of licensure granted, and shall adopt and promulgate rules and regulations to carry out the act.

Source: Laws 1998, LB 1161, § 70.

81-3523 Board; meetings; quorum.

The board shall hold at least one regular meeting each year. Special meetings shall be held as provided in the rules and regulations and at such places as the board elects. Notice of all meetings shall be given in such manner as provided in the rules and regulations. The board shall elect annually at its first meeting after March 1, from its members, a chairperson, vice-chairperson, and secretary. A quorum of the board shall consist of not less than five members.

Source: Laws 1998, LB 1161, § 71.

81-3524 Geologists Regulation Fund; created; use; investment.

The Geologists Regulation Fund is created. The secretary of the board shall receive and account for all money derived from the operation of the Geologists Regulation Act. The board shall remit the money to the State Treasurer for credit to the Geologists Regulation Fund, which shall be continued from year to year and shall be drawn against only as provided for in this section and, when reappropriated for the succeeding biennium, shall not revert to the General Fund. All expenses certified by the board as properly and necessarily incurred in the discharge of duties, including compensation and administrative staff, and any expense incident to the administration of the act relating to other states, shall be paid out of the fund. Warrants for the payment of expenses shall be issued by the Director of Administrative Services and paid by the State Treasurer upon presentation of vouchers regularly drawn by the chairperson and secretary of the board and approved by the board. At no time shall the total amount of warrants exceed the total amount of the fees collected under the act and to the credit of the fund. Transfers may be made from the fund to the

General Fund at the direction of the Legislature. Any money in the Geologists Regulation 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 1161, § 72; Laws 2009, First Spec. Sess., LB3, § 87.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-3525 Roster.

The secretary of the board shall publish a complete roster showing the names and last-known addresses of all professional geologists at intervals as established by board rules and regulations. The secretary shall file the roster with the Secretary of State and may mail a copy to each person so licensed as well as county and municipal officials. The secretary may also sell or distribute copies of the roster to the public.

Source: Laws 1998, LB 1161, § 73.

81-3526 Code of practice; board; powers and duties.

(1) The Legislature hereby finds and declares that a code of practice established by the board by which the members could govern their professional conduct would be beneficial to the state and would safeguard the life, health, and property of the citizens of this state.

(2) The code of practice established by this section shall include provisions on:

- (a) Professional competence;
- (b) Conflict of interest;
- (c) Full disclosure of financial interest;
- (d) Full disclosure of matters affecting public safety, health, and welfare;
- (e) Compliance with laws;
- (f) Professional conduct and good character standards; and
- (g) Practice of geology.

(3) The board may establish such code of practice through rules and regulations adopted and promulgated by the board.

(4) The board may publish commentaries regarding the code of practice. Such commentaries shall explain the meaning of interpretations given to the code by the board.

(5) The board shall have the power to suspend or revoke a geologist's licensure for a violation of the code of practice.

Source: Laws 1998, LB 1161, § 74.

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.

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.

Cross References

Facilitating Business Rapid Response to State Declared Disasters Act, see section 48-3201.

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.

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.

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.

81-3532 Certificates; replacement; fee.

A new certificate of licensure or certificate of authorization to replace any certificate lost, destroyed, or mutilated may be issued by the board. A fee not to exceed one hundred dollars shall be charged for each issuance.

Source: Laws 1998, LB 1161, § 79.

81-3533 Enforcement of act.

The board shall enforce the Geologists Regulation Act and the rules and regulations, including enforcement against any unlicensed person. If any person refuses to obey any decision or order of the board, the board or, upon the request of the board, the Attorney General or the appropriate county attorney shall file an action for the enforcement of the decision or order, including injunctive relief, in the district court. After hearing, the court shall order enforcement of the decision or order, or any part thereof, if legally and properly made by the board and, if appropriate, injunctive relief.

Source: Laws 1998, LB 1161, § 80.

81-3534 Practice of geology; restrictions.

Except as provided in sections 81-3539 to 81-3541, an individual shall not directly or indirectly engage in the practice of geology in the state or use the title Professional Geologist or display or use any words, letters, figures, titles, sign, card, advertisement, or other symbol or device indicating or tending to indicate that he or she is a geologist or is practicing geology unless he or she is licensed under the Geologists Regulation Act. A licensed geologist shall not aid or abet any person not licensed under the act in the practice of geology.

Source: Laws 1998, LB 1161, § 81.

81-3535 Prohibited acts; penalties.

Any person who performs any of the following actions is guilty of a Class II misdemeanor for the first offense and a Class I misdemeanor for the second or any subsequent offense:

(1) Practices or offers to practice geology in this state without being licensed in accordance with the Geologists Regulation Act and is not exempted by sections 81-3539 to 81-3541;

(2) Knowingly and willfully employs or retains a person to practice geology in this state who is not licensed in accordance with the act and who is not exempted by sections 81-3539 to 81-3541;

(3) Uses the word Geologist, or any modification or derivative of such word, in its name or form of business activity except as authorized in the act;

(4) Presents or attempts to use the certificate of licensure or the seal of another person;

(5) Gives any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate of authorization;

(6) Falsely impersonates any other licensee of like or different name;

(7) Attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure or practices or offers to practice when not qualified;

(8) Falsely claims that he or she is licensed or authorized under the act; or

(9) Violates any of the provisions of the act.

