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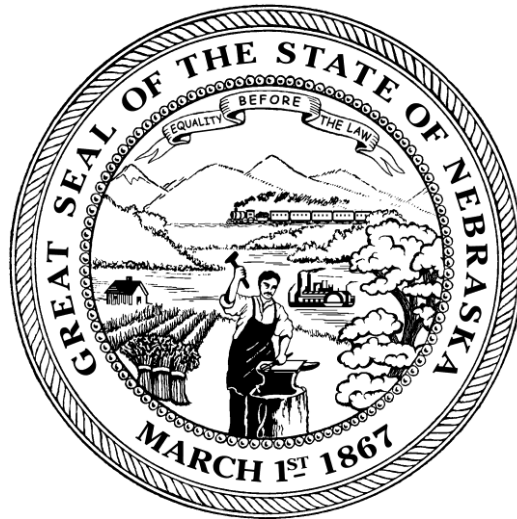


REVISED STATUTES OF NEBRASKA

2010 CUMULATIVE SUPPLEMENT

EDITED, ANNOTATED, AND PUBLISHED
BY THE
REVISOR OF STATUTES

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CHAPTERS 61 to UCC, INCLUSIVE



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Revisor of Statutes

For the benefit of the
State of Nebraska

CHAPTER 61

NATURAL RESOURCES

Article.

2. Department of Natural Resources. 61-210 to 61-219.

ARTICLE 2

DEPARTMENT OF NATURAL RESOURCES

Section

- 61-210. Department of Natural Resources Cash Fund; created; use; investment.
 61-217. Repealed. Laws 2010, LB 682, § 1.
 61-218. Water Resources Cash Fund; created; use; investment; eligibility for funding; annual report; contents.
 61-219. Repealed. Laws 2010, LB 683, § 1.

61-210 Department of Natural Resources Cash Fund; created; use; investment.

The Department of Natural Resources Cash Fund is created. The State Treasurer shall credit to such fund such money as is specifically appropriated or reappropriated by the Legislature. The State Treasurer shall also credit such fund with payments, if any, accepted for services rendered by the department and fees collected pursuant to subsection (6) of section 46-606 and section 61-209. The funds made available to the Department of Natural Resources by the United States, through the Natural Resources Conservation Service of the Department of Agriculture or through any other agencies, shall be credited to the fund by the State Treasurer. 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 Department of Natural Resources shall allocate money from the fund to pay costs of the programs or activities of the department. The Director of Administrative Services, upon receipt of proper vouchers approved by the department, shall issue warrants on the fund, and the State Treasurer shall countersign and pay from, but never in excess of, the amounts to the credit of the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature.

Source: Laws 1937, c. 8, § 13, p. 109; C.S.Supp.,1941, § 2-1913; R.S. 1943, § 2-1547; Laws 1959, c. 6, § 25, p. 90; Laws 1969, c. 584, § 28, p. 2358; Laws 1973, LB 188, § 2; Laws 1987, LB 29, § 2; Laws 1995, LB 7, § 6; Laws 1999, LB 403, § 2; R.S.Supp.,1999, § 2-1547; Laws 2000, LB 900, § 10; Laws 2001, LB 667, § 26; Laws 2002, LB 458, § 8; Laws 2005, LB 335, § 81; Laws 2007, LB701, § 26; Laws 2009, First Spec. Sess., LB3, § 38.
 Effective date November 21, 2009.

Cross References

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

61-217 Repealed. Laws 2010, LB 682, § 1.**61-218 Water Resources Cash Fund; created; use; investment; eligibility for funding; annual report; contents.**

(1) The Water Resources Cash Fund is created. The fund shall be administered by the Department of Natural Resources. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Water Resources 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 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, and (d) made available by any department or agency of the United States if so directed by such department or agency.

(3) The fund shall be expended by the department (a) to aid management actions taken to reduce consumptive uses of water and to enhance streamflows or ground water recharge in river basins, subbasins, or reaches which are deemed by the department overappropriated pursuant to section 46-713 or fully appropriated pursuant to section 46-714 or are bound by an interstate compact or decree or a formal state contract or agreement and (b) to the extent funds are not expended pursuant to subdivision (a) of this subsection, the department may conduct a statewide assessment of short-term and long-term water management activities and funding needs to meet statutory requirements in sections 46-713 to 46-718 and 46-739 and any requirements of an interstate compact or decree or formal state contract or agreement. The fund shall not be used to pay for administrative expenses or any salaries for the department or any political subdivision.

(4) It is the intent of the Legislature that two million seven hundred thousand dollars be transferred each fiscal year from the General Fund to the Water Resources Cash Fund for FY2009-10 through FY2018-19.

(5)(a) Expenditures from the Water Resources Cash Fund may be made to natural resources districts eligible under subsection (3) of this section for activities to either achieve a sustainable balance of consumptive water uses or assure compliance with an interstate compact or decree or a formal state contract or agreement and shall require a match of local funding in an amount equal to or greater than forty percent of the total cost of carrying out the eligible activity. The department shall, no later than August 1 of each year, beginning in 2007, determine the amount of funding that will be made available to natural resources districts from the Water Resources Cash Fund and notify natural resources districts of this determination. The department shall adopt and promulgate rules and regulations governing application for and use of the Water Resources Cash Fund by natural resources districts. Such rules and regulations shall, at a minimum, include the following components:

(i) Require an explanation of how the planned activity will assure compliance with an interstate compact or decree or a formal state contract or agreement as required by section 46-715 and the controls, rules, and regulations designed to carry out the activity; and

(ii) A schedule of implementation of the activity or its components.

(b) Any natural resources district that fails to implement and enforce its controls, rules, and regulations as required by section 46-715 shall not be eligible for funding from the Water Resources Cash Fund until it is determined by the department that compliance with the provisions required by section 46-715 has been established.

(6) The Department of Natural Resources shall submit an annual report to the Legislature no later than October 1 of each year, beginning in the year 2007, that shall detail the use of the Water Resources Cash Fund in the previous year. The report shall provide:

(a) Details regarding the use and cost of activities carried out by the department; and

(b) Details regarding the use and cost of activities carried out by each natural resources district that received funds from the Water Resources Cash Fund.

Source: Laws 2007, LB701, § 25; Laws 2009, First Spec. Sess., LB3, § 39; Laws 2010, LB689, § 1; Laws 2010, LB993, § 1.
Effective date July 15, 2010.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB689, section 1, with LB993, section 1, to reflect all amendments.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

61-219 Repealed. Laws 2010, LB 683, § 1.



CHAPTER 66

OILS, FUELS, AND ENERGY

Article.

- 7. Motor Fuel Tax Enforcement and Collection. 66-719, 66-739.
- 13. Ethanol. 66-1345 to 66-1345.02.
- 15. Petroleum Release Remedial Action. 66-1501 to 66-1532.
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ARTICLE 7

MOTOR FUEL TAX ENFORCEMENT AND COLLECTION

Section

- 66-719. Prohibited acts; financial penalties; department; powers; waiver of interest.
- 66-739. Motor Fuel Tax Enforcement and Collection Cash Fund; created; use; investment.

66-719 Prohibited acts; financial penalties; department; powers; waiver of interest.

(1) Any person who neglects or refuses to file the report or return due for any period or to pay the tax due for any period within the time prescribed for the filing of such report or return or for the payment of such tax under the motor fuel laws shall automatically accrue a penalty of fifty dollars.

(2) Any person who neglects or refuses to file the report or return due for any period or to pay the tax due for any period within ten days after the time prescribed for the filing of such report or return or the payment of such tax under the motor fuel laws shall, in addition to the penalty in subsection (1) of this section, be subject to the larger of:

- (a) A penalty of one hundred dollars; or
- (b) A penalty of ten percent of the tax not paid.

(3)(a) Notwithstanding anything in subsection (1) or (2) of this section to the contrary, no penalty shall be imposed upon any person who voluntarily reports an underpayment of tax by filing an amended return and paying such tax if such amended return is filed and payment is made within thirty days after the date such tax was due.

(b) Except as provided in subsection (8) of this section, interest shall not be waived on any additional tax due as reported on any amended return, and such interest shall be computed from the date such tax was due.

(4) Any person who neglects or refuses to report and pay motor fuel tax on methanol, naphtha, benzine, benzol, kerosene, or any other volatile, flammable, or combustible liquid that is blended with motor vehicle fuel or undyed diesel fuel shall be subject to a penalty equal to one hundred percent of the tax not paid or one thousand dollars, whichever is larger. Such penalty shall be in addition to the motor fuel tax due and all other penalties provided by law.

(5) If any person knowingly files a false report or return, the penalty shall be equal to one hundred percent of the tax not paid or one thousand dollars,

whichever is larger, which penalty shall be in addition to all other penalties provided by law.

(6) Any person who knowingly conducts any activities requiring a license or permit under the motor fuel laws without a license or permit or after a license or permit has been surrendered, suspended, or canceled shall automatically accrue a penalty of one hundred dollars per day for each day such violation continues.

(7) The department may in its discretion waive all or any portion of the penalties incurred upon sufficient showing by the taxpayer that the failure to file or pay is not due to negligence, intentional disregard of the law, rules, or regulations, intentional evasion of the tax, or fraud committed with intent to evade the tax or that such penalties should otherwise be waived.

(8) The department may in its discretion waive any and all interest incurred upon sufficient showing by the taxpayer that such interest should be waived.

(9) All penalties collected by the department under this section shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

Source: Laws 1991, LB 627, § 114; Laws 1993, LB 440, § 11; Laws 1996, LB 1121, § 6; Laws 2000, LB 1067, § 27; Laws 2010, LB879, § 4. Operative date July 15, 2010.

66-739 Motor Fuel Tax Enforcement and Collection Cash Fund; created; use; investment.

There is hereby created the Motor Fuel Tax Enforcement and Collection Cash Fund. Such fund shall consist of appropriations to the fund and money transferred to it pursuant to section 39-2215. The fund shall be used exclusively for the costs of the Motor Fuel Tax Enforcement and Collection Division created by section 66-738 and other related costs for the Department of Agriculture, the Nebraska State Patrol, and functional areas of the Department of Revenue as provided by such section, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Motor Fuel Tax Enforcement and Collection Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1991, LB 627, § 142; Laws 1994, LB 1066, § 53; Laws 1994, LB 1160, § 110; Laws 2009, First Spec. Sess., LB3, § 40. Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 13

ETHANOL

Section

66-1345. Ethanol Production Incentive Cash Fund; created; use; investment; transfers; duties.

66-1345.01. Corn and grain sorghum; excise tax; procedure.

66-1345.02. Excise tax; records required; remittance of tax; duties; calculations required by Department of Agriculture; report.

66-1345 Ethanol Production Incentive Cash Fund; created; use; investment; transfers; duties.

(1) There is hereby created the Ethanol Production Incentive Cash Fund which shall be used by the board to pay the credits created in section 66-1344 to the extent provided 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. The State Treasurer shall transfer to the Ethanol Production Incentive Cash Fund such money as shall be (a) appropriated to the Ethanol Production Incentive Cash Fund by the Legislature, (b) given as gifts, bequests, grants, or other contributions to the Ethanol Production Incentive Cash Fund from public or private sources, (c) made available due to failure to fulfill conditional requirements pursuant to investment agreements entered into prior to April 30, 1992, (d) received as return on investment of the Ethanol Authority and Development Cash Fund, (e) credited to the Ethanol Production Incentive Cash Fund from the excise taxes imposed by section 66-1345.01 through December 31, 2012, and (f) credited to the Ethanol Production Incentive Cash Fund pursuant to sections 66-489, 66-726, 66-1345.04, and 66-1519.

(2) The Department of Revenue shall, at the end of each calendar month, notify the State Treasurer of the amount of motor fuel tax that was not collected in the preceding calendar month due to the credits provided in section 66-1344. The State Treasurer shall transfer from the Ethanol Production Incentive Cash Fund to the Highway Trust Fund an amount equal to such credits less the following amounts:

(a) For 1993, 1994, and 1995, the amount generated during the calendar quarter by a one-cent tax on motor fuel pursuant to sections 66-489 and 66-6,107;

(b) For 1996, the amount generated during the calendar quarter by a three-quarters-cent tax on motor fuel pursuant to such sections;

(c) For 1997, the amount generated during the calendar quarter by a one-half-cent tax on motor fuel pursuant to such sections; and

(d) For 1998 and each year thereafter, no reduction.

For 1993 through 1997, if the amount generated pursuant to subdivisions (a), (b), and (c) of this subsection and the amount transferred pursuant to subsection (1) of this section are not sufficient to fund the credits provided in section 66-1344, then the credits shall be funded through the Ethanol Production Incentive Cash Fund but shall not be funded through either the Highway Cash Fund or the Highway Trust Fund. For 1998 and each year thereafter, the credits provided in such section shall be funded through the Ethanol Production Incentive Cash Fund but shall not be funded through either the Highway Cash Fund or the Highway Trust Fund.

If, during any month, the amount of money in the Ethanol Production Incentive Cash Fund is not sufficient to reimburse the Highway Trust Fund for credits earned pursuant to section 66-1344, the Department of Revenue shall suspend the transfer of credits by ethanol producers until such time as additional funds are available in the Ethanol Production Incentive Cash Fund for transfer to the Highway Trust Fund. Thereafter, the Department of Revenue shall, at the end of each month, allow transfer of accumulated credits earned by

each ethanol producer on a prorated basis derived by dividing the amount in the fund by the aggregate amount of accumulated credits earned by all ethanol producers.

(3) The State Treasurer shall transfer from the Ethanol Production Incentive Cash Fund to the Management Services Expense Revolving Fund the amount reported under subsection (4) of section 66-1345.02 for each calendar month of the fiscal year as provided in such subsection.

(4) On December 31, 2012, the State Treasurer shall transfer one-half of the unexpended and unobligated funds, including all subsequent investment interest, from the Ethanol Production Incentive Cash Fund to the Nebraska Corn Development, Utilization, and Marketing Fund and the Grain Sorghum Development, Utilization, and Marketing Fund in the same proportion as funds were collected pursuant to section 66-1345.01 from corn and grain sorghum. The Department of Agriculture shall assist the State Treasurer in determining the amounts to be transferred to the funds. The State Treasurer shall transfer the remaining one-half of the unexpended and unobligated funds to the General Fund.

(5) Whenever the unobligated balance in the Ethanol Production Incentive Cash Fund exceeds twenty million dollars, the Department of Revenue shall notify the Department of Agriculture at which time the Department of Agriculture shall suspend collection of the excise tax levied pursuant to section 66-1345.01. If, after suspension of the collection of such excise tax, the balance of the fund falls below ten million dollars, the Department of Revenue shall notify the Department of Agriculture which shall resume collection of the excise tax.

(6) On or before December 1, 2003, and each December 1 thereafter, the Department of Revenue and the Nebraska Ethanol Board shall jointly submit a report to the Legislature which shall project the anticipated revenue and expenditures from the Ethanol Production Incentive Cash Fund through the termination of the ethanol production incentive programs pursuant to section 66-1344. The initial report shall include a projection of the amount of ethanol production for which the Department of Revenue has entered agreements to provide ethanol production credits pursuant to section 66-1344.01 and any additional ethanol production which the Department of Revenue and the Nebraska Ethanol Board reasonably anticipate may qualify for credits pursuant to section 66-1344.

Source: Laws 1992, LB 754, § 9; R.S.Supp.,1992, § 66-1327; Laws 1993, LB 364, § 16; Laws 1994, LB 961, § 2; Laws 1994, LB 1066, § 55; Laws 1994, LB 1160, § 114; Laws 1995, LB 182, § 62; Laws 1995, LB 377, § 8; Laws 1999, LB 605, § 2; Laws 2001, LB 329, § 13; Laws 2001, LB 536, § 3; Laws 2004, LB 479, § 7; Laws 2004, LB 983, § 59; Laws 2004, LB 1065, § 7; Laws 2007, LB322, § 13; Laws 2007, LB701, § 27; Laws 2010, LB689, § 2. Effective date July 15, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

66-1345.01 Corn and grain sorghum; excise tax; procedure.

An excise tax is levied upon all corn and grain sorghum sold through commercial channels in Nebraska or delivered in Nebraska. For any sale or delivery of corn or grain sorghum occurring on or after July 1, 1995, and before January 1, 2000, the tax is three-fourths cent per bushel for corn and three-fourths cent per hundredweight for grain sorghum. For any sale or delivery of corn or grain sorghum occurring on or after January 1, 2000, and before January 1, 2001, the tax is one-half cent per bushel for corn and one-half cent per hundredweight for grain sorghum. For any sale or delivery of corn or grain sorghum occurring on or after October 1, 2001, and before October 1, 2004, the tax is one-half cent per bushel for corn and one-half cent per hundredweight for grain sorghum. For any sale or delivery of corn or grain sorghum occurring on or after October 1, 2004, and before October 1, 2005, the tax is three-fourths cent per bushel for corn and three-fourths cent per hundredweight for grain sorghum. For any sale or delivery of corn or grain sorghum occurring on or after October 1, 2005, and before October 1, 2012, the tax is seven-eighths cent per bushel for corn and seven-eighths cent per hundredweight for grain sorghum. The tax shall be in addition to any fee imposed pursuant to sections 2-3623 and 2-4012.

The excise tax shall be imposed at the time of sale or delivery and shall be collected by the first purchaser. The tax shall be collected, administered, and enforced in conjunction with the fees imposed pursuant to sections 2-3623 and 2-4012. The tax shall be collected, administered, and enforced by the Department of Agriculture. No corn or grain sorghum shall be subject to the tax imposed by this section more than once.

In the case of a pledge or mortgage of corn or grain sorghum as security for a loan under the federal price support program, the excise tax shall be deducted from the proceeds of such loan at the time the loan is made. If, within the life of the loan plus thirty days after the collection of the excise tax for corn or grain sorghum that is mortgaged as security for a loan under the federal price support program, the grower of the corn or grain sorghum so mortgaged decides to purchase the corn or grain sorghum and use it as feed, the grower shall be entitled to a refund of the excise tax previously paid. The refund shall be payable by the department upon the grower's written application for a refund. The application shall have attached proof of the tax deducted.

The excise tax shall be deducted whether the corn or grain sorghum is stored in this or any other state. The excise tax shall not apply to the sale of corn or grain sorghum to the federal government for ultimate use or consumption by the people of the United States when the State of Nebraska is prohibited from imposing such tax by the Constitution of the United States and laws enacted pursuant thereto.

Source: Laws 1995, LB 377, § 2; Laws 1996, LB 1336, § 7; Laws 1999, LB 605, § 3; Laws 2001, LB 536, § 4; Laws 2004, LB 479, § 8; Laws 2004, LB 1065, § 8; Laws 2005, LB 90, § 18; Laws 2007, LB322, § 14; Laws 2007, LB701, § 28; Laws 2010, LB689, § 3. Effective date July 15, 2010.

66-1345.02 Excise tax; records required; remittance of tax; duties; calculations required by Department of Agriculture; report.

(1) The first purchaser, at the time of sale or delivery, shall retain the excise tax as provided in section 66-1345.01 and shall maintain the necessary records

of the excise tax for each sale or delivery of corn or grain sorghum. Records maintained by the first purchaser shall provide (a) the name and address of the seller or deliverer, (b) the date of the sale or delivery, (c) the number of bushels of corn or hundredweight of grain sorghum sold or delivered, and (d) the amount of excise tax retained on each sale or delivery. The records shall be open for inspection and audit by authorized representatives of the Department of Agriculture during normal business hours observed by the first purchaser.

(2) The first purchaser shall render and have on file with the department by the last day of each January, April, July, and October on forms prescribed by the department a statement of the number of bushels of corn and hundredweight of grain sorghum sold or delivered in Nebraska. At the time the statement is filed, the first purchaser shall pay and remit to the department the excise tax.

(3) The department shall remit the excise tax collected to the State Treasurer for credit to the Ethanol Production Incentive Cash Fund within thirty days after the end of each quarter.

(4) The department shall calculate its costs in collecting and enforcing the excise tax imposed by section 66-1345.01 and shall report such costs to the budget division of the Department of Administrative Services within thirty days after the end of the fiscal year. Sufficient funds to cover such costs shall be transferred from the Ethanol Production Incentive Cash Fund to the Management Services Expense Revolving Fund at the end of each calendar month.

Source: Laws 1995, LB 377, § 3; Laws 1999, LB 605, § 4; Laws 2001, LB 536, § 5; Laws 2007, LB322, § 15; Laws 2007, LB701, § 29; Laws 2010, LB689, § 4.
Effective date July 15, 2010.

ARTICLE 15

PETROLEUM RELEASE REMEDIAL ACTION

Section

66-1501. Act, how cited.

66-1521. Petroleum release remedial action fee; amount; license required; filing; violation; penalty; Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue; powers and duties; Petroleum Release Remedial Action Collection Fund; created; use; investment.

66-1532. Repealed. Laws 2010, LB 832, § 3.

66-1501 Act, how cited.

Sections 66-1501 to 66-1531 shall be known and may be cited as the Petroleum Release Remedial Action Act.

Source: Laws 1989, LB 289, § 1; Laws 1991, LB 409, § 1; Laws 1994, LB 1160, § 116; Laws 1996, LB 1226, § 1; Laws 1998, LB 1161, § 26; Laws 2004, LB 962, § 103; Laws 2010, LB832, § 1.
Effective date July 15, 2010.

66-1521 Petroleum release remedial action fee; amount; license required; filing; violation; penalty; Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue; powers and duties; Petroleum Release Remedial Action Collection Fund; created; use; investment.

(1) A petroleum release remedial action fee is hereby imposed upon the producer, refiner, importer, distributor, wholesaler, or supplier who engages in

the sale, distribution, delivery, and use of petroleum within this state, except that the fee shall not be imposed on petroleum that is exported. The fee shall also be imposed on diesel fuel which is indelibly dyed. The amount of the fee shall be nine-tenths of one cent per gallon on motor vehicle fuel as defined in section 66-482 and three-tenths of one cent per gallon on diesel fuel as defined in section 66-482. The amount of the fee shall be used first for payment of claims approved by the State Claims Board pursuant to section 66-1531; second, up to three million dollars of the fee per year shall be used for reimbursement of owners and operators under the Petroleum Release Remedial Action Act for investigations of releases ordered pursuant to section 81-15,124; and third, the remainder of the fee shall be used for any other purpose authorized by section 66-1519. The fee shall be paid by all producers, refiners, importers, distributors, wholesalers, and suppliers subject to the fee by filing a monthly return on or before the twenty-fifth day of the calendar month following the monthly period to which it relates. The pertinent provisions, specifically including penalty provisions, of the motor fuel laws as defined in section 66-712 shall apply to the administration and collection of the fee except for the treatment given refunds. There shall be a refund allowed on any fee paid on petroleum which was taxed and then exported, destroyed, or purchased for use by the United States Government or its agencies. The department may also adjust for all errors in the payment of the fee. In each calendar year, no claim for refund related to the fee can be for an amount less than ten dollars.

(2) No producer, refiner, importer, distributor, wholesaler, or supplier shall engage in the sale, distribution, delivery, or use of petroleum in this state without having first obtained a petroleum release remedial action license. Application for a license shall be made to the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue upon a form prepared and furnished by the division. If the applicant is an individual, the application shall include the applicant's social security number. Failure to obtain a license prior to engaging in the sale, distribution, delivery, or use of petroleum shall be a Class IV misdemeanor. The division may suspend or cancel the license of any producer, refiner, importer, distributor, wholesaler, or supplier who fails to pay the fee imposed by subsection (1) of this section in the same manner as licenses are suspended or canceled pursuant to section 66-720.

(3) The division may adopt and promulgate rules and regulations necessary to carry out this section.

(4) The division shall deduct and withhold from the petroleum release remedial action fee collected pursuant to this section an amount sufficient to reimburse the direct costs of collecting and administering the petroleum release remedial action fee. Such costs shall not exceed one hundred fifty thousand dollars for each fiscal year. The one hundred fifty thousand dollars shall be prorated, based on the number of months the fee is collected, whenever the fee is collected for only a portion of a year. The amount deducted and withheld for costs shall be deposited in the Petroleum Release Remedial Action Collection Fund which is hereby created. The Petroleum Release Remedial Action Collection Fund shall be appropriated to the Department of Revenue, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Petroleum Release Remedial Action Collection Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The division shall collect the fee imposed by subsection (1) of this section.

Source: Laws 1989, LB 289, § 21; Laws 1991, LB 409, § 14; Laws 1991, LB 627, § 139; Laws 1994, LB 1066, § 58; Laws 1994, LB 1160, § 120; Laws 1997, LB 752, § 153; Laws 1998, LB 1161, § 31; Laws 2000, LB 1067, § 31; Laws 2004, LB 983, § 66; Laws 2009, LB165, § 1; Laws 2009, First Spec. Sess., LB3, § 41.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

66-1532 Repealed. Laws 2010, LB 832, § 3.

ARTICLE 18

STATE NATURAL GAS REGULATION ACT

Section

66-1839. Municipal Rate Negotiations Revolving Loan Fund; created; use; administration; audit; investment; loan repayment.

66-1839 Municipal Rate Negotiations Revolving Loan Fund; created; use; administration; audit; investment; loan repayment.

(1) The Municipal Rate Negotiations Revolving Loan Fund is created. The fund shall be used to make loans to cities for rate negotiations under section 66-1838 or negotiations or litigation under section 66-1867, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Only one loan may be made for each rate filing made by a jurisdictional utility within the scope of each section. Money in the Municipal Natural Gas Regulation Revolving Loan Fund that is not necessary to finance rate proceedings initiated prior to May 31, 2003, shall be transferred to the Municipal Rate Negotiations Revolving Loan Fund on May 31, 2003, and repayments of loans or other obligations owing to the Municipal Natural Gas Regulation Revolving Loan Fund on May 31, 2003, shall be deposited in the Municipal Rate Negotiations Revolving Loan Fund upon receipt. Any obligations against or commitments of money from the Municipal Natural Gas Regulation Revolving Loan Fund on May 31, 2003, shall be obligations or commitments of the Municipal Rate Negotiations Revolving Loan Fund.

(2) The Municipal Rate Negotiations Revolving Loan Fund shall be administered by the commission which shall adopt and promulgate rules and regulations to carry out this section. The rules and regulations shall include:

- (a) Loan application procedures and forms; and
- (b) Fund-use monitoring and quarterly accounting of fund use.

(3) Applicants for a loan from the fund shall provide a budget statement which specifies the proposed use of the loan proceeds. Such proceeds may only be used for the costs and expenses incurred by the city to analyze rate filings for the purposes specified in section 66-1838 or 66-1867. Such costs and expenses may include the cost of rate consultants and attorneys and any other necessary costs related to the negotiation process or litigation under section 66-1867. Disbursements from the fund shall be audited by the commission. The affected jurisdictional utility may petition the commission to initiate a proceed-

ing to determine whether the disbursements from the fund were expended by the negotiating cities consistent with the requirements of this section.

(4) The fund shall be audited as part of the regular audit of the commission's budget, and copies of the audit shall be available to all cities and any jurisdictional utility. Audits conducted pursuant to this section are public records.

(5) 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. If the fund balance exceeds four hundred thousand dollars, the income on the money in the fund shall be credited to the permanent school fund until the balance of the Municipal Rate Negotiations Revolving Loan Fund falls below such amount.

(6) A city which receives a loan under this section shall be responsible to provide for the opportunity for all other cities engaged in the same negotiations with the same jurisdictional utility to participate in all negotiations. Such city shall not exclude any other city from the information or benefits accruing from the use of loan funds.

(7) Upon the conclusion of negotiations, regardless of the result, the loan shall be repaid by the jurisdictional utility to the commission within thirty days after the date upon which it is billed by the commission. The utility shall recover the amount paid on the loan by a special surcharge on ratepayers who are or will be affected by the rate increase request. These ratepayers may be billed on their monthly statements for a period not to exceed twelve months, and the surcharge may be shown as a separate item on the statements as a charge for rate negotiation expenses.

Source: Laws 2003, LB 790, § 39; Laws 2009, LB658, § 3; Laws 2009, First Spec. Sess., LB3, § 42.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 19

WIND MEASUREMENT EQUIPMENT

Section

66-1901. Wind measurement equipment; registration with Department of Aeronautics; data available to public; removal of equipment; report required.

66-1901 Wind measurement equipment; registration with Department of Aeronautics; data available to public; removal of equipment; report required.

(1) All wind measurement equipment associated with the development or study of wind-powered electric generation, whether owned or leased, shall be registered with the Department of Aeronautics if the equipment is at least fifty feet in height above the ground and is located outside the boundaries of any incorporated city or village.

(2)(a) On or before January 1, 2013, all such equipment installed prior to July 15, 2010, shall be either lighted, marked with balls at least twenty-one inches in diameter, painted, or modified in some other manner so it is recognizable in clear air during daylight hours from a distance of not less than two thousand feet.

(b) All such equipment installed on or after July 15, 2010, shall be either lighted or painted.

(3) The person or firm that owns or leases equipment described in subsection (1) of this section shall register it within fifteen days after July 15, 2010, in the case of equipment installed before such date or within thirty days after installation in the case of equipment installed on or after such date. Such registration shall include the equipment's exact location and height above the ground, the name of the person or firm registering the equipment, the method used to make the equipment recognizable as provided in subsection (2) of this section, and the name and telephone number of a contact person for any issues related to such equipment. Within five days after receiving such registration, the department shall make all data included in the registration available to the public.

(4) Any person or firm that removes equipment subject to the registration requirements of this section shall report the removal to the department within thirty days after such removal.

Source: Laws 2010, LB1048, § 8.
Effective date July 15, 2010.

CHAPTER 67

PARTNERSHIPS

Article.

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

ARTICLE 2

NEBRASKA UNIFORM LIMITED PARTNERSHIP ACT

PART II. FORMATION; CERTIFICATE OF LIMITED PARTNERSHIP

Section

- 67-248.02. Merger, consolidation, or conversion; domestic or foreign partnerships, limited partnerships, limited liability companies, or corporations; procedure.

PART II

FORMATION; CERTIFICATE OF LIMITED PARTNERSHIP

67-248.02 Merger, consolidation, or conversion; domestic or foreign partnerships, limited partnerships, limited liability companies, or corporations; procedure.

(a) One or more domestic or foreign partnerships or limited partnerships may merge or consolidate with one or more domestic or foreign partnerships or limited partnerships. Sections 67-446 to 67-453 shall govern the merger or consolidation.

(b) Pursuant to an agreement, one or more domestic or foreign limited partnerships, limited liability companies, or corporations may merge into or consolidate with one or more domestic or foreign limited partnerships, limited liability companies, or corporations. If the resulting entity is a domestic corporation, the Business Corporation Act shall govern the merger or consolidation. If the surviving or resulting entity is a corporation, the merger or consolidation shall be subject to sections 21-20,128 to 21-20,134. If the surviving or resulting entity is not a domestic corporation or a limited liability company, the board of directors of each domestic corporation party to such merger or consolidation shall, by resolution adopted by each such board, approve a plan of merger or plan of consolidation setting forth information substantially similar to that required by sections 21-20,128 to 21-20,134. If the surviving or resulting entity is a limited liability company, the Limited Liability Company Act or the Nebraska Uniform Limited Liability Company Act shall govern the merger or consolidation. Unless otherwise provided in the partnership agreement, a plan of merger or plan of consolidation shall be approved by each domestic limited partnership which is to merge or consolidate (1) by all general partners and (2) by limited partners or, if there is more than one class or group of limited partners, then by limited partners of each class or group of limited partners, in either case, who own more than fifty percent of the then current percentage or other interest in the profits of the domestic limited

partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate. Notwithstanding prior approval, an agreement or plan of merger or agreement or plan of consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement or plan of merger or agreement or plan of consolidation.

(c) If the surviving or resulting entity of a merger or consolidation pursuant to subsection (b) of this section is not a domestic limited partnership, limited liability company, or corporation following a merger or consolidation of one or more domestic limited partnerships, limited liability companies, or corporations and one or more foreign limited partnerships, limited liability companies, or corporations, the surviving or resulting entity shall comply with sections 21-20,128 to 21-20,134 and, for each such domestic limited partnership, a certificate shall be executed and filed in the office of the Secretary of State by the surviving or resulting limited partnership, limited liability company, or corporation stating that the surviving or resulting limited partnership, limited liability company, or corporation agrees that it may be served with process within or outside this state in any proceeding in the courts of this state for the enforcement of any obligation of such former domestic limited partnership.

(d) A merger or consolidation pursuant to subsection (b) of this section to which a domestic corporation is a party shall become effective as provided in sections 21-20,128 to 21-20,134. A merger, consolidation, or conversion to which a domestic limited liability company is a party shall become effective as provided in sections 21-170 to 21-184 or 21-2647 to 21-2653. Any other merger or consolidation provided for in the Nebraska Uniform Limited Partnership Act shall become effective as provided in the agreement or plan of merger or consolidation. When such merger, consolidation, or conversion has become effective, the terms of sections 21-20,128 to 21-20,134 shall apply if the surviving or resulting entity is a corporation, the terms of section 21-174, 21-178, or 21-2651 shall apply if the surviving or resulting entity is a limited liability company, and the following provisions shall apply if the surviving or resulting entity is a limited partnership:

(1) The several limited partnerships, limited liability companies, or corporations which are parties to the merger or consolidation agreement shall be a single limited partnership which, in the case of a merger, shall be that limited partnership designated in the merger agreement as the surviving limited partnership and, in the case of a consolidation, shall be the new limited partnership provided for in the consolidation agreement;

(2) The separate existence of all limited partnerships, limited liability companies, and corporations which are parties to the merger or consolidation agreement, except the surviving or new limited partnership, shall cease;

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

(4) The surviving or new limited partnership shall possess all the rights, privileges, immunities, and powers, of a public as well as of a private nature, of each of the merging or consolidating limited partnerships and, subject to the Nebraska Uniform Limited Partnership Act, each of the merging or consolidating corporations. All property, real, personal, and mixed, all debts due on

whatever account, all other things and causes of actions, and all and every other interest belonging to or due to any of the limited partnerships, limited liability companies, and corporations as merged or consolidated shall be taken and deemed to be transferred to and vested in the surviving or new limited partnership without further act and deed and shall thereafter be the property of the surviving or new limited partnership as they were of any of such merging or consolidating entities. The title to any real property or any interest in such property vested in any of such merging or consolidating entities shall not revert or be in any way impaired by reason of such merger or consolidation;

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

(6) The equity securities of the corporation or corporations, limited liability company or companies, and limited partnership or limited partnerships party to the merger or consolidation that are, under the terms of the merger or consolidation, to be converted or exchanged shall cease to exist, and the holders of such equity securities shall thereafter be entitled only to the cash, property, or securities into which they shall have been converted in accordance with the terms of the merger or consolidation, subject to any rights under sections 21-20,137 to 21-20,150, the Limited Liability Company Act, or the Nebraska Uniform Limited Liability Company Act.

Source: Laws 1989, LB 482, § 23; Laws 1990, LB 1228, § 6; Laws 1994, LB 884, § 84; Laws 1995, LB 109, § 227; Laws 1997, LB 523, § 69; Laws 2010, LB888, § 101.
Operative date January 1, 2011.

Cross References

Business Corporation Act, see section 21-2001.

Limited Liability Company Act, see section 21-2601.

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



CHAPTER 68

PUBLIC ASSISTANCE

Article.

- 6. Social Security. 68-601 to 68-631.
- 7. Department Duties. 68-721.
- 9. Medical Assistance Act. 68-901 to 68-969.
- 10. Assistance, Generally.
 - (b) Procedure and Penalties. 68-1017, 68-1017.01.
 - (h) Non-United States Citizens. 68-1070.
- 18. ICF/MR Reimbursement Protection Act. 68-1804.

ARTICLE 6

SOCIAL SECURITY

Section

- 68-601. Social security; policy.
- 68-602. Terms, defined.
- 68-603. Agreement with federal government; state agency; approval of Governor.
- 68-604. Agreement with federal government; instrumentality jointly created with other state.
- 68-605. Contributions by state employees; amount.
- 68-608. Coverage by political subdivisions; plan; modification; approval by state agency.
- 68-610. Coverage by political subdivisions; amount; payment.
- 68-612. Repealed. Laws 2010, LB 684, § 13.
- 68-613. Repealed. Laws 2010, LB 684, § 13.
- 68-620. Cities and villages; special levy; addition to levy limitations; contribution to state agency.
- 68-621. Terms, defined.
- 68-622. Referendum; persons eligible to vote; Governor; powers.
- 68-631. Metropolitan utilities district; social security; employees; separate group; referendum; effect.

68-601 Social security; policy.

(1) In order to extend to the employees of the state and its political subdivisions and to the dependents and survivors of such employees the basic protection accorded to others by the old age and survivors insurance system embodied in the Social Security Act, it is hereby declared to be the policy of the Legislature, subject to the limitations of sections 68-601 to 68-631, that such steps be taken as to provide such protection to employees of the State of Nebraska and its political subdivisions on as broad a basis as is permitted under the act.

(2) In conformity with the policy of the Congress of the United States of America, it is hereby declared to be the policy of the State of Nebraska that the protection afforded employees in positions covered by retirement systems on the date the state agreement is made applicable to service performed in such positions or receiving periodic benefits under such retirement systems at such time will not be impaired as a result of making the agreement so applicable or as a result of legislative or executive action taken in anticipation or in consequence thereof and that the benefits provided by the Social Security Act and

made available to employees of the State of Nebraska and of political subdivisions thereof or instrumentalities jointly created by the state and any other state or states, who are or may be members of a retirement system, shall be supplementary to the benefits provided by such retirement system.

Source: Laws 1951, c. 297, § 1, p. 977; Laws 1955, c. 264, § 1, p. 812; Laws 1990, LB 820, § 1; Laws 2000, LB 1216, § 8; Laws 2010, LB684, § 1.

Effective date July 15, 2010.

68-602 Terms, defined.

For purposes of sections 68-601 to 68-631, unless the context otherwise requires:

(1) Wages shall mean all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash, except that wages shall not include that part of such remuneration which, even if it were for employment within the meaning of the Federal Insurance Contributions Act, would not constitute wages within the meaning of the act;

(2) Employment shall mean any service performed by an employee in the employ of the State of Nebraska or any political subdivision thereof for such employer except (a) service which, in the absence of an agreement entered into under sections 68-601 to 68-631, would constitute employment as defined in the Social Security Act or (b) service which under the act may not be included in an agreement between the state and the Secretary of Health and Human Services entered into under sections 68-601 to 68-631. Service which under the act may be included in an agreement only upon certification by the Governor in accordance with section 218(d)(3) of the act shall be included in the term employment if and when the Governor issues, with respect to such service, a certificate to the Secretary of Health and Human Services pursuant to subsection (2) of section 68-624;

(3) Employee shall include an officer of the state or a political subdivision thereof;

(4) State agency shall mean the Director of Administrative Services;

(5) Secretary of Health and Human Services shall include any individual to whom the Secretary of Health and Human Services has delegated any functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions and, with respect to any action taken prior to April 11, 1953, includes the Federal Security Administrator and any individual to whom such administrator had delegated any such function;

(6) Political subdivision shall include an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is essentially legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision;

(7) Social Security Act shall mean the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the Social Security Act, including regulations and requirements issued pursuant thereto, as such act has

been amended or recodified to December 25, 1969, and may from time to time hereafter be amended or recodified; and

(8) Federal Insurance Contributions Act shall mean Chapter 21, subchapters A, B, and C of the Internal Revenue Code, and the term employee tax shall mean the tax imposed by section 3101 of such code.

Source: Laws 1951, c. 297, § 2, p. 978; Laws 1955, c. 264, § 2, p. 813; Laws 1969, c. 536, § 1, p. 2181; Laws 1977, LB 194, § 1; Laws 1984, LB 933, § 2; Laws 1990, LB 820, § 2; Laws 1995, LB 574, § 57; Laws 2000, LB 1216, § 9; Laws 2010, LB684, § 2.
Effective date July 15, 2010.

68-603 Agreement with federal government; state agency; approval of Governor.