Source: Laws 1998, LB 1161, § 82.

81-3536 Violation of act; charges; board; duties; hearing.

Charges against any person involving any matter coming within the jurisdiction of the board shall be in writing and shall be filed with the board. The charges, at the discretion of the board, shall be heard within a reasonable time in accordance with the rules and regulations which may include use of a hearing officer. The accused shall have the right to appear personally with or without counsel, to cross-examine adverse witnesses, and to produce evidence and witnesses in his or her defense. The board shall set the time and place for the hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be sent by registered mail to the accused, at his or her last-known business or residence address known to the board, at least thirty days before the hearing. If, after the hearing, the board finds the accused has violated the Geologists Regulation Act or any rules or regulations, it may issue any order described in section 81-3537. If the board finds no violation, it shall enter an order dismissing the charges. If the order revokes, suspends, or cancels a license, the board shall notify, in writing, the Secretary of State and the clerk of the city or village in the state where the person has a place of business, if any. The board may reissue a license to any person whose license has been revoked. Application for the reissuance of a license shall be made in such a manner as the board directs and shall be accompanied by a fee established by the board.

Source: Laws 1998, LB 1161, § 83.

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.

81-3538 Repealed. Laws 2005, LB 544, § 1.

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 requirements 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.

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.

81-3541 Licensure; activities exempt.

(1) The following activities do not require licensure as a geologist under the Geologists Regulation Act:

(a) Geological work performed by an employee or a subordinate of a professional geologist if the work does not include responsible charge of geological work and is performed under the direct supervision of a professional geologist who is and remains responsible for such work;

(b) Geological work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, and not having a substantial impact upon the public health, safety, and welfare, as determined by the board;

(c) Geologic research conducted through academic institutions, agencies of the federal or state governments, or nonprofit research institutions;

(d) Teaching in geology or related physical or natural sciences;

(e) Work performed by a professional engineer appropriately licensed in this state that is within the generally accepted scope of engineering practice;

(f) The practice of any other legally recognized profession;

(g) The practice of or offer to practice geology by a person not a resident of and having no established place of business in this state who desires to practice geology for a specific project. The person shall make application to the board in writing, and after payment of a fee established by the board by rule and regulation, such person may be issued a temporary permit for a definite period of time not to exceed one year if the person is legally qualified by licensure to practice geology in his or her own state or country. No right to practice geology shall accrue to such applicant with respect to any other work not set forth in the permit;

(h) Work, which includes subsurface excavation, soil and water analysis, and routine environmental monitoring, such as sample collection and water level gauging, performed by an organization for itself and in accordance with other requirements of law;

(i) The work of employees of a political subdivision or state agency charged with natural resources conservation performing, in accordance with other requirements of law, their customary duties in operations, maintenance, and environmental monitoring;

(j) The work of employees and agents of a political subdivision or rural electric cooperative performing, in accordance with other requirements of law, their customary duties in routine utility line construction, operations, and maintenance;

(k) Work customarily performed by chemists, hydrologists, archaeologists, geographers, pedologists, agronomists, and soil scientists; and

(l) Work performed in the construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells.

(2) If the board determines with respect to a particular function that the public is adequately protected without the necessity of a professional geologist performing certain services, the board may waive the requirements of the act with respect to the function.

(3) This section shall not be construed so as to prohibit the testimony of any individual before the Nebraska Oil and Gas Conservation Commission.

Source: Laws 1998, LB 1161, § 88; Laws 1998, LB 1209, § 31; Laws 2007, LB664, § 1.

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.
 81-3606. Repealed. Laws 2011, LB 378, § 37.
 81-3607. Nebraska Development Network Program; created; Department of Economic Development; powers and duties.
 81-3608. Nebraska Development Network Program; programs and strategies.
 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.

81-3606 Repealed. Laws 2011, LB 378, § 37.

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.

81-3608 Nebraska Development Network Program; programs and strategies.

The Nebraska Development Network Program shall create and support community and regional development capacity enhancement programs and strategies throughout Nebraska that:

(1) Recognize shared local, regional, and state responsibility for shaping the community's and the region's economic future and generate and focus public and private resources on effective actions that help communities and businesses to grow and prosper;

(2) Encourage public-private partnerships in order to leverage and enhance public resources through private investment;

(3) Increase the resources directed toward economic development by building support within communities and assisting communities in planning their own economic futures by providing them with comprehensive information about the principles of community and economic development, including the concepts of entrepreneurial communities, strategic planning, leadership training, community development, and effective sustainable economic development; and

(4) Support the work of the Nebraska Development Network regional groups.

Source: Laws 1998, LB 1053, § 8; Laws 2003, LB 48, § 3.

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.