The state agency, with the approval of the Governor, is hereby authorized to enter, on behalf of the State of Nebraska, into an agreement with the Secretary of Health and Human Services, consistent with the terms and provisions of sections 68-601 to 68-631, for the purpose of extending the benefits of the federal old age and survivors' insurance system to employees of the state or any political subdivision thereof with respect to services specified in such agreement which constitute employment. The state agency, with the approval of the Governor, is further authorized to enter, on behalf of the State of Nebraska, into such modifications and amendments to such agreement with the Secretary of Health and Human Services as shall be consistent with the terms and provisions of sections 68-601 to 68-631 if such modification or amendment is necessary or desirable to secure the benefits and exemptions allowable to the State of Nebraska or any political subdivision thereof or to any employee of the State of Nebraska or any political subdivision thereof provided by the Social Security Act, the Federal Insurance Contributions Act, or the employee tax. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and Secretary of Health and Human Services shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:

(1) Benefits will be provided for employees whose services are covered by the agreement and their dependents and survivors on the same basis as though such services constituted employment within the meaning of Title II of the Social Security Act;

(2) The state will pay to the Secretary of the Treasury of the United States, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of the Federal Insurance Contributions Act;

(3) Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified in the agreement, but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year in which such agreement is entered into or in which the modification of the agreement making it applicable to such services is entered into, except that if a political subdivision made reports and

payments for social security coverage of its employees to the Internal Revenue Service under the Federal Insurance Contributions Act in the mistaken belief that such action provided coverage for the employees, such agreement shall be effective as of the first day of the first calendar quarter for which such reports were erroneously filed;

(4) All services which constitute employment and are performed in the employ of the state by employees of the state shall be covered by the agreement;

(5) All services which constitute employment, are performed in the employ of a political subdivision of the state, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under sections 68-608 to 68-611 shall be covered by the agreement;

(6) As modified, the agreement shall include all services described in either subdivision (4) or (5) of this section or both of such subdivisions and performed by individuals to whom section 218(c)(3)(c) of the Social Security Act is applicable and shall provide that the service of any such individual shall continue to be covered by the agreement in case he or she thereafter becomes eligible to be a member of a retirement system; and

(7) As modified, the agreement shall include all services described in either subdivision (4) or (5) of this section or both of such subdivisions and performed by individuals in positions covered by a retirement system with respect to which the Governor has issued a certificate to the Secretary of Health and Human Services pursuant to subsection (2) of section 68-624.

Source: Laws 1951, c. 297, § 3(1), p. 979; Laws 1955, c. 264, § 3, p. 814; Laws 1969, c. 536, § 2, p. 2183; Laws 1979, LB 576, § 1; Laws 1984, LB 933, § 3; Laws 1990, LB 820, § 3; Laws 2000, LB 1216, § 10; Laws 2010, LB684, § 3.
Effective date July 15, 2010.

68-604 Agreement with federal government; instrumentality jointly created with other state.

Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (1) to enter into an agreement with the Secretary of Health and Human Services whereby the benefits of the federal old age and survivors' insurance system shall be extended to employees of such instrumentality, (2) to require its employees to pay, and for that purpose to deduct from their wages, contributions equal to the amounts which they would be required to pay under section 68-605 if they were covered by an agreement made pursuant to section 68-603, and (3) to make payments to the Secretary of the Treasury of the United States in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such an agreement shall, to the extent practicable, be consistent with the terms and provisions of section 68-603 and other provisions of sections 68-601 to 68-631.

Source: Laws 1951, c. 297, § 3(2), p. 980; Laws 1955, c. 264, § 4, p. 816; Laws 1984, LB 933, § 4; Laws 1990, LB 820, § 4; Laws 2000, LB 1216, § 11; Laws 2010, LB684, § 4.
Effective date July 15, 2010.

68-605 Contributions by state employees; amount.

Every employee of the state whose services are covered by an agreement entered into under sections 68-603 and 68-604 shall be required to pay for the period of such coverage, contributions, with respect to wages, as defined in section 68-602, equal to the amount of tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act. Such liability shall arise in consideration of the employee's retention in the service of the state, or his or her entry upon such service, after the enactment of sections 68-601 to 68-631.

Source: Laws 1951, c. 297, § 4(1), p. 980; Laws 1955, c. 264, § 5, p. 817; Laws 1987, LB 3, § 1; Laws 2000, LB 1216, § 12; Laws 2010, LB684, § 5.
Effective date July 15, 2010.

68-608 Coverage by political subdivisions; plan; modification; approval by state agency.

Unless otherwise provided for by sections 68-601 to 68-631, each political subdivision of the state is hereby authorized to submit for approval by the state agency a plan for extending the benefits of Title II of the Social Security Act, in conformity with applicable provisions of such act, to employees of such political subdivision and is hereby further authorized to submit for approval by the state agency any modification or amendment to any then existing plan if such modification or amendment is necessary or desirable to secure the benefits and exemptions allowable to such political subdivisions thereof or to any employee of the political subdivision in conformity with Title II of the act. Each such plan and any amendment thereof shall be approved by the state agency if it finds that such plan or such plan as amended is in conformity with such requirements as are provided in regulations of the state agency, except that no such plan shall be approved unless: (1) It is in conformity with the requirements of the act and with the agreement entered into under sections 68-603 and 68-604; (2) it provides that all services which constitute employment and are performed in the employ of the political subdivision by employees thereof will be covered by the plan; (3) it specifies the source or sources from which the funds necessary to make the payments required by subsection (1) of section 68-610 and by section 68-611 are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose; (4) it provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan; (5) it provides that the political subdivision will make such reports in such form and containing such information as the state agency may from time to time require and will comply with such provisions as the state agency or the Secretary of Health and Human Services may from time to time find necessary to assure the correctness and verification of such reports; and (6) it authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the provisions of the act.

Source: Laws 1951, c. 297, § 5(1), p. 981; Laws 1955, c. 264, § 6, p. 817; Laws 1969, c. 536, § 3, p. 2184; Laws 1984, LB 933, § 5; Laws

1990, LB 820, § 5; Laws 2000, LB 1216, § 13; Laws 2010, LB684, § 6.
Effective date July 15, 2010.

68-610 Coverage by political subdivisions; amount; payment.

(1) Each political subdivision as to which a plan has been approved under sections 68-608 to 68-611 or prepared under section 68-625 shall be required to pay for the period of such coverage, contributions in the amounts and at the rates specified in the applicable agreement entered into by the state agency under sections 68-603 and 68-604.

(2) Each political subdivision required to make payments under section 68-609 is authorized, in consideration of the employee's retention in or entry upon employment after enactment of sections 68-601 to 68-631, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his or her wages not exceeding the amount of tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of the act and to deduct the amount of such contribution from his or her wages as and when paid. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

Source: Laws 1951, c. 297, § 5(3), p. 982; Laws 1955, c. 264, § 8, p. 819; Laws 1990, LB 820, § 6; Laws 2000, LB 1216, § 14; Laws 2010, LB684, § 7.
Effective date July 15, 2010.

68-612 Repealed. Laws 2010, LB 684, § 13.

68-613 Repealed. Laws 2010, LB 684, § 13.

68-620 Cities and villages; special levy; addition to levy limitations; contribution to state agency.

Notwithstanding any tax levy limitations contained in any other law or city home rule charter, when any city or village of this state elects to accept the provisions of sections 68-601 to 68-631 relating to old age and survivors insurance and enters into a written agreement with the state agency as provided in such sections, the city or village shall levy a tax, in addition to all other taxes, in order to defray the cost of such city or village in meeting the obligations arising by reason of such written agreement, and the revenue raised by such special levy shall be used for no other purpose.

Source: Laws 1951, c. 296, § 1, p. 976; Laws 1955, c. 264, § 14, p. 821; Laws 1971, LB 667, § 1; Laws 1979, LB 187, § 181; Laws 1990, LB 820, § 10; Laws 2000, LB 1216, § 17; Laws 2010, LB684, § 8.
Effective date July 15, 2010.

68-621 Terms, defined.

(1) A referendum group, as referred to in sections 68-621 to 68-630, shall consist of the employees of the state, a single political subdivision of this state, or any instrumentality jointly created by this state and any other state or states, the employees of which are or may be members of a retirement system covering such employees, except that: (a) The employees of the University of Nebraska

shall constitute a referendum group; (b) the employees of a Class V school district shall constitute a referendum group; (c) all employees of the State of Nebraska who are or may be members of the School Retirement System of the State of Nebraska, including employees of institutions operated by the Board of Trustees of the Nebraska State Colleges, employees of institutions operated by the Department of Correctional Services and the Department of Health and Human Services, and employees subordinate to the State Board of Education, shall constitute a referendum group; and (d) all employees of school districts of the State of Nebraska, county superintendents, and county school administrators, who are or may be members of the School Retirement System of the State of Nebraska, shall constitute a single referendum group.

(2) The managing authority of a political subdivision or educational institution shall be the board, committee, or council having general authority over a political subdivision, university, college, or school district whose employees constitute or are included in a referendum group; the managing authority of the state shall be the Governor; and insofar as sections 68-601 to 68-631 may be applicable to county superintendents and county school administrators, managing authority shall mean the board of county commissioners or county supervisors of the county in which the county superintendent was elected or with which the county school administrator contracted.

(3) Eligible employees, as referred to in sections 68-621 to 68-630, shall mean those employees of the state or any political subdivision thereof who at or during the time of voting in a referendum as herein provided are in positions covered by a retirement system, are members of such retirement system, and were in such positions at the time of giving of the notice of such referendum, as herein required, except that no such employee shall be considered an eligible employee if at the time of such voting such employee is in a position to which the state agreement applies or if such employee is in service in a police officer or firefighter position.

(4) State agreement, as referred to in sections 68-621 to 68-630, shall mean the agreement between the State of Nebraska and the designated officer of the United States of America entered into pursuant to section 68-603.

Source: Laws 1955, c. 264, § 15, p. 821; Laws 1969, c. 537, § 1, p. 2187; Laws 1973, LB 563, § 6; Laws 1988, LB 802, § 6; Laws 1996, LB 1044, § 297; Laws 1999, LB 272, § 20; Laws 2000, LB 1216, § 18; Laws 2010, LB684, § 9.
Effective date July 15, 2010.

68-622 Referendum; persons eligible to vote; Governor; powers.

(1) All employees of the State of Nebraska or any political subdivision thereof or any instrumentality jointly created by this state and any other state or states who have heretofore been excluded from receiving or qualifying for benefits under Title II of the Social Security Act because of membership in a retirement system may, when sections 68-621 to 68-630 have been complied with, vote at a referendum upon the question of whether service in positions covered by such retirement system should be excluded from or included under the state agreement, except that if such a referendum has been conducted and certified in accordance with section 218(d)(3) of the Social Security Act, as amended in 1954, prior to May 18, 1955, then no further referendum shall be required, but this shall not prohibit the conducting of such further referendum.

(2) The Governor may authorize a referendum and designate any agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under sections 68-601 to 68-631.

Source: Laws 1955, c. 264, § 16, p. 822; Laws 1990, LB 820, § 11; Laws 2000, LB 1216, § 19; Laws 2010, LB684, § 10.
Effective date July 15, 2010.

68-631 Metropolitan utilities district; social security; employees; separate group; referendum; effect.

Sections 68-601 to 68-631 and any amendments thereto shall, except as otherwise provided in this section, be applicable to metropolitan utilities districts and employees and appointees of metropolitan utilities districts. The state agency contemplated in such sections is authorized to enter, on behalf of the State of Nebraska, into an agreement with any authorized agent of the United States Government for the purpose of extending the benefits of the Federal Old Age and Survivors' Insurance system, as amended by Public Law 761, approved September 1, 1954, to the appointees and employees of each metropolitan utilities district, and all of the appointees and employees covered by a contributory retirement plan are hereby declared to be a separate group for the purposes of referendum and subsequent coverage. Metropolitan utilities districts are hereby declared to be political subdivisions as defined in section 68-602, and the Governor is authorized to appoint the board of directors of any metropolitan utilities district as the agency designated by him or her to supervise any referendum required to be conducted under the Social Security Act and is authorized to make any certifications required by the act to be made to the Secretary of Health and Human Services.

Source: Laws 1955, c. 25, § 2, p. 118; Laws 1984, LB 933, § 8; Laws 1990, LB 820, § 12; Laws 2000, LB 1216, § 20; Laws 2010, LB684, § 11.
Effective date July 15, 2010.

ARTICLE 7

DEPARTMENT DUTIES

Section
68-721. Prenatal services; review of case authorized.

68-721 Prenatal services; review of case authorized.

A pregnant United States citizen and Nebraska resident with an income at or below one hundred eighty-five percent of the federal poverty level who is subject to a child support enforcement sanction may ask for her case to be reviewed by the chief executive officer of the Department of Health and Human Services to obtain prenatal services from state-only funds. If the chief executive officer, upon review of the circumstances of the case, determines, in his or her discretion, that circumstances relating to domestic violence warrant an exception to the existing rules and regulations governing medicaid coverage and sanctions, he or she may authorize prenatal services to be paid from state general funds. Prenatal services provided under this section shall not include abortion counseling, referral for abortion, or funding for abortion.

This section terminates on June 30, 2011.

Source: Laws 2010, LB507, § 1.
 Operative date April 14, 2010.
 Termination date June 30, 2011.

ARTICLE 9
MEDICAL ASSISTANCE ACT

Section

- 68-901. Medical Assistance Act; act, how cited.
- 68-906. Medical assistance; state accepts federal provisions.
- 68-907. Terms, defined.
- 68-908. Department; powers and duties.
- 68-968. School-based health centers; School Health Center Advisory Council; members.
- 68-969. Amendment to medicaid state plan or waiver; children eligible for medicaid and CHIP; treatment for pregnant women; department; duties.

68-901 Medical Assistance Act; act, how cited.

Sections 68-901 to 68-969 shall be known and may be cited as the Medical Assistance Act.

Source: Laws 2006, LB 1248, § 1; Laws 2008, LB830, § 1; Laws 2009, LB27, § 1; Laws 2009, LB288, § 18; Laws 2009, LB342, § 1; Laws 2009, LB396, § 1; Laws 2010, LB1106, § 1.
 Effective date April 2, 2010.

68-906 Medical assistance; state accepts federal provisions.

For purposes of paying medical assistance under the Medical Assistance Act and sections 68-1002 and 68-1006, the State of Nebraska accepts and assents to all applicable provisions of Title XIX and Title XXI of the federal Social Security Act. Any reference in the Medical Assistance Act to the federal Social Security Act or other acts or sections of federal law shall be to such federal acts or sections as they existed on January 1, 2010.

Source: Laws 1965, c. 397, § 6, p. 1278; Laws 1993, LB 808, § 2; Laws 1996, LB 1044, § 324; Laws 1998, LB 1063, § 7; Laws 2000, LB 1115, § 10; Laws 2005, LB 301, § 4; R.S.Supp.,2005, § 68-1021; Laws 2006, LB 1248, § 6; Laws 2007, LB185, § 1; Laws 2008, LB797, § 4; Laws 2009, LB288, § 19; Laws 2010, LB849, § 13.
 Operative date July 15, 2010.

68-907 Terms, defined.

For purposes of the Medical Assistance Act:

- (1) Committee means the Health and Human Services Committee of the Legislature;
- (2) Department means the Department of Health and Human Services;
- (3) Medicaid Reform Plan means the Medicaid Reform Plan submitted on December 1, 2005, pursuant to the Medicaid Reform Act enacted pursuant to Laws 2005, LB 709;
- (4) Medicaid state plan means the comprehensive written document, developed and amended by the department and approved by the federal Centers for Medicare and Medicaid Services, which describes the nature and scope of the

medical assistance program and provides assurances that the department will administer the program in compliance with federal requirements;

(5) Provider means a person providing health care or related services under the medical assistance program;

(6) School-based health center means a health center that:

(a) Is located in or is adjacent to a school facility;

(b) Is organized through school, school district, learning community, community, and provider relationships;

(c) Is administered by a sponsoring facility;

(d) Provides school-based health services onsite during school hours to children and adolescents by health care professionals in accordance with state and local laws, rules, and regulations, established standards, and community practice;

(e) Does not perform abortion services or refer or counsel for abortion services and does not dispense, prescribe, or counsel for contraceptive drugs or devices; and

(f) Does not serve as a child's or an adolescent's medical or dental home but augments and supports services provided by the medical or dental home;

(7) School-based health services may include any combination of the following as determined in partnership with a sponsoring facility, the school district, and the community:

(a) Medical health;

(b) Behavioral and mental health;

(c) Preventive health; and

(d) Oral health;

(8) Sponsoring facility means:

(a) A hospital;

(b) A public health department as defined in section 71-1626;

(c) A federally qualified health center as defined in section 1905(l)(2)(B) of the federal Social Security Act, 42 U.S.C. 1396d(l)(2)(B), as such act and section existed on January 1, 2010;

(d) A nonprofit health care entity whose mission is to provide access to comprehensive primary health care services;

(e) A school or school district; or

(f) A program administered by the Indian Health Service or the federal Bureau of Indian Affairs or operated by an Indian tribe or tribal organization under the federal Indian Self-Determination and Education Assistance Act, or an urban Indian program under Title V of the federal Indian Health Care Improvement Act, as such acts existed on January 1, 2010; and

(9) Waiver means the waiver of applicability to the state of one or more provisions of federal law relating to the medical assistance program based on an application by the department and approval of such application by the federal Centers for Medicare and Medicaid Services.

Source: Laws 2006, LB 1248, § 7; Laws 2007, LB296, § 246; Laws 2010, LB1106, § 2.

Effective date April 2, 2010.

68-908 Department; powers and duties.

(1) The department shall administer the medical assistance program.

(2) The department may (a) enter into contracts and interagency agreements, (b) adopt and promulgate rules and regulations, (c) adopt fee schedules, (d) apply for and implement waivers and managed care plans for eligible recipients, and (e) perform such other activities as necessary and appropriate to carry out its duties under the Medical Assistance Act. A covered item or service as described in section 68-911 that is furnished through a school-based health center, furnished by a provider, and furnished under a managed care plan pursuant to a waiver does not require prior consultation or referral by a patient's primary care physician to be covered. Any federally qualified health center providing services as a sponsoring facility of a school-based health center shall be reimbursed for such services provided at a school-based health center at the federally qualified health center reimbursement rate.

(3) The department shall maintain the confidentiality of information regarding applicants for or recipients of medical assistance and such information shall only be used for purposes related to administration of the medical assistance program and the provision of such assistance or as otherwise permitted by federal law.

(4)(a) The department shall prepare an annual summary and analysis of the medical assistance program for legislative and public review, including, but not limited to, a description of eligible recipients, covered services, provider reimbursement, program trends and projections, program budget and expenditures, the status of implementation of the Medicaid Reform Plan, and recommendations for program changes.

(b) The department shall provide a draft report of such summary and analysis to the Medicaid Reform Council no later than September 15 of each year. The council shall conduct a public meeting no later than October 1 of each year to discuss and receive public comment regarding such report. The council shall provide any comments and recommendations regarding such report in writing to the department no later than November 1 of each year. The department shall submit a final report of such summary and analysis to the Governor, the Legislature, and the council no later than December 1 of each year. Such final report shall include a response to each written recommendation provided by the council.

Source: Laws 1965, c. 397, § 8, p. 1278; Laws 1967, c. 413, § 2, p. 1278; Laws 1982, LB 522, § 43; Laws 1996, LB 1044, § 325; R.S.1943, (2003), § 68-1023; Laws 2006, LB 1248, § 8; Laws 2007, LB296, § 247; Laws 2009, LB288, § 20; Laws 2010, LB1106, § 3.
Effective date April 2, 2010.

68-968 School-based health centers; School Health Center Advisory Council; members.

(1) To ensure that the interests of the school district, community, and health care provider are reflected within the policies, procedures, and scope of services of school-based health centers, each school district shall establish a School Health Center Advisory Council for each school in the district hosting a school-based health center.

(2) The School Health Center Advisory Council shall include:

(a) At least one representative of the school administration or school district administration;

(b) At least one representative of the sponsoring facility; and

(c) At least one parent recommended by a school administrator or school district administrator and approved by a majority vote of the school board. Any parent serving on a School Health Center Advisory Council shall have at least one child enrolled in the school through which the school-based health center is organized.

(3) If another institution or organization sponsors the school-based health center, at least one representative of each sponsoring institution or organization shall be included on the School Health Center Advisory Council.

(4) School Health Center Advisory Councils may also include students enrolled in the school district through which the school-based health center is organized. Any such students must be appointed by a school administrator or school district administrator.

Source: Laws 2010, LB1106, § 4.
Effective date April 2, 2010.