ARTICLE 37

NEBRASKA VISITORS DEVELOPMENT ACT

Section

81-3701.	Act, how cited.
81-3702.	Act; purposes.
81-3703.	Definitions, where found.
81-3704.	Commission, defined.
81-3705.	Committee, defined.
81-3706.	Consideration, defined.
81-3706.01.	Highway tourism marker, defined.
81-3707.	Hotel, defined.
81-3708.	Occupancy, defined.
81-3709.	Occupant, defined.
81-3709.01.	Tourism industry, defined.
81-3710.	Nebraska Tourism Commission; created; members; terms; districts.
81-3711.	Commission; duties.
81-3711.01.	Significant tourism attractions; commission; powers and duties; appoint special committee; Department of Transportation; duties.
81-3712.	Travel and Tourism Division of Department of Economic Development; transition of employees.
81-3713.	Commission; statewide strategic plan; duties.
81-3714.	State Visitors Promotion Cash Fund; created; uses; transfers; investment.
81-3715.	Hotel; occupancy; sales tax.
81-3716.	Hotel; occupancy; county; impose sales tax; when.
81-3717.	County Visitors Promotion Fund; County Visitors Improvement Fund; visitors committee; establishment; purpose.
81-3718.	Visitors committee; budget.
81-3719.	County board; contracts authorized.
81-3720.	County Visitors Improvement Fund; use; visitor attraction, defined.
81-3721.	Commission; contracts authorized.
81-3722.	Lodging sales tax; collection; enforcement.

Section	
81-3723.	County Visitors Promotion Fund; collection; administrative fee.
81-3724.	Tax Commissioner; adopt rules and regulations.
81-3725.	Marketing assistance grants; applicant; duties; innovative tourism grants; technical review committee; duties; final report.
81-3726.	Tourism Conference Cash Fund; created; use; investment.
81-3727.	Repealed. Laws 2017, LB222, § 14.
81-3728.	Vendors; duties; retailers; agreements with commission.
81-3729.	Nebraska Tourism Commission Promotional Cash Fund; created; use; investment.
81-3730.	Tourism promotional products; contracts and agreements authorized.

81-3701 Act, how cited.

Sections 81-3701 to 81-3730 shall be known and may be cited as the Nebraska Visitors Development Act.

Source: Laws 1980, LB 499, § 19; Laws 1988, LB 797, § 10; R.S.1943, (2008), § 81-1263; Laws 2012, LB1053, § 1; Laws 2015, LB449, § 10; Laws 2017, LB222, § 1; Laws 2018, LB945, § 23; Laws 2019, LB637, § 1.

81-3702 Act; purposes.

The purposes of the Nebraska Visitors Development Act are (1) to create the Nebraska Tourism Commission to promote Nebraska as a tourism destination and to administer programs to attract an increasing number of visitors to Nebraska and further the use of travel and tourism facilities in Nebraska, (2) to provide for a lodging tax on hotels for the purpose of establishing a State Visitors Promotion Cash Fund, and (3) to authorize the governing body of any county to appoint a visitors committee and impose a lodging tax on hotels for the purpose of establishing a County Visitors Promotion Fund and a County Visitors Improvement Fund.

Source: Laws 1980, LB 499, § 1; Laws 1988, LB 797, § 1; Laws 1989, LB 262, § 1; Laws 2003, LB 726, § 1; R.S.1943, (2008), § 81-1245; Laws 2012, LB1053, § 2; Laws 2017, LB222, § 2.

81-3703 Definitions, where found.

For purposes of the Nebraska Visitors Development Act, unless the context otherwise requires, the definitions found in sections 81-3704 to 81-3709.01 apply.

Source: Laws 1980, LB 499, § 2; Laws 1988, LB 797, § 2; R.S.1943, (2008), § 81-1246; Laws 2012, LB1053, § 3; Laws 2015, LB449, § 11; Laws 2017, LB222, § 3.

81-3704 Commission, defined.

Commission means the Nebraska Tourism Commission.

Source: Laws 2012, LB1053, § 4.

81-3705 Committee, defined.

Committee means the visitors committee appointed as provided in section 81-3717 for the purpose of advising the county board in administering the County Visitors Promotion Fund and the County Visitors Improvement Fund

established pursuant to such section and carrying out the purposes of the Nebraska Visitors Development Act.

Source: Laws 1980, LB 499, § 7; Laws 1988, LB 797, § 3; Laws 1989, LB 262, § 2; R.S.1943, (2008), § 81-1251; Laws 2012, LB1053, § 5.

81-3706 Consideration, defined.

Consideration means the monetary charge for the use of space in a hotel only if the space is one ordinarily used for accommodations and shall not include the charge for any food or beverage served or personal services rendered to the occupant of such space.

Source: Laws 1980, LB 499, § 4; R.S.1943, (2008), § 81-1248; Laws 2012, LB1053, § 6.

81-3706.01 Highway tourism marker, defined.

Highway tourism marker means a marker of a particular style authorized by the commission to designate tourism attractions.

Source: Laws 2015, LB449, § 12.

81-3707 Hotel, defined.

Hotel means any facility in which the public may, for a consideration, obtain sleeping accommodations. Hotel includes hotels, motels, tourist homes, campgrounds, courts, lodging houses, inns, state-operated hotels, and nonprofit hotels but does not include hospitals, sanitariums, nursing homes, chronic care centers, or dormitories or facilities operated by an educational institution and regularly used to house students.

Source: Laws 1980, LB 499, § 3; Laws 1984, LB 962, § 35; R.S.1943, (2008), § 81-1247; Laws 2012, LB1053, § 7.

81-3708 Occupancy, defined.

Occupancy means the use or possession or the right to the use or possession of any space in a hotel if the space is one ordinarily used for accommodations and if the occupant's use, possession, or right to the use or possession is for less than a period of thirty days.

Source: Laws 1980, LB 499, § 5; Laws 1995, LB 134, § 7; R.S.1943, (2008), § 81-1249; Laws 2012, LB1053, § 8.