68-969 Amendment to medicaid state plan or waiver; children eligible for medicaid and CHIP; treatment for pregnant women; department; duties.

(1) On or before July 1, 2010, the department shall submit an application to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, amending the medicaid state plan or seeking a waiver thereto to provide for utilization of money to allow for payments for treatment for children who are lawfully residing in the United States and who are otherwise eligible for medicaid and CHIP pursuant to the federal Children’s Health Insurance Program Reauthorization Act of 2009, Public Law 111-3, as such act existed on January 1, 2010, and for treatment for pregnant women who are lawfully residing in the United States and who are otherwise eligible for medicaid pursuant to the federal Children’s Health Insurance Program Reauthorization Act of 2009, Public Law 111-3, as such act existed on January 1, 2010.

(2) For purposes of this section, (a) CHIP means the Children’s Health Insurance Program established pursuant to 42 U.S.C. 1397aa et seq., and (b) medicaid means the program for medical assistance established under 42 U.S.C. 1396 et seq., as such sections existed on January 1, 2010.

Source: Laws 2010, LB1106, § 5.
Effective date April 2, 2010.

ARTICLE 10

ASSISTANCE, GENERALLY

(b) PROCEDURE AND PENALTIES

Section

68-1017. Assistance; violations; penalties.

68-1017.01. Supplemental Nutrition Assistance Program; violations; penalties.

(h) NON-UNITED-STATES CITIZENS

68-1070. Non-United-States citizens; assistance; eligibility.

(b) PROCEDURE AND PENALTIES

68-1017 Assistance; violations; penalties.

(1) Any person, including vendors and providers of medical assistance and social services, who, by means of a willfully false statement or representation, or by impersonation or other device, obtains or attempts to obtain, or aids or abets any person to obtain or to attempt to obtain (a) an assistance certificate of award to which he or she is not entitled, (b) any commodity, any foodstuff, any food instrument, any Supplemental Nutrition Assistance Program benefit or electronic benefit card, or any payment to which such individual is not entitled or a larger payment than that to which he or she is entitled, (c) any payment made on behalf of a recipient of medical assistance or social services, or (d) any other benefit administered by the Department of Health and Human Services, or who violates any statutory provision relating to assistance to the aged, blind, or disabled, aid to dependent children, social services, or medical assistance, commits an offense.

(2) Any person who commits an offense under subsection (1) of this section shall upon conviction be punished as follows: (a) If the aggregate value of all funds or other benefits obtained or attempted to be obtained is less than five hundred dollars, the person so convicted shall be guilty of a Class III misdemeanor; or (b) if the aggregate value of all funds and other benefits obtained or attempted to be obtained is five hundred dollars or more, the person so convicted shall be guilty of a Class IV felony.

Source: Laws 1965, c. 394, § 5, p. 1262; Laws 1969, c. 541, § 1, p. 2192; Laws 1977, LB 39, § 127; Laws 1984, LB 1127, § 2; Laws 1996, LB 1044, § 314; Laws 1998, LB 1073, § 58; Laws 2007, LB296, § 271; Laws 2009, LB288, § 26; Laws 2010, LB849, § 14.
Operative date July 15, 2010.

68-1017.01 Supplemental Nutrition Assistance Program; violations; penalties.

(1) A person commits an offense if he or she knowingly uses, alters, or transfers any Supplemental Nutrition Assistance Program benefits or electronic benefit cards or any authorizations to participate in the Supplemental Nutrition Assistance Program in any manner not authorized by law. An offense under this subsection shall be a Class III misdemeanor if the value of the Supplemental Nutrition Assistance Program benefits, electronic benefit cards, or authorizations is less than five hundred dollars and shall be a Class IV felony if the value is five hundred dollars or more.

(2) A person commits an offense if he or she knowingly (a) possesses any Supplemental Nutrition Assistance Program benefits or electronic benefit cards or any authorizations to participate in the Supplemental Nutrition Assistance Program when such individual is not authorized by law to possess them, (b) redeems Supplemental Nutrition Assistance Program benefits or electronic benefit cards when he or she is not authorized by law to redeem them, or (c) redeems Supplemental Nutrition Assistance Program benefits or electronic benefit cards for purposes not authorized by law. An offense under this subsection shall be a Class III misdemeanor if the value of the Supplemental Nutrition Assistance Program benefits, electronic benefit cards, or authorizations is less than five hundred dollars and shall be a Class IV felony if the value is five hundred dollars or more.

(3) A person commits an offense if he or she knowingly possesses blank authorizations to participate in the Supplemental Nutrition Assistance Program when such possession is not authorized by law. An offense under this subsection shall be a Class IV felony.

(4) When any Supplemental Nutrition Assistance Program benefits or electronic benefit cards or any authorizations to participate in the Supplemental Nutrition Assistance Program of various values are obtained in violation of this section pursuant to one scheme or a continuing course of conduct, whether from the same or several sources, such conduct may be considered as one offense, and the values aggregated in determining the grade of the offense.

Source: Laws 1984, LB 1127, § 3; Laws 1998, LB 1073, § 59; Laws 2009, LB288, § 27; Laws 2010, LB849, § 15.
Operative date July 15, 2010.

(h) NON-UNITED-STATES CITIZENS

68-1070 Non-United-States citizens; assistance; eligibility.

(1) If the following non-United-States citizens meet the income and other requirements for participation in the medical assistance program established pursuant to the Medical Assistance Act, in the program for financial assistance pursuant to section 43-512, in the Supplemental Nutrition Assistance Program administered by the State of Nebraska pursuant to the federal Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., as such sections existed on January 1, 2010, or in the program for assistance to the aged, blind, and disabled, such persons shall be eligible for such program or benefits:

(a) Non-United-States citizens lawfully admitted, regardless of the date entry was granted, into the United States for permanent residence;

(b) Non-United-States citizens described in 8 U.S.C. 1613(b)(1)(A) through (C), as such section existed on January 1, 2010, regardless of the date of entry into the United States; and

(c) Individuals for whom coverage is mandated under federal law.

(2) Individuals eligible for the Supplemental Nutrition Assistance Program under this section shall receive any Supplemental Nutrition Assistance Program benefits or a state voucher which can be used only for food products authorized under the federal Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., as such sections existed on January 1, 2010, in the amount of the Supplemental Nutrition Assistance Program benefit for which this individual was otherwise eligible but for the citizenship provisions of 7 U.S.C. 2015, as such section existed on January 1, 2010.

(3) The income and resources of any individual who assists a non-United-States citizen to enter the United States by signing an affidavit of support shall be deemed available in determining the non-United-States citizen's eligibility for assistance until the non-United-States citizen becomes a United States citizen.

Source: Laws 1997, LB 864, § 6; Laws 1998, LB 1073, § 61; Laws 2006, LB 1248, § 70; Laws 2009, LB288, § 29; Laws 2010, LB849, § 16.
Operative date July 15, 2010.

Cross References

Medical Assistance Act, see section 68-901.

ARTICLE 18

ICF/MR REIMBURSEMENT PROTECTION ACT

Section

68-1804. ICF/MR Reimbursement Protection Fund; created; allocation; investment.

68-1804 ICF/MR Reimbursement Protection Fund; created; allocation; investment.

(1) The ICF/MR Reimbursement Protection Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Interest and income earned by the fund shall be credited to the fund.

(2) For fiscal year 2004-05, proceeds from the tax imposed under section 68-1803 shall be allocated as follows:

(a) First, fifty-five thousand dollars to the department for administration of the fund;

(b) Second, payment to intermediate care facilities for the mentally retarded for the cost of the tax;

(c) Third, three hundred thousand dollars, in addition to any federal medicaid matching funds, for increases in payments to non-state-operated intermediate care facilities for the mentally retarded which shall be such facilities' only increase in payments for such fiscal year;

(d) Fourth, three hundred twelve thousand dollars, in addition to any federal medicaid matching funds, for payment to providers of community-based services for the purpose of reducing the waiting list of persons with developmental disabilities; and

(e) Fifth, any money remaining in the fund after the allocations required by subdivisions (2)(a) through (d) of this section have been made shall be transferred to the General Fund.

(3) For FY2005-06 through FY2010-11, proceeds from the tax imposed pursuant to section 68-1803 shall be remitted to the State Treasurer for credit as follows:

(a) To the ICF/MR Reimbursement Protection Fund for allocation as described in this subdivision: (i) Fifty-five thousand dollars for administration of the fund; (ii) the amount needed to reimburse intermediate care facilities for the mentally retarded for the cost of the tax; (iii) three hundred thousand dollars for payment of rates to non-state-operated intermediate care facilities; and (iv) three hundred twelve thousand dollars for community-based services for persons with developmental disabilities; and

(b) To the General Fund: The remainder of the proceeds.

(4) For FY2011-12 and each fiscal year thereafter, proceeds from the tax imposed pursuant to section 68-1803 shall be remitted to the State Treasurer for credit to the ICF/MR Reimbursement Protection Fund for allocation as follows:

(a) First, fifty-five thousand dollars for administration of the fund;

(b) Second, the amount needed to reimburse intermediate care facilities for the mentally retarded for the cost of the tax;

(c) Third, three hundred twelve thousand dollars for community-based services for persons with developmental disabilities;

(d) Fourth, six hundred thousand dollars or such lesser amount as may be available in the fund for non-state-operated intermediate care facilities for the mentally retarded, in addition to any continuation appropriations percentage increase provided by the Legislature to nongovernmental intermediate care facilities for the mentally retarded under the medical assistance program, subject to approval by the federal Centers for Medicare and Medicaid Services of the department's annual application amending the medicaid state plan reimbursement methodology for intermediate care facilities for the mentally retarded; and

(e) Fifth, the remainder of the proceeds to the General Fund.

Source: Laws 2004, LB 841, § 5; Laws 2010, LB701, § 1.
Effective date April 14, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 69

PERSONAL PROPERTY

Article.

23. Disposition of Personal Property Landlord and Tenant Act. 69-2304, 69-2308.
 24. Guns.
 (a) Handguns. 69-2403.
 (c) Concealed Handgun Permit Act. 69-2427 to 69-2449.

ARTICLE 23

DISPOSITION OF PERSONAL PROPERTY LANDLORD AND TENANT ACT

Section

- 69-2304. Notice; statement required.
 69-2308. Sale of personal property; when required; notice of sale; requirements;
 disposition of proceeds.

69-2304 Notice; statement required.

A notice given pursuant to section 69-2303 shall contain one of the following statements, as appropriate:

(1) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be turned over to the State Treasurer pursuant to the Uniform Disposition of Unclaimed Property Act. You may claim the remaining money from the office of the State Treasurer as provided in such act."; or

(2) "Because this property is believed to be worth less than one thousand dollars, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated in this notice."

Source: Laws 1991, LB 36, § 4; Laws 2010, LB712, § 44.
 Operative date July 15, 2010.

Cross References

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

69-2308 Sale of personal property; when required; notice of sale; requirements; disposition of proceeds.

(1) If the personal property is not released pursuant to section 69-2307, it shall be sold at public sale by competitive bidding, except that if the landlord reasonably believes that the total resale value of the property not released is less than one thousand dollars, he or she may retain such property for his or her own use or dispose of it in any manner he or she chooses. At such time as the decision to sell or to retain is made, any locked trunk, valise, box, or other container shall be opened, if practicable, with as little damage as possible, and its contents evaluated. Nothing in this section shall be construed to preclude the landlord or the tenant from bidding on the property at the public sale. The

successful bidder's title shall be subject to ownership rights, liens, and security interests which have priority by law.

(2) Notice of the time and place of the public sale shall be given by advertisement of the sale published once a week for two consecutive weeks in a newspaper of general circulation in the county where the sale is to be held. If there is no newspaper of general circulation in the county where the sale is to be held, the advertisement shall be posted no fewer than ten days before the sale in not less than six conspicuous places in the neighborhood of the proposed sale. The sale shall be held at the nearest suitable place to the place where the personal property is held or stored. The advertisement shall include a description of the goods, the name of the former tenant, and the time and place of the sale. The sale shall take place no sooner than ten days after the first publication. The last publication shall be no less than five days before the sale is to be held. Notice of sale may be published before the last of the dates specified for taking possession of the property in any notice given pursuant to section 69-2303.

(3) The notice of the sale shall describe the property to be sold in a manner reasonably adequate to permit the owner of the property to identify it. The notice may describe all or a portion of the property, but the limitation of liability provided by section 69-2309 shall not release the landlord from any liability arising from the disposition of property not described in the notice.

(4) After deduction of the reasonable costs of storage, advertising, and sale, any proceeds of the sale not claimed by the former tenant, an owner other than such tenant, or another person having an interest in the proceeds shall, not later than thirty days after the date of sale, be remitted to the State Treasurer for disposition pursuant to the Uniform Disposition of Unclaimed Property Act. The former tenant, other owner, or other person having interest in the proceeds may claim the proceeds by complying with the act. If the State Treasurer pays the proceeds or any part thereof to a claimant, neither the State Treasurer nor any employee thereof shall be liable to any other claimant as to the amount paid.

Source: Laws 1991, LB 36, § 8; Laws 2010, LB712, § 45.
Operative date July 15, 2010.

Cross References

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

ARTICLE 24

GUNS

(a) HANDGUNS

Section

69-2403. Sale, lease, rental, and transfer; certificate required; exceptions.

(c) CONCEALED HANDGUN PERMIT ACT

69-2427. Act, how cited.

69-2431. Fingerprinting; criminal history record information check.

69-2433. Applicant; requirements.

69-2449. Information to permitholder regarding lost or stolen handgun or firearm.

(a) HANDGUNS

69-2403 Sale, lease, rental, and transfer; certificate required; exceptions.

(1) Except as provided in this section and section 69-2409, a person shall not purchase, lease, rent, or receive transfer of a handgun until he or she has obtained a certificate in accordance with section 69-2404. Except as provided in this section and section 69-2409, a person shall not sell, lease, rent, or transfer a handgun to a person who has not obtained a certificate.

(2) The certificate shall not be required if:

(a) The person acquiring the handgun is a licensed firearms dealer under federal law;

(b) The handgun is an antique handgun;

(c) The person acquiring the handgun is authorized to do so on behalf of a law enforcement agency;

(d) The transfer is a temporary transfer of a handgun and the transferee remains (i) in the line of sight of the transferor or (ii) within the premises of an established shooting facility;

(e) The transfer is between a person and his or her spouse, sibling, parent, child, aunt, uncle, niece, nephew, or grandparent;

(f) The person acquiring the handgun is a holder of a valid permit under the Concealed Handgun Permit Act; or

(g) The person acquiring the handgun is a peace officer as defined in section 69-2429.

Source: Laws 1991, LB 355, § 2; Laws 2010, LB817, § 4.
Effective date July 15, 2010.

Cross References

Concealed Handgun Permit Act, see section 69-2427.

(c) CONCEALED HANDGUN PERMIT ACT

69-2427 Act, how cited.

Sections 69-2427 to 69-2449 shall be known and may be cited as the Concealed Handgun Permit Act.

Source: Laws 2006, LB 454, § 1; Laws 2009, LB430, § 9; Laws 2010, LB817, § 5.
Effective date July 15, 2010.

69-2431 Fingerprinting; criminal history record information check.

In order to insure an applicant's initial compliance with sections 69-2430 and 69-2433, the applicant for a permit to carry a concealed handgun shall be fingerprinted by the Nebraska State Patrol and a check made of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. In order to insure continuing compliance with sections 69-2430 and 69-2433 and compliance for renewal pursuant to section 69-2436, a check shall be made of a permitholder's criminal history record information through the National Instant Criminal Background Check System.

Source: Laws 2006, LB 454, § 5; Laws 2010, LB817, § 7.
Effective date July 15, 2010.

69-2433 Applicant; requirements.

An applicant shall:

- (1) Be at least twenty-one years of age;
- (2) Not be prohibited from purchasing or possessing a handgun by 18 U.S.C. 922, as such section existed on January 1, 2005;
- (3) Possess the same powers of eyesight as required under section 60-4,118 for a Class O operator's license. If an applicant does not possess a current Nebraska motor vehicle operator's license, the applicant may present a current optometrist's or ophthalmologist's statement certifying the vision reading obtained when testing the applicant. If such certified vision reading meets the vision requirements prescribed by section 60-4,118 for a Class O operator's license, the vision requirements of this subdivision shall have been met;
- (4) Not have pled guilty to, not have pled nolo contendere to, or not have been convicted of a felony under the laws of this state or under the laws of any other jurisdiction;
- (5) Not have pled guilty to, not have pled nolo contendere to, or not have been convicted of a misdemeanor crime of violence under the laws of this state or under the laws of any other jurisdiction within the ten years immediately preceding the date of application;
- (6) Not have been found in the previous ten years to be a mentally ill and dangerous person under the Nebraska Mental Health Commitment Act or a similar law of another jurisdiction or not be currently adjudged mentally incompetent;
- (7)(a) Have been a resident of this state for at least one hundred eighty days. For purposes of this section, resident does not include an applicant who maintains a residence in another state and claims that residence for voting or tax purposes except as provided in subdivision (b) of this subdivision; or
(b) If an applicant is a member of the United States Armed Forces, such applicant shall be considered a resident of this state for purposes of this section after he or she has been stationed at a military installation in this state pursuant to permanent duty station orders even though he or she maintains a residence in another state and claims that residence for voting or tax purposes;
- (8) Have had no violations of any law of this state relating to firearms, unlawful use of a weapon, or controlled substances or of any similar laws of another jurisdiction in the ten years preceding the date of application;
- (9) Not be on parole, probation, house arrest, or work release;
- (10) Be a citizen of the United States; and
- (11) Provide proof of training.

Source: Laws 2006, LB 454, § 7; Laws 2009, LB430, § 11; Laws 2010, LB817, § 8.

Effective date July 15, 2010.

Cross References

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

69-2449 Information to permitholder regarding lost or stolen handgun or firearm.

The Nebraska State Patrol shall inform each permitholder, upon the issuance or renewal of a permit to carry a concealed handgun, that if a handgun, or other firearm, owned by such permitholder is lost or stolen, the permitholder should notify his or her county sheriff or local police department of that fact.

Source: Laws 2010, LB817, § 6.

Effective date July 15, 2010.



CHAPTER 70

POWER DISTRICTS AND CORPORATIONS

Article.

3. Right-of-Way for Pole Lines. 70-311.
6. Public Power and Irrigation Districts. 70-651.04.
10. Nebraska Power Review Board. 70-1001 to 70-1020.
16. Denial or Discontinuance of Utility Service. 70-1603, 70-1605.
19. Rural Community-Based Energy Development Act. 70-1903.

ARTICLE 3

RIGHT-OF-WAY FOR POLE LINES

Section

70-311. Electric transmission or electric distribution lines; notice of road, road ditch improvement, or other projects; when given.

70-311 Electric transmission or electric distribution lines; notice of road, road ditch improvement, or other projects; when given.

(1) Whenever any county or township road construction, widening, repair, or grading project or any road ditch improvement project requires, or can reasonably be expected to require, the performance of any work within ten feet of any electric transmission or electric distribution line, poles, or anchors, notice to the owner of such line, poles, or anchors shall be given by the respective county or township officers in charge of such projects. Such notice shall be given at least ninety days prior to the start of any work when, because of road construction, widening, repair, or grading or a road ditch improvement project, or for any other reason, it is necessary to relocate such line, poles, or anchors or if such work will compromise the structural integrity of the line, poles, or anchors.

(2) If a natural resources district will be altering a road structure or grading or moving earth for a flood control, recreation, or other project that requires, or can reasonably be expected to require, the performance of any work within ten feet of any electric transmission or electric distribution line, poles, or anchors, notice to the owner of such line, poles, or anchors shall be given by the respective natural resources district in charge of such projects. Such notice shall be given at least ninety days prior to the start of any work when, because of such road structure alteration or grading or moving earth, or for any other reason, it is necessary to relocate such line, poles, or anchors or if such work will compromise the structural integrity of the line, poles, or anchors.

Source: Laws 2002, LB 1105, § 474; Laws 2010, LB643, § 1.
Effective date July 15, 2010.

ARTICLE 6

PUBLIC POWER AND IRRIGATION DISTRICTS

Section

70-651.04. Districts; gross revenue tax; distribution.

70-651.04 Districts; gross revenue tax; distribution.