81-3709 Occupant, defined.

Occupant means anyone who, for a consideration, uses, possesses, or has a right to use or possess any space in a hotel if the space is one ordinarily used for accommodations.

Source: Laws 1980, LB 499, § 6; R.S.1943, (2008), § 81-1250; Laws 2012, LB1053, § 9.

81-3709.01 Tourism industry, defined.

Tourism industry includes any person or other entity, whether for-profit or not-for-profit, that promotes an activity, an event, or a site which attracts both instate and out-of-state visitors, including, but not limited to, a chamber of commerce, a convention and visitors bureau, the hospitality industry, the food

and beverage industry, the hotel industry, a passenger transportation provider, any business or organization engaged in recreational, historical, cultural, artistic, or entertainment pursuits, and any person who owns or operates any such activity, event, or site.

Source: Laws 2017, LB222, § 4.

81-3710 Nebraska Tourism Commission; created; members; terms; districts.

(1) The Nebraska Tourism Commission is created. The members of the commission shall consist of the Director of Economic Development and twelve residents of the State of Nebraska appointed by the Governor, to include one member representing a state chamber of commerce organized under the Nebraska Nonprofit Corporation Act, and one member appointed from each of the eleven districts described in subsection (2) of this section. The members appointed by the Governor shall be subject to approval by the majority of the members of the Legislature. The term of the member representing a state chamber of commerce shall be four years, and the terms of the district members shall be as provided in subdivision (2)(b) of this section. No appointed member may serve more than two successive terms. Four of the district members shall have professional, volunteer, or public service experience that contributes to the fiduciary and governance duties of the commission. Seven of the district members shall be affiliated with the tourism industry.

(2)(a) For purposes of this section, the state is hereby divided into eleven districts. The limits and designations of the eleven districts shall be as follows:

- (i) District No. 1. Douglas County;
- (ii) District No. 2. Lancaster County;
- (iii) District No. 3. The counties of Richardson, Pawnee, Nemaha, Johnson, Otoe, Gage, Saline, and Jefferson;
- (iv) District No. 4. The counties of Cass and Sarpy;
- (v) District No. 5. The counties of Saunders, Washington, Dodge, Colfax, Stanton, Cuming, Burt, Thurston, Wayne, Cedar, Dixon, and Dakota;
- (vi) District No. 6. The counties of Butler, Polk, Platte, Merrick, Nance, Boone, Madison, Pierce, Antelope, Knox, Holt, and Boyd;
- (vii) District No. 7. The counties of Thayer, Nuckolls, Webster, Adams, Clay, Fillmore, Seward, York, Hamilton, Franklin, and Harlan;
- (viii) District No. 8. The counties of Kearney, Phelps, Hall, Howard, Greeley, Wheeler, Buffalo, Sherman, Valley, and Garfield;
- (ix) District No. 9. The counties of Lincoln, Keya Paha, Rock, Brown, Loup, Blaine, Custer, Logan, McPherson, Arthur, Grant, Hooker, Thomas, and Cherry;
- (x) District No. 10. The counties of Furnas, Red Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Gosper, Dawson, Perkins, and Keith; and
- (xi) District No. 11. The counties of Deuel, Garden, Sheridan, Cheyenne, Morrill, Box Butte, Dawes, Sioux, Scotts Bluff, Banner, and Kimball.

(b) The Governor shall appoint members representing district numbers 1, 6, 8, and 11 to serve for terms ending April 1, 2019; members representing district numbers 2, 5, 7, and 10 to serve for terms ending April 1, 2021; and members

representing district numbers 3, 4, and 9 to serve for terms ending April 1, 2023. The terms of their successors shall be four years.

Source: Laws 2012, LB1053, § 10; Laws 2017, LB222, § 5; Laws 2024, LB624, § 1.

Effective date July 19, 2024.

Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.

81-3711 Commission; duties.

The commission shall:

- (1) Administer the Nebraska Visitors Development Act;
- (2) Prepare and approve a budget;
- (3) Elect a chairperson and vice-chairperson;
- (4) Procure and evaluate data and information necessary for the proper administration of the act;
- (5) Appoint an executive director at a salary to be fixed by the commission to conduct the day-to-day operations of the commission;
- (6) Employ personnel and contract for services which are necessary for the proper operation of the commission;
- (7) Establish a means by which any interested person has the opportunity at least annually to offer his or her ideas and suggestions relative to the commission's duties for the upcoming year;
- (8) Authorize the expenditure of funds and contracting of expenditures to carry out the act;
- (9) Keep minutes of its meetings and other books and records which clearly reflect all of the actions and transactions of the commission and keep such records open to examination during normal business hours;
- (10) Prohibit any funds appropriated to the commission from being expended directly or indirectly to promote or oppose any candidate for public office or to influence state or federal legislation;
- (11) Have authority to mark significant tourism attractions as provided in section 81-3711.01;
- (12) Have authority to develop and approve state marketing campaigns;
- (13) Adopt and promulgate rules and regulations to carry out the Nebraska Visitors Development Act;
- (14) Develop and administer a program to provide promotional services, technical assistance, and state aid to local governments and the tourism industry;
- (15) Establish written policies and procedures governing the executive director and the personnel of the commission in the expenditure and use of funds appropriated to the commission;
- (16) Cooperate with federal, state, and local governments and private individuals and organizations to carry out any of the functions of the commission and purposes of the Nebraska Visitors Development Act; and
- (17) Actively coordinate and develop working partnerships with other state agencies, including, but not limited to, the Commission on Indian Affairs, the

Department of Economic Development, the Game and Parks Commission, the Nebraska Arts Council, the Nebraska State Historical Society, and the University of Nebraska.

Source: Laws 2012, LB1053, § 11; Laws 2015, LB449, § 14; Laws 2017, LB222, § 6; Laws 2019, LB637, § 2.

81-3711.01 Significant tourism attractions; commission; powers and duties; appoint special committee; Department of Transportation; duties.

(1) The commission may mark significant tourism attractions in Nebraska.

(2) The commission may (a) determine what tourism attractions are significant to the State of Nebraska, (b) expend funds for the purchase of highway tourism markers, (c) designate the approximate location of highway tourism markers, (d) preserve, replace, or modify highway tourism markers, and (e) accept gifts and encourage local participation in and contribution to the erection of highway tourism markers through the use of gifts and matching-fund agreements. Such funds shall be deposited into the State Visitors Promotion Cash Fund. The commission shall not expend funds for the purchase of highway tourism markers until funding has been secured through gifts or otherwise.

(3) The commission may appoint and delegate to a special committee the duties of research and investigation to assist in the determination of tourism attractions that should be designated by highway tourism markers. The Department of Transportation shall erect and maintain highway tourism markers and shall determine the exact location of highway tourism markers with consideration given for the safety and welfare of the public.

(4) The commission may secure payment to the state for the actual replacement cost of any highway tourism markers damaged or destroyed, accidentally or otherwise. Any funds so collected shall be remitted to the State Treasurer for credit to the State Visitors Promotion Cash Fund for the procurement of highway tourism markers.

(5) Nothing in this section shall be construed to restrict the placement of any marker or signage on private property.

Source: Laws 2015, LB449, § 13; Laws 2017, LB339, § 291.

81-3712 Travel and Tourism Division of Department of Economic Development; transition of employees.

For purposes of transition, employees of the Travel and Tourism Division of the Department of Economic Development shall be considered employees of the commission and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the commission from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2012, LB1053, § 12; Laws 2017, LB222, § 7.

81-3713 Commission; statewide strategic plan; duties.

The commission shall develop a statewide strategic plan to cultivate and promote tourism in Nebraska. The commission shall review the plan annually and update as necessary. The plan shall include:

- (1) A review of revenue in the State Visitors Promotion Cash Fund available for tourism development at the state level;
- (2) An examination of best management practices for the tourism industry;
- (3) Marketing strategies for promoting tourism;
- (4) Methods to expand existing tourism capacity which may include encouraging regional cooperation, collaboration, or privatization; and
- (5) Recommended strategies to provide technical assistance, marketing services, and state aid to local governments and the tourism industry in Nebraska.

Source: Laws 1986, LB 965, § 13; Laws 2011, LB684, § 1; R.S.1943, (2008), § 81-1201.13; Laws 2012, LB782, § 193; Laws 2012, LB1053, § 13; Laws 2017, LB222, § 8.

81-3714 State Visitors Promotion Cash Fund; created; uses; transfers; investment.

The State Visitors Promotion Cash Fund is created. The fund shall be administered by the commission. The fund shall consist of revenue deposited into the fund pursuant to section 81-3715 and money donated as gifts, bequests, or other contributions from public or private entities. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by such department or agency. The commission shall use the proceeds of the fund to generally promote, encourage, and attract visitors to and within the State of Nebraska, to erect and replace highway tourism markers, to enhance the use of travel and tourism facilities within the state, to provide grants to communities and organizations, and to contract with the Department of Administrative Services to provide support services to the commission, including, but not limited to, accounting and personnel functions. The proceeds of the fund shall be in addition to funds appropriated to the commission from the General Fund. Transfers may be made from the State Visitors Promotion Cash Fund to the General Fund at the direction of the Legislature. The State Treasurer shall transfer one million dollars from the State Visitors Promotion Cash Fund to the General Fund on or before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. Any money in the State Visitors Promotion Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 1980, LB 499, § 8; R.S.1943, (2008), § 81-1252; Laws 2012, LB1053, § 14; Laws 2015, LB449, § 15; Laws 2016, LB957, § 9; Laws 2017, LB222, § 9; Laws 2018, LB945, § 26; Laws 2024, First Spec. Sess., LB3, § 44.
Effective date August 21, 2024.

Cross References

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

81-3715 Hotel; occupancy; sales tax.

There is hereby imposed an additional sales tax of one percent upon the total consideration charged for occupancy of any space furnished by any hotel in this state. The proceeds from such tax shall be paid to the State Visitors Promotion Cash Fund.

Source: Laws 1980, LB 499, § 9; R.S.1943, (2008), § 81-1253; Laws 2012, LB1053, § 15.

81-3716 Hotel; occupancy; county; impose sales tax; when.

(1) The governing body of any county may after a public hearing adopt a resolution to impose an additional sales tax of not to exceed two percent upon the total consideration charged for occupancy of any space furnished by any hotel if such county has created a County Visitors Promotion Fund and a visitors committee pursuant to section 81-3717. The proceeds from such tax shall be paid to the County Visitors Promotion Fund.