All payments which are based on retail revenue from each incorporated city or village shall be divided and distributed by the county treasurer to that city or village, to the school districts located in that city or village, to any learning community located in that city or village, and to the county in which may be located any such incorporated city or village in the proportion that their respective property tax levies in the preceding year bore to the total of such levies, except that the only learning community levies to be included are the common levies for which the proceeds are distributed to member school districts pursuant to sections 79-1073 and 79-1073.01.

Source: Laws 1959, c. 317, § 4, p. 1164; Laws 1979, LB 187, § 183; Laws 1993, LB 346, § 6; Laws 1995, LB 732, § 1; Laws 2010, LB1070, § 2.

Effective date April 6, 2010.

ARTICLE 10**NEBRASKA POWER REVIEW BOARD**

Section

- 70-1001. Declaration of policy.
- 70-1001.01. Terms, defined.
- 70-1003. Nebraska Power Review Board; establishment; composition; appointment; term; vacancy; qualifications; compensation; expenses; jurisdiction; officers; executive director; staff; reports.
- 70-1013. Electric generation facilities and transmission lines; application; hearing; waiver; appearances; objections; amendments.
- 70-1014. Electric generation facilities and transmission lines; approval or denial of application; findings required.
- 70-1014.01. Special generation application; approval; findings required; eminent domain.
- 70-1014.02. Certified renewable export facilities; approval of application; board; powers and duties; conditional approval; final approval; failure to commence construction; effect; application fee; eminent domain; revocation of certification; procedure; recertification.
- 70-1020. Board; expenses; assessments levied against suppliers; apportionment; collection; interest; Nebraska Power Review Fund; created; investment.

70-1001 Declaration of policy.

In order to provide the citizens of the state with adequate electric service at as low overall cost as possible, consistent with sound business practices, it is the policy of this state to avoid and eliminate conflict and competition between public power districts, public power and irrigation districts, individual municipalities, registered groups of municipalities, electric membership associations, and cooperatives in furnishing electric energy to retail and wholesale customers, to avoid and eliminate the duplication of facilities and resources which result therefrom, and to facilitate the settlement of rate disputes between suppliers of electricity.

It is also the policy of the state to prepare for an evolving retail electricity market if certain conditions are met which indicate that retail competition is in the best interests of the citizens of the state. The determination on the timing and form of competitive markets is a matter properly left to the states as each state must evaluate the costs and benefits of a competitive retail market based on its own unique conditions. Consequently, there is a need for the state to

monitor whether the conditions necessary for its citizens to benefit from retail competition exist.

It is also the policy of the state to encourage and allow opportunities for private developers to develop, own, and operate renewable energy facilities intended primarily for export from the state under a statutory framework which protects the ratepayers of consumer-owned utility systems operating in the state from subsidizing the costs of such export facilities through their rates.

Source: Laws 1963, c. 397, § 1, p. 1259; Laws 1971, LB 349, § 4; Laws 1981, LB 181, § 42; Laws 2000, LB 901, § 6; Laws 2010, LB1048, § 2.

Effective date July 15, 2010.

70-1001.01 Terms, defined.

For purposes of sections 70-1001 to 70-1027, unless the context otherwise requires:

- (1) Board means the Nebraska Power Review Board;
- (2) Certified renewable export facility means a facility approved under section 70-1014.02 that (a) will generate electricity using solar, wind, biomass, or landfill gas, (b) will be constructed and owned by an entity other than a municipality, a registered group of municipalities, a public power district, a public power and irrigation district, an electric cooperative, an electric membership association, or any other governmental entity, and (c) has a power purchase or similar agreement or agreements with an initial term of ten years or more for the sale of at least ninety percent of the output of the facility with a customer or customers located outside the State of Nebraska and maintains such an agreement or agreements for the life of the facility. Output sold pursuant to subdivision (2)(a)(iv) of section 70-1014.02 shall not be included when calculating such ninety percent. Certified renewable export facility includes all generating equipment, easements, and interconnection equipment within the facility and connecting the facility to the transmission grid;
- (3) Electric suppliers or suppliers of electricity means any legal entity supplying, producing, or distributing electricity within the state for sale at wholesale or retail;
- (4) Regional transmission organization means an entity independent from those entities generating or marketing electricity at wholesale or retail, which has operational control over the electric transmission lines in a designated geographic area in order to reduce constraints in the flow of electricity and ensure that all power suppliers have open access to transmission lines for the transmission of electricity;
- (5) Representative organization means an organization designated by the board and organized for the purpose of providing joint planning and encouraging maximum cooperation and coordination among electric suppliers. Such organization shall represent electric suppliers owning a combined electric generation plant capacity of at least ninety percent of the total electric generation plant capacity constructed and in operation within the state;
- (6) State means the State of Nebraska;
- (7) Stranded asset means a generation or transmission facility owned by an electric supplier as defined in subsection (1) of section 70-1014.02 which cannot earn a favorable economic return due to regulatory or legislative actions

or changes in the market and, at the time an application is filed with the board under such section, either exists or has been approved by the board or the governing body of an electric supplier as defined in such subsection; and

(8) Unbundled retail rates means the separation of utility bills into the individual price components for which an electric supplier charges its retail customers, including, but not limited to, the separate charges for the generation, transmission, and distribution of electricity.

Source: Laws 1981, LB 302, § 1; R.S.1943, (1996), § 70-1023; Laws 2000, LB 901, § 7; Laws 2003, LB 65, § 1; Laws 2010, LB1048, § 3. Effective date July 15, 2010.

70-1003 Nebraska Power Review Board; establishment; composition; appointment; term; vacancy; qualifications; compensation; expenses; jurisdiction; officers; executive director; staff; reports.

(1) There is hereby established an independent board to be known as the Nebraska Power Review Board to consist of five members, one of whom shall be an engineer, one an attorney, one an accountant, and two laypersons. No person who is or who has within four years preceding his or her appointment been either a director, officer, or employee of any electric utility or an elective state officer shall be eligible for membership on the board. Members of the board shall be appointed by the Governor subject to the approval of the Legislature. Upon expiration of the terms of the members first appointed, the successors shall be appointed for terms of four years. No member of the board shall serve more than two consecutive terms. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term, and any person appointed to fill a vacancy on the board shall be eligible for reappointment for two more consecutive terms. No more than three members of the board shall be registered members of that political party represented by the Governor. Each member of the board shall receive sixty dollars per day for each day actually and necessarily engaged in the performance of his or her duties, but not to exceed six thousand dollars in any one year, and shall be reimbursed for his or her actual and necessary expenses while so engaged as provided in sections 81-1174 to 81-1177. The board shall have jurisdiction as provided in Chapter 70, article 10.

(2) The board shall meet promptly after its members have been appointed. They shall elect from their members a chairperson and a vice-chairperson. Decisions of the board shall require the approval of a majority of the members of the board.

(3) The board shall employ an executive director and may employ such other staff necessary to carry out the duties pursuant to Chapter 70, article 10. The executive director shall serve at the pleasure of the board and shall be solely responsible to the board. The executive director shall be responsible for the administrative operations of the board and shall perform such other duties as may be delegated or assigned to him or her by the board. The board may obtain the services of experts and consultants necessary to carry out the board's duties pursuant to Chapter 70, article 10.

(4) The board shall publish and submit a biennial report with annual data to the Governor, with copies to be filed with the Clerk of the Legislature and with the State Energy Office. The State Energy Office shall consider the information in the Nebraska Power Review Board's report when the State Energy Office

prepares its own reports pursuant to sections 81-1606 and 81-1607. The report of the board shall include:

(a) The assessments for the fiscal year imposed pursuant to section 70-1020;

(b) The gross income totals for each category of the industry and the industry total;

(c) The number of suppliers against whom the assessment is levied, by category and in total;

(d) The projected dollar costs of generation, transmission, and microwave applications, approved and denied;

(e) The actual dollar costs of approved applications upon completion, and a summary of an informational hearing concerning any significant divergence between the projected and actual costs;

(f) A description of Nebraska's current electric system and information on additions to and retirements from the system during the fiscal year, including microwave facilities;

(g) A statistical summary of board activities and an expenditure summary;

(h) A roster of power suppliers in Nebraska and the assessment each paid; and

(i) Appropriately detailed historical and projected electric supply and demand statistics, including information on the total generating capacity owned by Nebraska suppliers and the total peak load demand of the previous year, along with an indication of how the industry will respond to the projected situation.

(5) The board may, in its discretion, hold public hearings concerning the conditions that may indicate that retail competition in the electric industry would benefit Nebraska's citizens and what steps, if any, should be taken to prepare for retail competition in Nebraska's electricity market. In determining whether to hold such hearings, the board shall consider the sufficiency of public interest.

(6) The board may, at any time deemed beneficial by the board, submit a report to the Governor with copies to be filed with the Clerk of the Legislature and the Natural Resources Committee of the Legislature. The report may include:

(a) Whether or not a viable regional transmission organization and adequate transmission exist in Nebraska or in a region which includes Nebraska;

(b) Whether or not a viable wholesale electricity market exists in a region which includes Nebraska;

(c) To what extent retail rates have been unbundled in Nebraska;

(d) A comparison of Nebraska's wholesale electricity prices to the prices in the region; and

(e) Any other information the board believes to be beneficial to the Governor, the Legislature, and Nebraska's citizens when considering whether retail electric competition would be beneficial, such as, but not limited to, an update on deregulation activities in other states and an update on federal deregulation legislation.

(7) The board is authorized to establish working groups of interested parties to assist the board in carrying out the powers set forth in subsections (5) and (6) of this section.

Source: Laws 1963, c. 397, § 3, p. 1260; Laws 1971, LB 554, § 1; Laws 1978, LB 800, § 1; Laws 1980, LB 863, § 1; Laws 1981, LB 204, § 107; Laws 1981, LB 181, § 46; Laws 2000, LB 901, § 8; Laws 2010, LB797, § 1.
Effective date July 15, 2010.

70-1013 Electric generation facilities and transmission lines; application; hearing; waiver; appearances; objections; amendments.

Upon application being filed under section 70-1012, the board shall fix a time and place for hearing and shall give ten days' notice by mail to such power suppliers as it deems to be affected by the application. The hearing shall be held within sixty days unless for good cause shown the applicant requests in writing that such hearing not be scheduled until a later time, but in any event such hearing shall be held not more than one hundred twenty days from the filing of the application and the board shall give its decision within sixty days after the conclusion of the hearing. Any parties interested may appear, file objections, and offer evidence. The board may grant the application without notice or hearing, upon the filing of such waivers as it may require, if in its judgment the finding required by section 70-1014 can be made without a hearing. Such hearing shall be conducted as provided in section 70-1006. The board may allow amendments to the application, in the interests of justice.

Source: Laws 1963, c. 397, § 13, p. 1265; Laws 1967, c. 425, § 1, p. 1301; Laws 2010, LB1048, § 4.
Effective date July 15, 2010.

70-1014 Electric generation facilities and transmission lines; approval or denial of application; findings required.

After hearing, the board shall have authority to approve or deny the application. Except as provided in section 70-1014.01 for special generation applications and except as provided in section 70-1014.02, before approval of an application, the board shall find that the application will serve the public convenience and necessity, and that the applicant can most economically and feasibly supply the electric service resulting from the proposed construction or acquisition, without unnecessary duplication of facilities or operations.

Source: Laws 1963, c. 397, § 14, p. 1265; Laws 1981, LB 181, § 51; Laws 2003, LB 65, § 2; Laws 2010, LB1048, § 5.
Effective date July 15, 2010.

70-1014.01 Special generation application; approval; findings required; eminent domain.

(1) Except as provided in subsection (2) of this section, an application by a municipality, a registered group of municipalities, a public power district, a public power and irrigation district, an electric cooperative, an electric membership association, or any other governmental entity, for a facility that will generate not more than ten thousand kilowatts of electric energy at rated capacity and will generate electricity using solar, wind, biomass, landfill gas, methane gas, or hydropower generation technology or an emerging generation

technology, including, but not limited to, fuel cells and micro-turbines, shall be deemed a special generation application. Such application shall be approved by the board if the board finds that (a) the application qualifies as a special generation application, (b) the application will provide public benefits sufficient to warrant approval of the application, although it may not constitute the most economically feasible generation option, and (c) the application under consideration represents a separate and distinct project from any previous special generation application the applicant may have filed.

(2)(a) An application by a municipality, a registered group of municipalities, a public power district, a public power and irrigation district, an electric cooperative, an electric membership association, or any other governmental entity for a facility that will generate more than ten thousand kilowatts of electric energy at rated capacity and will generate electricity using renewable energy sources such as solar, wind, biomass, landfill gas, methane gas, or new hydropower generation technology or an emerging technology, including, but not limited to, fuel cells and micro-turbines, may be filed with the board if (i) the total production from all such renewable projects, excluding sales from such projects to other electric-generating entities, does not exceed ten percent of total energy sales as shown in the producer's Annual Electric Power Industry Report to the United States Department of Energy and (ii) the applicant's governing body conducts at least one advertised public hearing which affords the ratepayers of the applicant a chance to review and comment on the subject of the application.

(b) The application shall be approved by the board if the board finds that (i) the applicant is using renewable energy sources described in this subsection, (ii) total production from all renewable projects of the applicant does not exceed ten percent of the producer's total energy sales as described in subdivision (2)(a) of this section, and (iii) the applicant's governing body has conducted at least one advertised public hearing which affords its ratepayers a chance to review and comment on the subject of the application.

(3) A community-based energy development project organized pursuant to the Rural Community-Based Energy Development Act which intends to develop renewable energy sources for sale to one or more Nebraska electric utilities described in this section may also make an application to the board pursuant to subsection (2) of this section if (a) the purchasing electric utilities conduct a public hearing described in such subsection and (b) the power and energy from the renewable energy sources is sold exclusively to such electric utilities for a term of at least twenty years.

(4) No facility or part of a facility which is approved pursuant to this section is subject to eminent domain by any electric supplier, or by any other entity if the purpose of the eminent domain proceeding is to acquire the facility for electric generation or transmission.

Source: Laws 2003, LB 65, § 3; Laws 2009, LB561, § 2; Laws 2010, LB1048, § 7.

Effective date July 15, 2010.

Cross References

Rural Community-Based Energy Development Act, see section 70-1901.

70-1014.02 Certified renewable export facilities; approval of application; board; powers and duties; conditional approval; final approval; failure to

commence construction; effect; application fee; eminent domain; revocation of certification; procedure; recertification.

(1) For purposes of this section, electric supplier means a public power district, a public power and irrigation district, an individual municipality, a registered group of municipalities, an electric membership association, or a cooperative.

(2)(a) The board shall conditionally approve an application for a certified renewable export facility if it finds that only the criteria described in subdivisions (a)(i) through (iv) of this subsection are met: (i) The facility will provide reasonably identifiable and quantifiable public benefits, including economic development, to the residents of Nebraska or the local area where the facility will be located; (ii) the facility meets the requirements of subdivisions (2)(a) and (b) of section 70-1001.01; (iii) the facility has a memorandum of understanding or other written evidence of mutual intent to negotiate a power purchase agreement or agreements with a purchaser or purchasers outside the State of Nebraska for at least ninety percent of the output of the facility for ten years or more; and (iv) the applicant offers electric suppliers serving loads greater than fifty megawatts at the time the initial application is filed an option to purchase in the aggregate an amount of power up to ten percent of the output of any facility with greater than eighty megawatts of nameplate capacity contingent upon the applicant and electric suppliers negotiating in good faith a power purchase agreement and any other necessary agreements. Such electric suppliers shall be entitled to a minimum of their pro rata share based on the load ratio share of Nebraska electric load served among those electric suppliers eligible under this subdivision (iv). If an electric supplier declines to contract for some or all of its pro rata share, the remaining eligible electric suppliers may share the balance on a pro rata basis. The ten percent may be above the total generation amount proposed in the application for a certified renewable export facility and shall require no separate approval by the board. Any transmission studies, additions, or upgrades due to participation by electric suppliers serving loads greater than fifty megawatts shall be the responsibility of the participating electric supplier. Upon receiving the initial application under this section, the board shall notify electric suppliers identified in this subdivision (iv) of a pending application with a nameplate capacity greater than eighty megawatts. Such suppliers shall have forty-five days following the date of the board's notice to notify the applicant of an interest in exercising the option to purchase power, except that such suppliers may withdraw their option to purchase power once the costs of the transmission additions and upgrades are determined. Electric suppliers withdrawing their option to purchase power are responsible for their pro rata share of any costs resulting from their participation in and withdrawal from the generation interconnection and transmission delivery studies.

(b) Following the board's conditional approval of an application under subdivision (a) of this subsection, the applicant shall notify the board within eighteen months that it is prepared to proceed to consideration of the criteria in subdivision (c) of this subsection. The board may extend such eighteen-month deadline not more than twelve additional months for good cause shown. If the applicant fails to notify the board within such time that it is so prepared, the conditional approval granted under this subdivision is void.

(c) Upon finding that the criteria described in subdivisions (c)(i) through (viii) of this subsection have also been met by the applicant and after the board has fulfilled the requirements of subsection (3) of section 37-807, the board shall grant final approval of an application for a certified renewable export facility:

(i) The facility will not have a materially detrimental effect on the retail electric rates paid by any Nebraska ratepayers, except that, notwithstanding subdivisions (c)(v) and (vi) of this subsection, the determination of a materially detrimental effect on rates shall not include regional transmission improvements dictated by a regional transmission operator or transmission improvements required due to participation by an eligible entity pursuant to subdivision (2)(a)(iv) of this section;

(ii) The applicant has obtained the necessary generation interconnection and transmission service approvals from and has executed agreements for such generation interconnection and transmission service with the appropriate regional transmission organization, transmission owner, or transmission provider;

(iii) There has been no demonstration that the proposed facility will result in a substantial risk of creating stranded assets;

(iv) The applicant has certified that it has applied for and is actively pursuing the required approvals from any other federal, state, or local entities with jurisdiction or permitting authority over the certified renewable export facility;

(v) The applicant and the electric supplier owning the transmission facilities to which the certified renewable export facility will be interconnected, along with any electric supplier which owns transmission facilities of one hundred fifteen thousand volts or more and is required to receive notice pursuant to section 70-1013, have entered into a joint transmission development agreement on reasonable terms and conditions consistent with and subject to the notice to construct or other directives of any regional transmission organization with jurisdiction over the addition or upgrade to transmission facilities or, for any electric supplier that is not a member of a regional transmission organization with which the facility will interconnect, covers the addition or upgrade to transmission facilities required as a result of the certified renewable export facility. Such joint transmission development agreement shall include provisions addressing construction, ownership, operation, and maintenance of such additions or upgrades to transmission facilities. The electric supplier or suppliers shall have the right to purchase and own transmission facilities as set forth in the joint transmission development agreement;

(vi) The applicant agrees to reimburse any costs that are not covered by a regional transmission organization tariff or that are allocated through the tariff to the electric suppliers as a result of the certified renewable export facility or not covered by the tariff of a transmission owner or transmission provider that is not a member of a regional transmission organization, costs incurred by any electric supplier as a result of adding the certified renewable export facility, including, but not limited to, renewable integration costs, and costs which allow the interconnected electric supplier to operate and maintain the transmission facilities under reasonable terms and conditions agreed to by the parties within the joint transmission development agreement;

(vii) The applicant shall submit a decommissioning plan. The applicant or owner of the facility shall establish decommissioning security by posting an instrument, a copy of which is given to the board, no later than the tenth year

following final approval of the facility to ensure sufficient funding is available for removal of the facility and reclamation at the end of the useful life of such facility pursuant to the decommissioning plan. The owner of the certified renewable export facility shall be solely responsible for decommissioning. If the applicant or any subsequent owner of the facility intends to transfer ownership of the facility, the proposed new owner shall provide the board with adequate evidence demonstrating that substitute decommissioning security has been posted or given prior to transfer of ownership. The requirements of this subdivision (vii) shall be waived if a local governmental entity with authority to create requirements for decommissioning has enacted decommissioning requirements for the applicable jurisdiction; and

(viii) The facility meets the requirements of subdivisions (2)(a) through (c) of section 70-1001.01.

(3) If the applicant does not commence construction of the certified renewable export facility within eighteen months after receiving final approval from the board under subsection (2) of this section, the approval is void. Upon written request filed by the applicant, the board may, for good cause shown, extend the time period during which an approval will remain valid. Good cause includes, but is not limited to, national or regional economic conditions, lack of transmission infrastructure, or an applicant's inability to obtain authorization from other required governmental regulatory authorities despite the applicant's exercise of a good-faith effort to obtain such approvals.