(2) The governing body of any county may after a public hearing adopt a resolution to impose an additional sales tax of not to exceed two percent upon the total consideration charged for occupancy of any space furnished by any hotel if such county has created a County Visitors Improvement Fund and a visitors committee pursuant to section 81-3717. The proceeds from such tax shall be paid to the County Visitors Improvement Fund.

(3) The taxes authorized by this section shall be in addition to the tax authorized in section 81-3715 or any other sales tax imposed or authorized.

Source: Laws 1980, LB 499, § 10; Laws 1989, LB 262, § 3; Laws 2003, LB 726, § 2; R.S.1943, (2008), § 81-1254; Laws 2012, LB1053, § 16.

81-3717 County Visitors Promotion Fund; County Visitors Improvement Fund; visitors committee; establishment; purpose.

(1) The governing body of the county shall after a public hearing adopt a resolution establishing a County Visitors Promotion Fund and a visitors committee which shall serve as an advisory committee to the governing body in administering the proceeds from the taxes provided to the county by the Nebraska Visitors Development Act. The governing body of a county may also after a public hearing adopt a resolution establishing a County Visitors Improvement Fund. The proceeds of the County Visitors Promotion Fund shall be used generally to promote, encourage, and attract visitors to come to the county and use the travel and tourism facilities within the county. The proceeds of the County Visitors Improvement Fund shall be used to improve the visitor attractions and facilities in the county, except that no proceeds shall be used to improve a facility in which parimutuel wagering is conducted unless such facility also serves as the site of a state fair or district or county agricultural society fair. If the visitors committee determines that the visitor attractions in the county are adequate and do not require improvement, the governing body of the county, with the advice of the committee, may only use the County Visitors Improvement Fund to promote, encourage, and attract visitors to the county to use the county's travel and tourism facilities or, with the advice of the visitors committee, make grants to organizations to promote, encourage, and attract visitors to the county to use the county's travel and tourism facilities. The committee shall consist of five or seven members appointed by the

governing body of the county. If the committee has five members, at least one but no more than two members of the committee shall be in the hotel industry. If the committee has seven members, at least two but no more than three members of the committee shall be in the hotel industry.

(2) The members of the committee shall serve without compensation, except for reimbursement for necessary expenses. Committee members shall serve for terms of four years, except that at least half of those appointed shall be appointed for initial terms of two years. Vacancies shall be filled in the same manner as the initial appointments. The committee shall elect a chairperson and vice-chairperson from among its members to serve for terms of two years.

Source: Laws 1980, LB 499, § 11; Laws 1988, LB 797, § 4; Laws 1989, LB 262, § 4; Laws 1999, LB 499, § 1; Laws 2003, LB 726, § 3; Laws 2011, LB277, § 1; R.S.Supp.,2011, § 81-1255; Laws 2012, LB1053, § 17; Laws 2014, LB215, § 1; Laws 2023, LB775, § 15.

81-3718 Visitors committee; budget.

The governing body of the county shall annually set the budget, if any, under which the committee shall operate.

Source: Laws 1980, LB 499, § 12; R.S.1943, (2008), § 81-1256; Laws 2012, LB1053, § 18.

81-3719 County board; contracts authorized.

The county board may contract with any person, firm, association, or corporation to carry out its powers and duties under the Nebraska Visitors Development Act.

Source: Laws 1980, LB 499, § 13; Laws 1988, LB 797, § 5; R.S.1943, (2008), § 81-1257; Laws 2012, LB1053, § 19.

81-3720 County Visitors Improvement Fund; use; visitor attraction, defined.

(1)(a) The County Visitors Improvement Fund shall be administered by the governing body of the county with the advice of the visitors committee created pursuant to section 81-3717. The fund shall be used to make grants for expanding and improving facilities at any existing visitor attraction, acquiring or expanding exhibits for existing visitor attractions, constructing visitor attractions, or planning or developing such expansions, improvements, or construction.

(b) Grants shall be available for any visitor attraction in the county owned by the public or any nonprofit organization, the primary purpose of which is to operate the visitor attraction.

(c) Grants may be made for a specified annual amount not to exceed the proceeds derived from a sales tax rate of one percent imposed by a county for a County Visitors Improvement Fund for a term of years not to exceed twenty years and may be pledged by the recipient to secure bonds issued to finance expansion, improvement, or construction of a visitor attraction. Any grant made for a term of years shall be funded each year in accordance with any agreement contained in the grant contract.

(d) No bonds issued by a grant recipient which pledges grant funds shall constitute a debt, liability, or general obligation of the county levying the tax or a pledge of the faith and credit of the county levying the tax but shall be payable

solely from grant funds. Each bond issued by any grant recipient which pledges grant funds shall contain on the face thereof a statement that neither the faith and credit nor the taxing power of the county levying the tax is pledged to the payment of the principal of or the interest on such bond.

(2) For purposes of this section and section 81-3717, visitor attraction means a defined location open to the public, which location is of educational, cultural, historical, artistic, or recreational significance or provides entertainment or in which are exhibits, displays, or performances of educational, cultural, historic, artistic, or entertainment value.

Source: Laws 1980, LB 499, § 14; Laws 1988, LB 797, § 6; Laws 1989, LB 262, § 5; Laws 2005, LB 557, § 1; R.S.1943, (2008), § 81-1258; Laws 2012, LB1053, § 20; Laws 2023, LB775, § 16.

81-3721 Commission; contracts authorized.

All contracts awarded by the commission shall be subject to the State Procurement Act. The commission shall comply with the rules, regulations, procedures, and guidelines established by the Department of Administrative Services for contracts.

Source: Laws 1980, LB 499, § 15; Laws 1988, LB 797, § 7; R.S.1943, (2008), § 81-1259; Laws 2012, LB1053, § 21; Laws 2017, LB222, § 10; Laws 2024, LB461, § 46.
Effective date July 19, 2024.

Cross References

State Procurement Act, see section 73-801.

81-3722 Lodging sales tax; collection; enforcement.

Unless otherwise specifically provided, any sales tax on transient lodging imposed under the Nebraska Visitors Development Act is in addition to that sales tax imposed under the provisions of Chapter 77, article 27, and shall be interpreted, collected, remitted, and enforced by the Tax Commissioner under the provisions of such article. Any sales tax on transient lodging imposed under the Nebraska Visitors Development Act shall be due and payable to the Tax Commissioner monthly on or before the twenty-fifth day of the month next succeeding each monthly period.

Source: Laws 1980, LB 499, § 16; Laws 1988, LB 797, § 8; Laws 2011, LB210, § 12; R.S.Supp.,2011, § 81-1260; Laws 2012, LB1053, § 22.

81-3723 County Visitors Promotion Fund; collection; administrative fee.

The amount the Tax Commissioner shall remit, as taxes collected for a County Visitors Promotion Fund, shall be reduced by three percent as an administrative fee necessary to defray the cost of collecting the tax and the expenses incident to such collection.

Source: Laws 1980, LB 499, § 17; R.S.1943, (2008), § 81-1261; Laws 2012, LB1053, § 23.

81-3724 Tax Commissioner; adopt rules and regulations.

The Tax Commissioner shall adopt and promulgate rules and regulations to carry out the collection of lodging taxes under the Nebraska Visitors Development Act.

Source: Laws 1980, LB 499, § 18; Laws 1988, LB 797, § 9; R.S.1943, (2008), § 81-1262; Laws 2012, LB1053, § 24; Laws 2017, LB222, § 11.

81-3725 Marketing assistance grants; applicant; duties; innovative tourism grants; technical review committee; duties; final report.

(1) The commission shall develop a program to provide marketing assistance grants to communities and organizations hosting national or international-caliber events held in Nebraska that have the potential to attract a significant percentage of out-of-state visitors and to generate favorable national or international press coverage for Nebraska.

(2) A community or organization applying for a marketing assistance grant shall provide a plan to the commission that includes: (a) Documentation that the event will attract out-of-state visitors; (b) details regarding the type of marketing that would be carried out with state funds; (c) methodologies used to track the impact of marketing efforts and the number of out-of-state visitors attending the event; and (d) details regarding the potential national or international press coverage that will be generated by the event.

(3) The commission shall develop a program to provide innovative tourism grants to communities or organizations that provide tourism and visitor promotion services, host events, or promote attractions which result in either (a) an increased number of nonlocal, instate visitors or (b) an increased number of both nonlocal, instate visitors and out-of-state visitors. Innovative tourism grants may include, but not be limited to, marketing assistance, planning assistance, basic support, and regional cooperation. Innovative tourism grants shall not be used for equipment or capital facility development or improvements.

(4) The executive director shall convene a technical review committee of no fewer than three individuals representing the public sector, the private sector, and citizens at large. The technical review committee and the executive director shall review and score applications for marketing assistance grants and innovative tourism grants and forward recommendations to the commission for approval by the commission or a subcommittee of the commission.

(5) Communities and organizations receiving marketing assistance grants or innovative tourism grants authorized under this section shall provide a final report to the commission within ninety days after the completion date of the event that includes event attendance, the use of funds, and marketing impact information.

(6) The commission shall adopt and promulgate rules and regulations governing the grant programs authorized under this section.

Source: Laws 2015, LB449, § 16; Laws 2017, LB222, § 12.

81-3726 Tourism Conference Cash Fund; created; use; investment.

The Tourism Conference Cash Fund is created. The fund shall be administered by the commission. All sums of money received from fees from any conference or event held by the commission shall be deposited in the fund. The

commission shall use the fund to defray expenses related to any conference or event sponsored by the commission. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2015, LB449, § 17.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-3727 Repealed. Laws 2017, LB222, § 14.

81-3728 Vendors; duties; retailers; agreements with commission.

(1) Vendors under contract with the commission to develop, print, and distribute publications and promotional materials or produce, sell, and distribute tourism promotional products on behalf of the commission shall, on a monthly basis, submit to the commission all revenue received from the sale of advertising space in such publications or from the sale of such tourism promotional products. Monthly submissions shall include an itemization of the sources of revenue in a format as designated by the commission. Revenue from such sales shall be remitted to the State Treasurer for credit to the Nebraska Tourism Commission Promotional Cash Fund.

(2) The commission may enter into agreements directly with retailers to sell tourism promotional products. If a retailer pays for such products in full at the time of acquisition, the retailer shall have no further reporting requirements. The commission shall remit payments received from retailers acquiring such products to the State Treasurer for credit to the Nebraska Tourism Commission Promotional Cash Fund.

Source: Laws 2018, LB945, § 24; Laws 2019, LB637, § 4; Laws 2022, LB59, § 1.