(4) The applicant shall remit an application fee of five thousand dollars with the application. The fee shall be remitted to the State Treasurer for credit to the Nebraska Power Review Fund. The board shall use the application fee to defray the board's reasonable expenses associated with reviewing and acting upon the application, including the costs of the hearing. If the board incurs expenses of more than five thousand dollars associated with the application, the board shall provide written notification to the applicant of the additional sum needed or already expended, after which the applicant shall promptly submit an additional sum sufficient to cover the board's anticipated or incurred expenses or shall file an objection with the board. If, after completion of the application process and any subsequent legal action, including appeal of the board's decision, the board's expenses associated with processing and acting upon the application do not equal the amount submitted by the applicant, the board shall return the unused funds to the applicant if the amount is fifty dollars or more. The applicant shall reimburse the board for any reasonable expenses the board incurs as a result of an appeal of the board's decision or shall file an objection with the board. The board shall rule on any objection brought pursuant to this subsection within thirty days. The applicant may request a hearing on its objection, in which case the board shall hold such hearing within thirty days after the request and shall rule within forty-five days after the hearing.

(5) No facility or part of a facility which is a certified renewable export facility is subject to eminent domain by an electric supplier or by any other entity if the purpose of the eminent domain proceeding is to acquire the facility for electric generation or transmission.

(6) Except as provided in subsection (5) of this section, only an electric supplier may exercise its eminent domain authority to acquire the land rights necessary for the construction of transmission lines and related facilities to provide transmission services for a certified renewable export facility. The

exercise of eminent domain to provide needed transmission lines and related facilities for a certified renewable export facility is a public use. Nothing in this section shall be construed to grant the power of eminent domain to a private entity.

(7) If any transmission facilities serving a certified renewable export facility are proposed to cross the service area of any electric supplier which owns transmission facilities of one hundred fifteen thousand volts or more and is required to receive notice pursuant to section 70-1013, then such electric supplier may elect to be a party to a joint transmission development agreement for such transmission facilities.

(8) If a certified renewable export facility no longer meets the requirements of subdivisions (2)(a) through (c) of section 70-1001.01, the owner of the facility shall notify the board. An electric supplier or a governmental entity with regulatory jurisdiction over the certified renewable export facility may apply to the board or the board may file its own motion to have the certification of a certified renewable export facility revoked upon a showing by the applicant for decertification that the facility no longer meets the requirements of such subdivisions. Upon the filing of such application and making of a prima facie showing by the applicant for decertification that the facility no longer meets the requirements of such subdivisions, the board shall set the matter for hearing. The hearing shall be held within forty-five days unless an extension is necessary for good cause shown. The applicant for decertification shall have the burden of proof. Within forty-five days after the conclusion of the hearing, the board shall enter an order to either reaffirm the facility's status as a certified renewable export facility or to revoke the certification. During the pendency of the application for decertification and before the board's final order on decertification, the facility may continue to operate if the electricity generated at the facility is sold to customers outside the State of Nebraska, or to an electric supplier pursuant to a power purchase agreement or similar agreement. The board shall retain jurisdiction over the decertification action for at least thirty days after entry of such an order. Within thirty days after a final order revoking certification, the owner of the facility may apply for recertification, with the time period for recertification being no longer than one year unless the board extends the time period for good cause shown. Such application for recertification shall extend the board's jurisdiction over the decertification action until the board completes its review of the application for recertification and enters an order granting or denying the application. If the applicant for recertification demonstrates to the board that it is working diligently and in good faith to restore its compliance with subdivisions (2)(a) through (c) of section 70-1001.01, the board shall not terminate the application for recertification. During the pendency of the application for recertification and before the board's final order on recertification, the facility may continue to operate if the electricity generated at the facility is sold to customers outside the state, or to an electric supplier pursuant to a power purchase agreement or similar agreement. If the board retains jurisdiction over the decertification action, the prohibition on eminent domain set forth in subsection (5) of this section shall remain in full force and effect. If the board enters an order decertifying a certified renewable export facility and such order becomes final due to a failure to timely seek recertification or judicial review, the prohibition on eminent domain set forth in subsection (5) of this section shall no longer apply. Nothing

in this section shall prohibit a decertified facility from being recertified in the same manner as a new facility.

Source: Laws 2010, LB1048, § 6.
Effective date July 15, 2010.

70-1020 Board; expenses; assessments levied against suppliers; apportionment; collection; interest; Nebraska Power Review Fund; created; investment.

In order to defray the expenses of the Nebraska Power Review Board, there shall be imposed upon each public power district, public power and irrigation district, electric membership association, electric cooperative company, and municipality having an electric distribution system or generation and distribution system, and also upon all registered groups of municipalities, an assessment each fiscal year in such sum as shall be determined by the board and approved by the Governor. The total of such assessments shall not exceed the expenses of the board which may reasonably be anticipated for the fiscal year for which assessment is made and shall be apportioned among the various agencies in proportion to their gross income in the preceding calendar year. The board shall determine and certify such assessment to each supplier after approval of the board's budget by the Legislature and Governor. The supplier shall remit the amount of its assessment to the board within forty-five days after the mailing of the assessment. Any assessment not paid when due shall draw interest at a rate equal to the rate of interest allowed per annum under section 45-104.02, as such rate may from time to time be adjusted. The proceeds of such assessment shall be remitted to the State Treasurer for credit to the Nebraska Power Review Fund, which fund is hereby created and which, when appropriated by the Legislature, shall be used to administer the powers granted to the Nebraska Power Review Board, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Power Review 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 1963, c. 397, § 20, p. 1266; Laws 1965, c. 407, § 1, p. 1307; Laws 1969, c. 584, § 65, p. 2385; Laws 1981, LB 181, § 55; Laws 1984, LB 730, § 1; Laws 1992, Fourth Spec. Sess., LB 1, § 10; Laws 1994, LB 1066, § 64; Laws 2009, First Spec. Sess., LB3, § 43.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 16

DENIAL OR DISCONTINUANCE OF UTILITY SERVICE

Section

70-1603. Municipal utility; owned and operated by a village; discontinuance of service; notice; procedure.

70-1605. Discontinuance of service; notice; procedure.

70-1603 Municipal utility; owned and operated by a village; discontinuance of service; notice; procedure.

No municipal utility owned and operated by a village furnishing water, natural gas, or electricity at retail in this state shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless such utility first gives written notice by mail to any subscriber whose service is proposed to be terminated at least seven days prior to termination.

Source: Laws 1979, LB 143, § 16; Laws 1982, LB 522, § 2; R.S.1943, (1987), § 19-2716; Laws 1988, LB 792, § 3; Laws 1996, LB 1044, § 369; Laws 2010, LB849, § 17.
Operative date April 14, 2010.

70-1605 Discontinuance of service; notice; procedure.

No public or private utility company, other than a municipal utility owned and operated by a village, furnishing water, natural gas, or electricity at retail in this state shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility company first gives notice by first-class mail or in person to any subscriber whose service is proposed to be terminated. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days.

Source: Laws 1972, LB 1201, § 1; R.R.S.1943, (1977), § 18-416; Laws 1979, LB 143, § 1; Laws 1982, LB 522, § 1; R.S.1943, (1987), § 19-2702; Laws 1988, LB 792, § 5; Laws 1996, LB 1044, § 370; Laws 2010, LB849, § 18.
Operative date April 14, 2010.

ARTICLE 19

RURAL COMMUNITY-BASED ENERGY DEVELOPMENT ACT

Section
70-1903. Terms, defined.

70-1903 Terms, defined.

For purposes of the Rural Community-Based Energy Development Act:

(1) C-BED project or community-based energy development project means a new wind energy project that:

(a) Has an ownership structure as follows:

(i) For a C-BED project that consists of more than two turbines, has one or more qualified owners with no single individual qualified owner owning directly or indirectly more than fifteen percent of the project and with at least thirty-three percent of the gross power purchase agreement payments flowing to the qualified owner or owners or local community; or

(ii) For a C-BED project that consists of one or two turbines, has one or more qualified owners with at least thirty-three percent of the gross power purchase agreement payments flowing to a qualified owner or owners or local community; and

(b) Has a resolution of support adopted:

(i) By the county board of each county in which the C-BED project is to be located; or

(ii) By the tribal council for a C-BED project located within the boundaries of an Indian reservation;

(2) Debt financing payments means principal, interest, and other typical financing costs paid by the C-BED project company to one or more third-party financial institutions for the financing or refinancing of the construction of the C-BED project. Debt financing payments does not include the repayment of principal at the time of a refinancing;

(3) Electric utility means an electric supplier that:

(a) Owns more than one hundred miles of one-hundred-fifteen-kilovolt or larger transmission lines in the State of Nebraska;

(b) Owns more than two hundred megawatts of electric generating facilities; and

(c) Has the obligation to directly serve more than two hundred megawatts of wholesale or retail electric load in the State of Nebraska;

(4) Gross power purchase agreement payments means the total amount of payments during the life of the agreement. For power purchase agreements entered into on or before December 31, 2011, if the qualified owners have a combined total of at least thirty-three percent of the equity ownership in the C-BED project, gross power purchase agreement payments shall be reduced by the debt financing payments; and

(5) Qualified owner means:

(a) A Nebraska resident;

(b) A limited liability company that is organized under the Limited Liability Company Act or the Nebraska Uniform Limited Liability Company Act and that is made up of members who are Nebraska residents;

(c) A Nebraska nonprofit corporation organized under the Nebraska Nonprofit Corporation Act;

(d) An electric supplier as defined in section 70-1001.01, except that ownership in a single C-BED project is limited to no more than:

(i) Fifteen percent either directly or indirectly by a single electric supplier; and

(ii) A combined total of twenty-five percent ownership either directly or indirectly by multiple electric suppliers; or

(e) A tribal council.

Source: Laws 2007, LB629, § 3; Laws 2008, LB916, § 1; Laws 2009, LB561, § 3; Laws 2010, LB888, § 102.

Operative date January 1, 2011.

Cross References

Limited Liability Company Act, see section 21-2601.

Nebraska Nonprofit Corporation Act, see section 21-1901.

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

CHAPTER 71

PUBLIC HEALTH AND WELFARE

Article.

2. Practice of Barbering. 71-222.02.
4. Health Care Facilities. 71-401 to 71-465.
5. Diseases.
 - (b) Alzheimer's Special Care Disclosure Act. 71-516.04.
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 - (d) Rural Health Systems and Professional Incentive Act. 71-5661.
57. Smoking and Tobacco.
 - (b) Tobacco Prevention and Control Cash Fund. 71-5714.
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74. Wholesale Drug Distributor Licensing. 71-7447.
84. Medical Records. 71-8403.
86. Blind and Visually Impaired. 71-8612.

ARTICLE 2

PRACTICE OF BARBERING

Section

71-222.02. Board of Barber Examiners Fund; created; use; investment.

71-222.02 Board of Barber Examiners Fund; created; use; investment.

All funds collected in the administration of the Barber Act shall be remitted to the State Treasurer for credit to the Board of Barber Examiners Fund which is hereby created and which shall be expended only for the administration of 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 Board of Barber Examiners 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 1963, c. 409, § 27, p. 1327; Laws 1969, c. 584, § 68, p. 2387; Laws 1995, LB 7, § 73; Laws 2009, First Spec. Sess., LB3, § 44.

Effective date November 21, 2009.

Cross References

Fees, percentage to General Fund, see sections 33-151 and 33-152.

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 4

HEALTH CARE FACILITIES

Section

71-401. Act, how cited.

71-403. Definitions, where found.

71-408.01. Children’s day health service, defined.

71-415. Health care service, defined.

71-465. Moratorium on new hospital licenses; health care in Nebraska; Health and Human Services Committee of Legislature; study; report.

71-401 Act, how cited.

Sections 71-401 to 71-465 shall be known and may be cited as the Health Care Facility Licensure Act.

Source: Laws 2000, LB 819, § 1; Laws 2001, LB 398, § 65; Laws 2004, LB 1005, § 41; Laws 2007, LB203, § 1; Laws 2009, LB288, § 31; Laws 2010, LB849, § 19; Laws 2010, LB999, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB849, section 19, with LB999, section 1, to reflect all amendments.

Note: Changes made by LB999 became effective April 15, 2010. Changes made by LB849 became operative July 15, 2010.

71-403 Definitions, where found.

For purposes of the Health Care Facility Licensure Act, unless the context otherwise requires, the definitions found in sections 71-404 to 71-431 shall apply.

Source: Laws 2000, LB 819, § 3; Laws 2007, LB203, § 2; Laws 2010, LB849, § 20. Operative date July 15, 2010.

71-408.01 Children’s day health service, defined.

(1) Children’s day health service means a person or any legal entity which provides specialized care and treatment, including an array of social, medical, rehabilitation, or other support services for a period of less than twenty-four consecutive hours in a community-based group program to twenty or more persons under twenty-one years of age who require such services due to medical dependence, birth trauma, congenital anomalies, developmental disorders, or functional impairment.

(2) Children’s day health service does not include services provided under the Developmental Disabilities Services Act.

Source: Laws 2010, LB849, § 21. Operative date July 15, 2010.

Cross References

Developmental Disabilities Services Act, see section 83-1201.

71-415 Health care service, defined.

Health care service means an adult day service, a home health agency, a hospice or hospice service, a respite care service, or beginning January 1, 2011, a children's day health service. Health care service does not include an in-home personal services agency as defined in section 71-6501.

Source: Laws 2000, LB 819, § 15; Laws 2007, LB236, § 43; Laws 2010, LB849, § 22.

Operative date July 15, 2010.

71-465 Moratorium on new hospital licenses; health care in Nebraska; Health and Human Services Committee of Legislature; study; report.

(1) The Legislature finds that Nebraska's general acute and critical access hospitals provide a foundation of health care throughout the state. This long-established means of providing health care is changing. Because health care delivery is evolving, it is important to assess needs in Nebraska and determine whether licensure and regulation should be changed to reflect current and future practices.

(2) The department shall not accept an application for or issue a license for a new hospital beginning on April 15, 2010, and continuing through September 15, 2011, except that this prohibition shall not apply to an application for or issuance of a license as a critical access hospital or an application for or issuance of a license for any hospital which has begun construction prior to May 1, 2010.

(3) The Health and Human Services Committee of the Legislature shall study health care in Nebraska. The study shall include, but not be limited to:

(a) A comparison of the roles of Nebraska's general acute hospitals, critical access hospitals, ambulatory surgical centers, and other limited service facilities, such as physician-owned hospitals and investor-owned hospitals, and the impact of such hospitals, centers, and facilities on access to services, quality of health care, and cost, including medicaid costs and insurance premiums;

(b) Compliance with the federal Emergency Medical Treatment and Active Labor Act, 42 U.S.C. 1395dd, as such act existed on January 1, 2010;

(c) Referral practices;

(d) Ownership disclosure;

(e) Uncompensated and under-compensated patient care;

(f) Joint ventures among or between hospitals, physicians, and investors;

(g) Reinvestment in facilities;

(h) Examination and definition of community benefits;

(i) Clarification and definition of limited service facilities, such as physician-owned hospitals and investor-owned hospitals, and other definitions as needed; and

(j) The impact of federal health care reform on the items in subdivisions (a) through (i) of this subsection.

(4) The committee shall seek information from resources, including, but not limited to, physicians; representatives of hospitals, ambulatory surgical centers, physician-owned hospitals, investor-owned hospitals, public health agencies, the department, and allied professions such as behavioral health service providers, nurses, pharmacists, and emergency care providers; businesses; consum-

ers; insurers; communities; the Legislative Fiscal Analyst; and the office of Legislative Research.

(5) The committee shall report its findings to the Legislature by December 31, 2010.

Source: Laws 2010, LB999, § 2.
Effective date April 15, 2010.

ARTICLE 5

DISEASES

(b) ALZHEIMER'S SPECIAL CARE DISCLOSURE ACT

Section

71-516.04. Facility; disclosures required; department; duties.

(f) HUMAN IMMUNODEFICIENCY VIRUS INFECTION

71-531. Test; written informed consent required; anonymous testing; exemptions.

(b) ALZHEIMER'S SPECIAL CARE DISCLOSURE ACT

71-516.04 Facility; disclosures required; department; duties.

Any facility which offers to provide or provides care for persons with Alzheimer's disease, dementia, or a related disorder by means of an Alzheimer's special care unit shall disclose the form of care or treatment provided that distinguishes such form as being especially applicable to or suitable for such persons. The disclosure shall be made to the Department of Health and Human Services and to any person seeking placement within an Alzheimer's special care unit. The department shall examine all such disclosures in the records of the department as part of the facility's license renewal procedure at the time of licensure or relicensure.

The information disclosed shall explain the additional care provided in each of the following areas:

(1) The Alzheimer's special care unit's written statement of its overall philosophy and mission which reflects the needs of residents afflicted with Alzheimer's disease, dementia, or a related disorder;

(2) The process and criteria for placement in, transfer to, or discharge from the unit;

(3) The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition;

(4) Staff training and continuing education practices which shall include, but not be limited to, four hours annually for direct care staff. Such training shall include topics pertaining to the form of care or treatment set forth in the disclosure described in this section. The requirement in this subdivision shall not be construed to increase the aggregate hourly training requirements of the Alzheimer's special care unit;

(5) The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

(6) The frequency and types of resident activities;

(7) The involvement of families and the availability of family support programs; and

(8) The costs of care and any additional fees.

Source: Laws 1994, LB 1210, § 165; Laws 1996, LB 1044, § 501; Laws 2007, LB296, § 389; Laws 2010, LB849, § 23.
Operative date July 15, 2010.

(f) HUMAN IMMUNODEFICIENCY VIRUS INFECTION

71-531 Test; written informed consent required; anonymous testing; exemptions.

(1)(a) No person may be tested for the presence of the human immunodeficiency virus infection unless he or she has given written informed consent for the performance of such test. The written informed consent shall provide an explanation of human immunodeficiency virus infection and the meaning of both positive and negative test results.

(b) If a person signs a general consent form for the performance of medical tests or procedures which informs the person that a test for the presence of the human immunodeficiency virus infection may be performed and that the person may refuse to have such test performed, the signing of an additional consent for the specific purpose of consenting to a test related to human immunodeficiency virus is not required during the time in which the general consent form is in effect.

(2) If a person is unable to provide consent, the person's legal representative may provide consent. If the person's legal representative cannot be located or is unavailable, a health care provider may authorize the test when the test results are necessary for diagnostic purposes to provide appropriate medical care.

(3) A person seeking a human immunodeficiency virus test shall have the right to remain anonymous. A health care provider shall confidentially refer such person to a site which provides anonymous testing.

(4) This section shall not apply to:

(a) The performance by a health care provider or a health facility of a human immunodeficiency virus test when the health care provider or health facility procures, processes, distributes, or uses a human body part for a purpose specified under the Revised Uniform Anatomical Gift Act and such test is necessary to assure medical acceptability of such gift for the purposes intended;

(b) The performance by a health care provider or a health facility of a human immunodeficiency virus test when such test is performed with the consent and written authorization of the person being tested and such test is for insurance underwriting purposes, written information about the human immunodeficiency virus is provided, including, but not limited to, the identification and reduction of risks, the person is informed of the result of such test, and when the result is positive, the person is referred for posttest counseling;

(c) The performance of a human immunodeficiency virus test by licensed medical personnel of the Department of Correctional Services when the subject of the test is committed to such department. Posttest counseling shall be required for the subject if the test is positive. A person committed to the Department of Correctional Services shall be informed by the department (i) if he or she is being tested for the human immunodeficiency virus, (ii) that education shall be provided to him or her about the human immunodeficiency

virus, including, but not limited to, the identification and reduction of risks, and (iii) of the test result and the meaning of such result;

(d) Human immunodeficiency virus home collection kits licensed by the federal Food and Drug Administration; or

(e) The performance of a human immunodeficiency virus test performed pursuant to section 29-2290 or sections 71-507 to 71-513 or 71-514.01 to 71-514.05.

Source: Laws 1994, LB 819, § 5; Laws 1997, LB 194, § 1; Laws 2009, LB288, § 33; Laws 2010, LB1036, § 35.
Operative date January 1, 2011.