81-3729 Nebraska Tourism Commission Promotional Cash Fund; created; use; investment.

The Nebraska Tourism Commission Promotional Cash Fund is hereby created. The fund shall consist of revenue submitted by vendors and retailers under section 81-3728 and revenue from the tax collected on the net operating revenue of cash devices pursuant to section 77-3012. Revenue from the sale of advertising shall be remitted to the State Treasurer for credit to the fund. The commission shall use the fund to carry out its purposes under the Nebraska Visitors Development Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2018, LB945, § 25; Laws 2022, LB59, § 2; Laws 2024, LB685, § 19.

Effective date July 19, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-3730 Tourism promotional products; contracts and agreements authorized.

The commission is authorized to develop and make available for sale directly to the public tourism promotional products related to state marketing campaigns developed and approved by the commission. The commission may contract with private vendors to produce, sell, and distribute such tourism promotional products or enter into agreements directly with retailers as provided in section 81-3728. Any revenue from the sale of such tourism promotional products shall be credited to the Nebraska Tourism Commission Promotional Cash Fund as provided in section 81-3728.

Source: Laws 2019, LB637, § 3; Laws 2022, LB59, § 3.

ARTICLE 38

COMMISSION ON ASIAN AMERICAN AFFAIRS

Section

- 81-3801. Commission; members; qualifications; appointment; terms.
- 81-3802. Commission; purpose.
- 81-3803. Commission; funds; executive director; qualifications; office.
- 81-3804. Commission; functions.
- 81-3805. Commission; members; compensation; expenses.
- 81-3806. Commission; meetings; quorum; attendance required; exception.
- 81-3807. Commission; executive board; purpose; members; powers.

81-3801 Commission; members; qualifications; appointment; terms.

(1) There is hereby established the Commission on Asian American Affairs. For purposes of sections 81-3801 to 81-3807, commission means the Commission on Asian American Affairs.

(2) The commission shall consist of fourteen members who shall be of Asian ancestry. Members of the commission shall be appointed by the Governor. The commission may have such nonvoting, ex officio members as shall be appointed by the commission and who need not be of Asian ancestry. The commission shall elect one of its members as chairperson.

(3) Members of the commission shall serve four-year terms or for the unexpired term in the event of a vacancy. As the terms of the voting members expire, their successors shall be appointed by the Governor from a panel of nominees submitted by the public. An appointment for an unexpired term shall follow the same procedure as for initial and subsequent appointments. Voting members shall be eligible for reappointment.

Source: Laws 2024, LB1300, § 28.

Operative date July 19, 2024.

81-3802 Commission; purpose.

The purpose of the commission is to join representatives of Asian Americans in Nebraska to do all things which the commission may determine to enhance the cause of Asian American rights and to develop solutions to problems common to all Asian Americans residing in Nebraska.

Source: Laws 2024, LB1300, § 29.

Operative date July 19, 2024.

81-3803 Commission; funds; executive director; qualifications; office.

The commission may receive and administer funds from state, federal, and other sources and may employ and fix the compensation of an executive

director of its own choosing who shall be an Asian American person and a legal resident of the State of Nebraska. An office for the executive director shall be provided.

Source: Laws 2024, LB1300, § 30.
Operative date July 19, 2024.

81-3804 Commission; functions.

The functions of the commission are to:

- (1) Promote state and federal legislation beneficial to the Asian American community in Nebraska;
- (2) Coordinate programs relating to the Asian American community in Nebraska regarding housing, education, welfare, medical and dental care, employment, economic development, law and order, and related problems;
- (3) Work with other state and federal government agencies and federal and state elected officials in the development of programs in the areas described in subdivision (2) of this section;
- (4) Keep the Governor's office apprised of the status of affairs in the Asian American community in Nebraska;
- (5) Administer sections 81-3801 to 81-3807;
- (6) Provide the public with information and education relevant to Asian American affairs in Nebraska; and
- (7) Develop programs to encourage the total involvement of Asian American people in activities for the common benefit of the Asian American community.

Source: Laws 2024, LB1300, § 31.
Operative date July 19, 2024.

81-3805 Commission; members; compensation; expenses.

The members of the commission shall each receive fifty dollars for each day spent in the performance of their duties and shall receive reimbursement for any expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 2024, LB1300, § 32.
Operative date July 19, 2024.

81-3806 Commission; meetings; quorum; attendance required; exception.

(1) The commission shall meet at least once every calendar quarter. Meetings shall be held in January, April, July, and October. Special meetings may be called at the request of eight voting members. Eight voting members of the commission shall constitute a quorum for the transaction of business.

(2) The office of any member of the commission who, without a valid excuse, fails to attend quarterly or special meetings shall be vacant.

Source: Laws 2024, LB1300, § 33.
Operative date July 19, 2024.

81-3807 Commission; executive board; purpose; members; powers.

(1) For purposes of administration of the commission during the interim between regular quarterly meetings, there is hereby established an executive

board of the Commission on Asian American Affairs consisting of the chairperson of the commission and four members of the commission.

(2) The executive board may enter into contracts for consultation services, supplies, and equipment, if the amount contracted for does not exceed two thousand dollars in any one contract, and may supervise all programs relating to the affairs of Asian American people residing in Nebraska instituted and authorized by the commission.

Source: Laws 2024, LB1300, § 34.
Operative date July 19, 2024.