Cross References

Revised Uniform Anatomical Gift Act, see section 71-4824.

ARTICLE 15

HOUSING

(c) MODULAR HOUSING UNITS

Section

71-1559. Modular housing unit; compliance assurance program; exception; purpose; inspection; seal; when issued; fee; Public Service Commission Housing and Recreational Vehicle Cash Fund.

(c) MODULAR HOUSING UNITS

71-1559 Modular housing unit; compliance assurance program; exception; purpose; inspection; seal; when issued; fee; Public Service Commission Housing and Recreational Vehicle Cash Fund.

(1) Every modular housing unit, except those constructed or manufactured by any school district or community college area as a part of a buildings trade or other instructional program offered by such district or area, manufactured, sold, offered for sale, or leased in this state more than six months after July 10, 1976, and before May 1, 1998, shall comply with the seal requirements of the state agency responsible for regulation of modular housing units as such requirements existed on the date of manufacture.

(2) Every modular housing unit, except those constructed or manufactured by any school district or community college area as part of a buildings trade or other instructional program offered by such district or area, manufactured, sold, offered for sale, or leased in this state on or after May 1, 1998, shall bear a seal issued by the commission certifying that the construction and the structural, plumbing, heating, and electrical systems of such modular housing unit have been installed in compliance with its standards applicable at the time of manufacture. Each manufacturer of such modular housing units, except those constructed or manufactured by such school district or community college area, shall submit its plans to the commission for the purposes of inspection. The commission shall establish a compliance assurance program consisting of an application form and a compliance assurance manual. Such manual shall identify and list all procedures which the manufacturer and the inspection agency propose to implement to assure that the finished modular housing unit conforms to the approved building system and the applicable codes adopted by the commission. The compliance assurance program requirements shall apply

to all inspection agencies, whether commission or authorized third party, and shall define duties and responsibilities in the process of inspecting, monitoring, and issuing seals for modular housing units. The commission shall issue the seal only after ascertaining that the manufacturer is in full compliance with the compliance assurance program through inspections at the plant by the commission or authorized third-party inspection agency. Such inspections shall be of an unannounced frequency such that the required level of code compliance performance is implemented and maintained throughout all areas of plant and site operations that affect regulatory aspects of the construction. Each seal issued by the state shall remain the property of the commission and may be revoked by the commission in the event of violation of the conditions of issuance.

(3) Modular housing units constructed or manufactured by any school district or community college area as a part of a buildings trade or other instructional program offered by such district or area shall be inspected by the local inspection authority or, upon request of the district or area, by the commission. If the commission inspects a unit and finds that it is in compliance, the commission shall issue a seal certifying that the construction and the structural, plumbing, heating, and electrical systems of such unit have been installed in compliance with the standards applicable at the time of manufacture.

(4) The commission shall charge a seal fee of not less than one hundred and not more than one thousand dollars per modular housing unit, as determined annually by the commission after published notice and a hearing, for seals issued by the commission under subsection (2) or (3) of this section.

(5) Inspection fees shall be paid for all inspections by the commission of manufacturing plants located outside of the State of Nebraska. Such fees shall consist of a reimbursement by the manufacturer of actual travel and inspection expenses only and shall be paid prior to any issuance of seals.

(6) All fees collected under the Nebraska Uniform Standards for Modular Housing Units Act shall be remitted to the State Treasurer for credit to the Public Service Commission Housing and Recreational Vehicle Cash Fund.

Source: Laws 1976, LB 248, § 5; Laws 1978, LB 812, § 1; Laws 1981, LB 218, § 1; Laws 1983, LB 617, § 20; Laws 1984, LB 822, § 5; Laws 1991, LB 703, § 34; Laws 1992, LB 1019, § 66; Laws 1996, LB 1044, § 565; Laws 1998, LB 1073, § 93; Laws 2001, LB 247, § 1; Laws 2003, LB 241, § 1; Laws 2008, LB797, § 8; Laws 2010, LB849, § 24.

Operative date July 1, 2010.

ARTICLE 17

NURSES

(h) NEBRASKA CENTER FOR NURSING ACT

Section

71-1796. Act, how cited.

71-17,100. Repealed. Laws 2010, LB 849, § 41.

(h) NEBRASKA CENTER FOR NURSING ACT

71-1796 Act, how cited.

Sections 71-1796 to 71-1799 shall be known and may be cited as the Nebraska Center for Nursing Act.

Source: Laws 2000, LB 1025, § 1; Laws 2005, LB 243, § 2; Laws 2010, LB849, § 25.

Operative date April 14, 2010.

71-17,100 Repealed. Laws 2010, LB 849, § 41.

Operative date April 14, 2010.

ARTICLE 46

MANUFACTURED HOMES, RECREATIONAL VEHICLES, AND MOBILE HOME PARKS

(a) MANUFACTURED HOMES AND RECREATIONAL VEHICLES

Section

71-4603. Terms, defined.

71-4604.01. Manufactured home or recreational vehicle; seals certifying compliance with standards; exemption; rules and regulations; fees; Public Service Commission Housing and Recreational Vehicle Cash Fund.

(a) MANUFACTURED HOMES AND RECREATIONAL VEHICLES

71-4603 Terms, defined.

For purposes of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, unless the context otherwise requires:

(1) Camping trailer means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use;

(2) Commission means the Public Service Commission;

(3) Dealer means a person licensed by the state pursuant to the Motor Vehicle Industry Regulation Act as a dealer in manufactured homes or recreational vehicles or any other person, other than a manufacturer, who sells, offers to sell, distributes, or leases manufactured homes or recreational vehicles primarily to persons who in good faith purchase or lease a manufactured home or recreational vehicle for purposes other than resale;

(4) Defect means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended but does not result in an unreasonable risk of injury or death to occupants;

(5) Distributor means any person engaged in the sale and distribution of manufactured homes or recreational vehicles for resale;

(6) Failure to conform means a defect, a serious defect, noncompliance, or an imminent safety hazard related to the code;

(7) Fifth-wheel trailer means a unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed four hundred square feet in the setup mode, and designed to

be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle;

(8) Gross trailer area means the total plan area measured on the exterior to the maximum horizontal projections of exterior wall in the setup mode and includes all siding, corner trims, moldings, storage spaces, expandable room sections regardless of height, and areas enclosed by windows but does not include roof overhangs. Storage lofts contained within the basic unit shall have ceiling heights less than five feet and shall not constitute additional square footage. Appurtenances, as defined in subdivision (2)(k) of section 60-6,288, shall not be considered in calculating the gross trailer area as provided in such subdivision;

(9) Imminent safety hazard means a hazard that presents an imminent and unreasonable risk of death or severe personal injury;

(10) Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such act existed on September 1, 2001, 42 U.S.C. 5401 et seq.;

(11) Manufactured-home construction means all activities relating to the assembly and manufacture of a manufactured home, including, but not limited to, activities relating to durability, quality, and safety;

(12) Manufactured-home safety means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(13) Manufacturer means any person engaged in manufacturing, assembling, or completing manufactured homes or recreational vehicles;

(14) Motor home means a vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support systems that meet the state standard for recreational vehicles and providing at least four of the following facilities: Cooking; refrigeration or ice box; self-contained toilet; heating, air conditioning, or both; a potable water supply system including a faucet and sink; separate one-hundred-twenty-nominal-volt electrical power supply; or LP gas supply;

(15) Noncompliance means a failure to comply with an applicable construction standard that does not constitute a defect, a serious defect, or an imminent safety hazard;

(16) Park trailer means a vehicular unit which meets the following criteria:

(a) Built on a single chassis mounted on wheels;

(b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances;

(c) Constructed to permit setup by persons without special skills using only hand tools which may include lifting, pulling, and supporting devices; and

(d) Having a gross trailer area not exceeding four hundred square feet when in the setup mode;

(17) Person means any individual, partnership, limited liability company, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing manufactured homes or recreational vehicles;

(18) Purchaser means the first person purchasing a manufactured home or recreational vehicle in good faith for purposes other than resale;

(19) Recreational vehicle means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicle includes, but is not limited to, travel trailer, park trailer, camping trailer, truck camper, motor home, and van conversion;

(20) Seal means a device or insignia issued by the Department of Health and Human Services Regulation and Licensure prior to May 1, 1998, or by the Public Service Commission on or after May 1, 1998, to be displayed on the exterior of a manufactured home or recreational vehicle to evidence compliance with state standards. The federal manufactured-home label shall be recognized as a seal;

(21) Serious defect means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to the occupants;

(22) Travel trailer means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross trailer area less than four hundred square feet;

(23) Truck camper means a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides and designed to be loaded onto and unloaded from the bed of a pickup truck; and

(24) Van conversion means a completed vehicle permanently altered cosmetically, structurally, or both which has been recertified by the state as a multipurpose passenger vehicle but which does not conform to or otherwise meet the definition of a motor home in this section and which contains at least one plumbing, heating, or one-hundred-twenty-nominal-volt electrical component subject to the provisions of the state standard for recreational vehicles. Van conversion does not include any such vehicle that lacks any plumbing, heating,

or one-hundred-twenty-nominal-volt electrical system but contains an extension of the low-voltage automotive circuitry.

Source: Laws 1969, c. 557, § 3, p. 2272; Laws 1975, LB 300, § 3; Laws 1985, LB 313, § 7; Laws 1993, LB 121, § 435; Laws 1993, LB 536, § 86; Laws 1996, LB 1044, § 675; Laws 1998, LB 1073, § 128; Laws 2001, LB 376, § 6; Laws 2008, LB797, § 13; Laws 2010, LB816, § 90.

Effective date March 4, 2010.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

71-4604.01 Manufactured home or recreational vehicle; seals certifying compliance with standards; exemption; rules and regulations; fees; Public Service Commission Housing and Recreational Vehicle Cash Fund.

(1)(a) Every manufactured home or recreational vehicle manufactured, sold, offered for sale, or leased in this state more than four months after May 27, 1975, and before May 1, 1998, shall comply with the seal requirements of the state agency responsible for regulation of manufactured homes or recreational vehicles as such requirements existed on the date of manufacture.

(b) Every manufactured home or recreational vehicle manufactured, sold, offered for sale, or leased in this state on or after May 1, 1998, shall bear a seal issued by the commission certifying that the body and frame design and construction and the plumbing, heating, and electrical systems of such manufactured home or recreational vehicle have been installed in compliance with the standards adopted by the commission, applicable at the time of manufacture. Manufactured homes destined for sale outside the United States shall be exempt from displaying the seal issued by the state if sufficient proof of such delivery is submitted to the commission for review. Recreational vehicles destined for sale or lease outside this state or the United States shall be exempt from displaying the seal issued by the state if sufficient proof of such delivery is submitted to the commission for review. The commission shall issue the recreational-vehicle seal upon an inspection of the plans and specifications for the recreational vehicle or upon an actual inspection of the recreational vehicle during or after construction if the recreational vehicle is in compliance with state standards. The commission shall issue the manufactured-home seal in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as such act existed on January 1, 2005. Each seal issued by the state shall remain the property of the commission and may be revoked by the commission in the event of a violation of the conditions of issuance.

(2) The commission shall charge a fee in an amount determined annually by the commission after published notice and a hearing, for seals issued by the commission. A seal shall be placed on each manufactured home. The commission shall assess any costs of inspections conducted outside of Nebraska to the manufacturer in control of the inspected facility or to a manufacturer requesting such inspection. Such costs shall include, but not be limited to, actual travel, personnel, and inspection expenses and shall be paid prior to any issuance of seals.

(3) The commission shall adopt and promulgate rules and regulations governing the submission of plans and specifications of manufactured homes and

recreational vehicles. A person who submits recreational-vehicle plans and specifications to the commission for review and approval shall be assessed an hourly rate by the commission for performing the review of the plans and specifications and related functions. The hourly rate shall be not less than fifteen dollars per hour and not more than seventy-five dollars per hour as determined annually by the commission after published notice and hearing based on the number of hours of review time as follows:

- (a) New model, one hour;
- (b) Quality control manual, two hours;
- (c) Typical, one-half hour;
- (d) Revisions, three-fourths hour;
- (e) Engineering calculations, three-fourths hour;
- (f) Initial package, fifteen hours; and
- (g) Yearly renewal, two hours plus the three-fourths hour for revisions.

(4) The commission shall charge each manufacturer an inspection fee of two hundred fifty dollars for each inspection of any new recreational vehicle manufactured by such manufacturer and not bearing a seal issued by the State of Nebraska or some reciprocal state.

(5) All fees collected pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles shall be remitted to the State Treasurer for credit to the Public Service Commission Housing and Recreational Vehicle Cash Fund.

Source: Laws 1975, LB 300, § 5; Laws 1983, LB 617, § 24; Laws 1985, LB 313, § 9; Laws 1991, LB 703, § 50; Laws 1993, LB 536, § 88; Laws 1996, LB 1044, § 677; Laws 1996, LB 1155, § 33; Laws 1998, LB 1073, § 130; Laws 2003, LB 241, § 2; Laws 2005, LB 319, § 1; Laws 2008, LB797, § 15; Laws 2010, LB849, § 26. Operative date July 1, 2010.

ARTICLE 47

HEARING

(b) COMMISSION FOR THE DEAF AND HARD OF HEARING

Section

71-4732. Commission for the Deaf and Hard of Hearing Fund; created; use; investment.

(b) COMMISSION FOR THE DEAF AND HARD OF HEARING

71-4732 Commission for the Deaf and Hard of Hearing Fund; created; use; investment.

There is hereby created a Commission for the Deaf and Hard of Hearing Fund to consist of such funds as the Legislature shall appropriate, any funds received under sections 20-156 and 71-4731, and any fees collected for interpreter services as provided in section 71-4728. The fund shall be used to administer sections 20-156 and 71-4720 to 71-4732.01, except that (1) money in the fund from fees collected for interpreter services shall be used only for expenses related to the provision of such services, (2) money in the fund may only be used to provide services pursuant to section 71-4728.04 if there is no

money in the Telehealth System Fund, and (3) transfers may be made from the Commission for the Deaf and Hard of Hearing Fund to the General Fund at the direction of the Legislature. Any money in the Commission for the Deaf and Hard of Hearing 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 1979, LB 101, § 13; Laws 1995, LB 7, § 78; Laws 1995, LB 25, § 8; Laws 1997, LB 851, § 24; Laws 1999, LB 359, § 3; Laws 2001, LB 334, § 5; Laws 2002, LB 22, § 18; Laws 2009, First Spec. Sess., LB3, § 45.

Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 48
ANATOMICAL GIFTS

(a) UNIFORM ANATOMICAL GIFT ACT

Section

- 71-4801. Repealed. Laws 2010, LB 1036, § 42.
- 71-4802. Repealed. Laws 2010, LB 1036, § 42.
- 71-4803. Repealed. Laws 2010, LB 1036, § 42.
- 71-4804. Repealed. Laws 2010, LB 1036, § 42.
- 71-4805. Repealed. Laws 2010, LB 1036, § 42.
- 71-4806. Repealed. Laws 2010, LB 1036, § 42.
- 71-4807. Repealed. Laws 2010, LB 1036, § 42.
- 71-4809. Repealed. Laws 2010, LB 1036, § 42.
- 71-4810. Repealed. Laws 2010, LB 1036, § 42.
- 71-4811. Repealed. Laws 2010, LB 1036, § 42.
- 71-4812. Repealed. Laws 2010, LB 1036, § 42.

(b) MISCELLANEOUS PROVISIONS

- 71-4813. Eye tissue; pituitary gland; removal; when authorized.
- 71-4814. Organ and tissue donations; legislative findings; protocol; development.
- 71-4815. Repealed. Laws 2010, LB 1036, § 42.
- 71-4816. Certificate of death; attestation required; statistical information.
- 71-4817. Repealed. Laws 2010, LB 1036, § 42.
- 71-4818. Repealed. Laws 2010, LB 1036, § 42.

(d) DONOR REGISTRY OF NEBRASKA

- 71-4822. Donor Registry of Nebraska; establishment; duties; restriction on information.

(e) REVISED UNIFORM ANATOMICAL GIFT ACT

- 71-4824. Act, how cited.
- 71-4825. Terms, defined.
- 71-4826. Applicability of act.
- 71-4827. Who may make anatomical gift before donor's death.
- 71-4828. Manner of making anatomical gift before donor's death.
- 71-4829. Amending or revoking anatomical gift before donor's death.
- 71-4830. Refusal to make anatomical gift; effect of refusal.
- 71-4831. Preclusive effect of anatomical gift, amendment, or revocation.
- 71-4832. Who may make anatomical gift of decedent's body or part.
- 71-4833. Manner of making, amending, or revoking anatomical gift of decedent's body or part.
- 71-4834. Persons that may receive anatomical gift; purpose of anatomical gift.

§ 71-4801

PUBLIC HEALTH AND WELFARE

Section

- 71-4835. Search and notification.
- 71-4836. Delivery of document of gift not required; right to examine.
- 71-4837. Rights and duties of procurement organization and others.
- 71-4838. Coordination of procurement and use.
- 71-4839. Sale or purchase of parts prohibited; penalty.
- 71-4840. Other prohibited acts; penalty.
- 71-4841. Immunity.
- 71-4842. Law governing validity; choice of law as to execution of document of gift; presumption of validity.
- 71-4843. Effect of anatomical gift on advance health care directive.
- 71-4844. Uniformity of application and construction.
- 71-4845. Relation to Electronic Signatures in Global and National Commerce Act.

(a) UNIFORM ANATOMICAL GIFT ACT

71-4801 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4802 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4803 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4804 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4805 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4806 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4807 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4809 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4810 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4811 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4812 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

(b) MISCELLANEOUS PROVISIONS**71-4813 Eye tissue; pituitary gland; removal; when authorized.**

(1) When an autopsy is performed by the physician authorized by the county coroner to perform such autopsy, the physician or an appropriately qualified designee with training in ophthalmologic techniques, as provided for in subsection (2) of this section, may remove eye tissue of the decedent for the purpose of transplantation. The physician may also remove the pituitary gland for the purpose of research and treatment of hypopituitary dwarfism and of other growth disorders. Removal of the eye tissue or the pituitary gland shall only take place if the:

- (a) Autopsy was authorized by the county coroner;
- (b) County coroner receives permission from the person having control of the disposition of the decedent's remains pursuant to section 38-1425; and
- (c) Removal of eye tissue or of the pituitary gland will not interfere with the course of any subsequent investigation or alter the decedent's post mortem facial appearance.

(2) An appropriately qualified designee of a physician with training in ophthalmologic techniques or a funeral director and embalmer licensed pursuant to the Funeral Directing and Embalming Practice Act upon (a) successfully completing a course in eye enucleation and (b) receiving a certificate of competence from the Department of Ophthalmology of the University of Nebraska Medical Center may enucleate the eyes of the donor.

(3) The removed eye tissue or pituitary gland shall be transported to the Department of Health and Human Services or any desired institution or health facility as prescribed by section 38-1427.

Source: Laws 1983, LB 60, § 1; Laws 1985, LB 130, § 2; Laws 1996, LB 1044, § 683; Laws 2007, LB296, § 599; Laws 2007, LB463, § 1220; Laws 2010, LB1036, § 36.

Operative date January 1, 2011.

Cross References

Funeral Directing and Embalming Practice Act, see section 38-1401.

71-4814 Organ and tissue donations; legislative findings; protocol; development.

The Legislature finds that the availability of donor organs and tissue can save the lives and restore the health and productivity of many Nebraskans. Every hospital in the state shall develop a protocol, appropriate to the hospital's capability, for identifying and referring potential donor organ and tissue availability in coordination with the Revised Uniform Anatomical Gift Act. The

protocol shall require utmost care and sensitivity to the family's circumstances, views, and beliefs in all discussions regarding donation of organs or tissue. Hospitals shall be required to consult with existing organ and tissue agencies preparatory to establishing a staff training and education program in the protocol. This section and section 71-4816 are for the immediate preservation of the public health and welfare.

Source: Laws 1987, LB 74, § 1; Laws 2010, LB1036, § 37.
Operative date January 1, 2011.

Cross References

Revised Uniform Anatomical Gift Act, see section 71-4824.

71-4815 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4816 Certificate of death; attestation required; statistical information.

(1) The physician responsible for the completion and signing of the portion of the certificate of death entitled medical certificate of death or, if there is no such physician, the person responsible for signing the certificate of death shall attest on the death certificate whether organ or tissue donation was considered and whether consent was granted under the protocol of the hospital.

(2) The Department of Health and Human Services shall make available the number of organ and tissue donors in Nebraska for statistical purposes.

Source: Laws 1987, LB 74, § 3; Laws 1996, LB 1044, § 684; Laws 2007, LB296, § 600; Laws 2010, LB1036, § 38.
Operative date January 1, 2011.

71-4817 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

71-4818 Repealed. Laws 2010, LB 1036, § 42.

Operative date January 1, 2011.

(d) DONOR REGISTRY OF NEBRASKA

71-4822 Donor Registry of Nebraska; establishment; duties; restriction on information.

(1) The federally designated organ procurement organization for Nebraska shall use the information received from the Department of Motor Vehicles under section 60-494 to establish and maintain the Donor Registry of Nebraska. A procurement organization located outside of Nebraska may obtain information from the Donor Registry of Nebraska when a Nebraska resident is listed as a donor on the registry and is not located in Nebraska immediately preceding or at the time of his or her death. The federally designated organ procurement organization for Nebraska may receive donor information from sources other than the Department of Motor Vehicles and shall pay all costs associated with creating and maintaining the Donor Registry of Nebraska.

(2) It is the intent of the Legislature that the Donor Registry of Nebraska facilitate organ and tissue donations and not inhibit such donations. A person does not need to be listed on the Donor Registry of Nebraska to be an organ and tissue donor.

(3) No person shall obtain information from the Donor Registry of Nebraska for the purpose of fundraising or other commercial use. Information obtained from the Donor Registry of Nebraska may only be used to facilitate the donation process at the time of the donor's death. General statistical information may be provided upon request to the federally designated organ procurement organization for Nebraska.

Source: Laws 2004, LB 559, § 7; Laws 2010, LB1036, § 39.
Operative date January 1, 2011.

(e) REVISED UNIFORM ANATOMICAL GIFT ACT

71-4824 Act, how cited.

Sections 71-4824 to 71-4845 shall be known and may be cited as the Revised Uniform Anatomical Gift Act.

Source: Laws 2010, LB1036, § 1.
Operative date January 1, 2011.

71-4825 Terms, defined.

For purposes of the Revised Uniform Anatomical Gift Act:

- (1) Adult means an individual who is at least eighteen years of age;
- (2) Agent means an individual:
 - (A) Authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or
 - (B) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal;
- (3) Anatomical gift means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education;
- (4) Decedent means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than the Revised Uniform Anatomical Gift Act, a fetus. The term decedent does not include a blastocyst, embryo, or fetus that is the subject of an induced abortion;
- (5) Disinterested witness means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under section 71-4834;
- (6) Document of gift means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry;
- (7) Donor means an individual whose body or part is the subject of an anatomical gift;

(8) Donor registry means a data base that contains records of anatomical gifts and amendments to or revocations of anatomical gifts;

(9) Driver's license means a license or permit issued by the Department of Motor Vehicles to operate a vehicle, whether or not conditions are attached to the license or permit;

(10) Eye bank means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes;

(11) Guardian means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem;

(12) Hospital means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state;

(13) Identification card means a state identification card issued by the Department of Motor Vehicles;

(14) Know means to have actual knowledge;

(15) Minor means an individual who is under eighteen years of age;

(16) Organ procurement organization means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization;

(17) Parent means a parent whose parental rights have not been terminated;

(18) Part means an organ, an eye, or tissue of a human being. The term does not include the whole body;

(19) Person means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(20) Physician means an individual authorized to practice medicine or osteopathy under the law of any state;

(21) Procurement organization means an eye bank, organ procurement organization, or tissue bank;

(22) Prospective donor means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal;

(23) Reasonably available means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift;

(24) Recipient means an individual into whose body a decedent's part has been or is intended to be transplanted;

(25) Record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(26) Refusal means a record created under section 71-4830 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part;

(27) Sign means, with the present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process;

(28) State means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(29) Technician means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator;

(30) Tissue means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education;

(31) Tissue bank means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue; and

(32) Transplant hospital means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

Source: Laws 2010, LB1036, § 2.

Operative date January 1, 2011.

71-4826 Applicability of act.

The Revised Uniform Anatomical Gift Act applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

Source: Laws 2010, LB1036, § 3.

Operative date January 1, 2011.

71-4827 Who may make anatomical gift before donor's death.

Subject to section 71-4831, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in section 71-4828 by:

(1) The donor, if the donor is an adult or if the donor is a minor and is:

(A) Emancipated; or

(B) Authorized under state law to apply for a driver's license and the donor is at least sixteen years of age;

(2) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) A parent of the donor, if the donor is an unemancipated minor; or

(4) The donor's guardian.

Source: Laws 2010, LB1036, § 4.

Operative date January 1, 2011.

71-4828 Manner of making anatomical gift before donor's death.

(a) A donor may make an anatomical gift:

(1) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(2) In a will;

(3) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(4) As provided in subsection (b) of this section.

(b) A donor or other person authorized to make an anatomical gift under section 71-4827 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) State that it has been signed and witnessed as provided in subdivision (1) of this subsection.

(c) Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

Source: Laws 2010, LB1036, § 5.

Operative date January 1, 2011.

71-4829 Amending or revoking anatomical gift before donor's death.

(a) Subject to section 71-4831, a donor or other person authorized to make an anatomical gift under section 71-4827 may amend or revoke an anatomical gift by:

(1) A record signed by:

(A) The donor;

(B) The other person; or

(C) Subject to subsection (b) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(2) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to subdivision (a)(1)(C) of this section must:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) State that it has been signed and witnessed as provided in subdivision (1) of this subsection.

(c) Subject to section 71-4831, a donor or other person authorized to make an anatomical gift under section 71-4827 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a) of this section.

Source: Laws 2010, LB1036, § 6.

Operative date January 1, 2011.

71-4830 Refusal to make anatomical gift; effect of refusal.

(a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) A record signed by:

(A) The individual; or

(B) Subject to subsection (b) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(2) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(b) A record signed pursuant to subdivision (a)(1)(B) of this section must:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) State that it has been signed and witnessed as provided in subdivision (1) of this subsection.

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) In the manner provided in subsection (a) of this section for making a refusal;

(2) By subsequently making an anatomical gift pursuant to section 71-4828 that is inconsistent with the refusal; or

(3) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in subsection (h) of section 71-4831, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

Source: Laws 2010, LB1036, § 7.

Operative date January 1, 2011.

71-4831 Preclusive effect of anatomical gift, amendment, or revocation.

(a) Except as otherwise provided in subsection (g) of this section and subject to subsection (f) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under section 71-4828 or an amendment to an anatomical gift of the donor's body or part under section 71-4829.

(b) A donor's revocation of an anatomical gift of the donor's body or part under section 71-4829 is not a refusal and does not bar another person specified in section 71-4827 or 71-4832 from making an anatomical gift of the donor's body or part under section 71-4828 or 71-4833.

(c) If a person other than the donor has made an unrevoked anatomical gift of the donor's body or part under section 71-4828 or an amendment to an anatomical gift of the donor's body or part under section 71-4829, another person who is not the donor may not make, amend, or revoke the gift of the donor's body or part under section 71-4833.

(d) A revocation of an anatomical gift of a donor's body or part under section 71-4829 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 71-4828 or 71-4833.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 71-4827, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 71-4827, an anatomical gift of a part for one or more of the purposes set forth in section 71-4827 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under section 71-4828 or 71-4833.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

Source: Laws 2010, LB1036, § 8.

Operative date January 1, 2011.

71-4832 Who may make anatomical gift of decedent's body or part.

(a) Subject to subsections (b) and (c) of this section and unless barred by section 71-4830 or 71-4831, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) An agent of the decedent at the time of death who could have made an anatomical gift under subdivision (2) of section 71-4827 immediately before the decedent's death;

- (2) The spouse of the decedent;
- (3) Adult children of the decedent;
- (4) Parents of the decedent;
- (5) Adult siblings of the decedent;
- (6) Adult grandchildren of the decedent;
- (7) Grandparents of the decedent;
- (8) The persons who were acting as the guardians of the person of the decedent at the time of death;
- (9) An adult who exhibited special care and concern for the decedent other than any medical personnel caring for the decedent at the time of or immediately leading up to the decedent's death; and
- (10) Any other person having the authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in subdivision (a)(1), (3), (4), (5), (6), (7), or (8) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 71-4834 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) of this section is reasonably available to make or to object to the making of an anatomical gift.

Source: Laws 2010, LB1036, § 9.

Operative date January 1, 2011.

71-4833 Manner of making, amending, or revoking anatomical gift of decedent's body or part.

(a) A person authorized to make an anatomical gift under section 71-4832 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c) of this section, an anatomical gift by a person authorized under section 71-4832 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under section 71-4832 may be:

(1) Amended only if a majority of the reasonably available members agree to the amending of the gift; or

(2) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under subsection (b) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement

organization, transplant hospital, or physician or technician knows of the revocation.

Source: Laws 2010, LB1036, § 10.

Operative date January 1, 2011.

71-4834 Persons that may receive anatomical gift; purpose of anatomical gift.

(a) An anatomical gift may be made to the following persons named in the document of gift:

(1) A hospital; the State Anatomical Board; an accredited medical school, dental school, college, or university; an organ procurement organization; or any other appropriate person, for research or education;

(2) Subject to subsection (b) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or

(3) An eye bank or tissue bank.

(b) If an anatomical gift to an individual under subdivision (a)(2) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (g) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (a) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ;

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization; and

(5) If the gift is any part other than an organ, an eye, or tissue, or the gift is all parts, and the gift is for the purpose of research or education, the gift passes to the State Anatomical Board.

(d) For the purpose of subsection (c) of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection (a) of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as donor, organ donor, or body donor, or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(g) For purposes of subsections (b), (e), and (f) of this section the following rules apply:

(1) If the part is an eye, the gift passes to the appropriate eye bank;

(2) If the part is tissue, the gift passes to the appropriate tissue bank; and

(3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subdivision (a)(2) of this section, passes to the organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass pursuant to subsections (a) through (h) of this section or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(j) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 71-4828 or 71-4833 or if the person knows that the decedent made a refusal under section 71-4830 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(k) Except as otherwise provided in subdivision (a)(2) of this section, nothing in the Revised Uniform Anatomical Gift Act affects the allocation of organs for transplantation or therapy.

Source: Laws 2010, LB1036, § 11.

Operative date January 1, 2011.

71-4835 Search and notification.

(a) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(1) A law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and

(2) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(b) If a document of gift or a refusal to make an anatomical gift is located by the search required by subdivision (a)(1) of this section and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(c) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

Source: Laws 2010, LB1036, § 12.

Operative date January 1, 2011.

71-4836 Delivery of document of gift not required; right to examine.

(a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under section 71-4834.

Source: Laws 2010, LB1036, § 13.

Operative date January 1, 2011.

71-4837 Rights and duties of procurement organization and others.

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Donor Registry of Nebraska established pursuant to section 71-4822 and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to information in the records of the Donor Registry of Nebraska or any donor registry described in subsection (a) of this section to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to determine the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent. Measures necessary to ensure the medical suitability of the part from a prospective donor may not be administered if it is determined that the administration of those measures would not provide the prospective donor with appropriate end-of-life care or it can be anticipated by reasonable medical judgment that such measures would cause the prospective donor's death other than by the prospective donor's underlying pathology.

(d) Unless prohibited by law other than the Revised Uniform Anatomical Gift Act, at any time after a donor's death, the person to which a part passes under section 71-4834 may conduct any reasonable examination necessary to determine the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than the act, an examination under subsection (c) or (d) of this section may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a) of this section, a procurement organization shall make a reasonable search for any person listed in section 71-4832 having priority to make or object to the making of an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to subsection (i) of section 71-4834 and sections 23-1825 to 23-1832, the rights of the person to which a part passes under section 71-4834 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and the act, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 71-4834, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(i) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

Source: Laws 2010, LB1036, § 14.

Operative date January 1, 2011.

71-4838 Coordination of procurement and use.

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

Source: Laws 2010, LB1036, § 15.

Operative date January 1, 2011.

71-4839 Sale or purchase of parts prohibited; penalty.

(a) Except as otherwise provided in subsection (b) of this section, a person that for valuable consideration, knowingly purchases or sells a part for transplantation, therapy, research, or education if removal of a part from an individual is intended to occur after the individual's death commits a Class IIIA felony.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

Source: Laws 2010, LB1036, § 16.

Operative date January 1, 2011.

71-4840 Other prohibited acts; penalty.

A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal commits a Class IIIA felony.

Source: Laws 2010, LB1036, § 17.

Operative date January 1, 2011.

71-4841 Immunity.

(a) A person that acts with reasonable care in accordance with the Revised Uniform Anatomical Gift Act or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(c) In determining whether an anatomical gift has been made, amended, or revoked under the Revised Uniform Anatomical Gift Act, a person may rely upon representations of an individual listed in subdivision (a)(2), (3), (4), (5), (6), (7), or (9) of section 71-4832 relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

Source: Laws 2010, LB1036, § 18.

Operative date January 1, 2011.

71-4842 Law governing validity; choice of law as to execution of document of gift; presumption of validity.

(a) A document of gift is valid if executed in accordance with:

(1) The Revised Uniform Anatomical Gift Act;

(2) The laws of the state or country where it was executed; or

(3) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

(d) The age restrictions of the Revised Uniform Anatomical Gift Act do not nullify any designation of gift made on a driver's license or state identification card prior to January 1, 2011, by a person younger than sixteen years of age which was valid when made. Such person shall be considered a donor under the act, and if such a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

Source: Laws 2010, LB1036, § 19.

Operative date January 1, 2011.

71-4843 Effect of anatomical gift on advance health care directive.

(a) For purposes of this section:

(1) Advance health care directive means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor;

(2) Declaration means a record signed by a prospective donor specifying the circumstances under which life-sustaining treatment may be withheld or withdrawn from the prospective donor; and

(3) Health care decision means any decision regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or advance health care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if none or the agent is not reasonably available, another person authorized by law other than the Revised Uniform Anatomical Gift Act to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 71-4832. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part from a prospective donor may not be administered if it is determined that the administration of those measures would not provide the prospective donor with appropriate end-of-life care or it can be anticipated by reasonable medical judgment that such measures would cause the prospective donor's death other than by the prospective donor's underlying pathology. If the conflict is not resolved expeditiously, the direction of the declaration or advanced directive controls.

Source: Laws 2010, LB1036, § 20.

Operative date January 1, 2011.

71-4844 Uniformity of application and construction.

In applying and construing the Revised Uniform Anatomical Gift Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact this uniform act.

Source: Laws 2010, LB1036, § 21.

Operative date January 1, 2011.

71-4845 Relation to Electronic Signatures in Global and National Commerce Act.

The Revised Uniform Anatomical Gift Act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., but does not modify, limit, or supersede section 101(a) of that act, 15

U.S.C. 7001, or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

Source: Laws 2010, LB1036, § 22.

Operative date January 1, 2011.

ARTICLE 56

RURAL HEALTH

(d) RURAL HEALTH SYSTEMS AND PROFESSIONAL INCENTIVE ACT

Section

71-5661. Financial incentives; funding; Rural Health Professional Incentive Fund; created; use; investment.

(d) RURAL HEALTH SYSTEMS AND PROFESSIONAL INCENTIVE ACT

71-5661 Financial incentives; funding; Rural Health Professional Incentive Fund; created; use; investment.

(1) The financial incentives provided by the Rural Health Systems and Professional Incentive Act shall consist of (a) student loans to eligible students for attendance at an eligible school as determined pursuant to section 71-5662 and (b) the repayment of qualified educational debts owed by eligible health professionals as determined pursuant to such section. Funds for such incentives shall be appropriated from the General Fund to the department for such purposes.

(2) The Rural Health Professional Incentive Fund is created. The fund shall be used to carry out the purposes of the act, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Money credited pursuant to section 71-5670.01 and payments received pursuant to sections 71-5666 and 71-5668 shall be remitted to the State Treasurer for credit to the Rural Health Professional Incentive Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1991, LB 400, § 12; Laws 1994, LB 1223, § 58; Laws 1995, LB 7, § 79; Laws 1996, LB 1155, § 50; Laws 1999, LB 242, § 1; Laws 2001, LB 214, § 3; Laws 2004, LB 1005, § 103; Laws 2009, First Spec. Sess., LB3, § 46.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 57

SMOKING AND TOBACCO

(b) TOBACCO PREVENTION AND CONTROL CASH FUND

Section

71-5714. Tobacco Prevention and Control Cash Fund; created; use; investment.

(d) NEBRASKA CLEAN INDOOR AIR ACT

71-5730. Exemptions.

(b) TOBACCO PREVENTION AND CONTROL CASH FUND

71-5714 Tobacco Prevention and Control Cash Fund; created; use; investment.

The Tobacco Prevention and Control Cash Fund is created. The fund shall be used for a comprehensive statewide tobacco-related public health program administered by the Department of Health and Human Services which includes, but is not limited to (1) community programs to reduce tobacco use, (2) chronic disease programs, (3) school programs, (4) statewide programs, (5) enforcement, (6) counter marketing, (7) cessation programs, (8) surveillance and evaluation, and (9) administration. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Tobacco Prevention and Control 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, on or before June 30, 2010, as directed by the budget administrator of the budget division of the Department of Administrative Services, one million three hundred thousand dollars from the Tobacco Prevention and Control Cash Fund to the Health and Human Services Cash Fund.

Source: Laws 2000, LB 1436, § 3; Laws 2002, LB 1310, § 8; Laws 2003, LB 412, § 3; Laws 2005, LB 301, § 56; Laws 2007, LB296, § 633; Laws 2009, First Spec. Sess., LB2, § 2; Laws 2009, First Spec. Sess., LB3, § 47.

Effective date November 21, 2009.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB2, section 2, with LB3, section 47, to reflect all amendments.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(d) NEBRASKA CLEAN INDOOR AIR ACT

71-5730 Exemptions.

The following indoor areas are exempt from section 71-5729:

(1) Guestrooms and suites that are rented to guests and are designated as smoking rooms, except that not more than twenty percent of rooms rented to guests in an establishment may be designated as smoking rooms. All smoking rooms on the same floor shall be contiguous, and smoke from such rooms shall not infiltrate into areas where smoking is prohibited under the Nebraska Clean Indoor Air Act;

(2) Indoor areas used in connection with a research study on the health effects of smoking conducted in a scientific or analytical laboratory under state or federal law or at a college or university approved by the Coordinating Commission for Postsecondary Education;

(3) Tobacco retail outlets; and

(4) Cigar bars as defined in section 53-103.08.

Source: Laws 2008, LB395, § 15; Laws 2009, LB355, § 6; Laws 2010, LB 861, § 82.

Effective date July 15, 2010.

ARTICLE 64

BUILDING CONSTRUCTION

Section

- 71-6403. State building code; adopted; amendments.
71-6404. State building code; applicability.
71-6405. State building code; compliance required; amendment by state agency.
71-6406. Political subdivision; building code; adopt; amend; enforce.

71-6403 State building code; adopted; amendments.

(1) There is hereby created the state building code. The Legislature hereby adopts by reference:

(a) The International Building Code (IBC), 2000 edition, published by the International Code Council;

(b) The International Residential Code (IRC), 2000 edition, published by the International Code Council; and

(c) The International Existing Building Code, 2009 Edition, published by the International Code Council.

(2) The codes adopted by reference in subsection (1) of this section shall constitute the state building code except as amended pursuant to the Building Construction Act or as otherwise authorized by state law.

(3) Whenever a new edition of the codes adopted in subsection (1) of this section is published, such new edition shall be considered the state building code.

Source: Laws 1987, LB 227, § 3; Laws 1993, LB 319, § 1; Laws 1996, LB 1304, § 4; Laws 2003, LB 643, § 1; Laws 2010, LB799, § 1.
Effective date July 15, 2010.

71-6404 State building code; applicability.

The state building code shall be the building and construction standard within the state and shall be applicable:

(1) To all buildings and structures owned by the state or any state agency; and

(2) In each political subdivision which elects to adopt the state building code or any component or combination of components of the state building code.

Source: Laws 1987, LB 227, § 4; Laws 1993, LB 319, § 2; Laws 2010, LB799, § 2.
Effective date July 15, 2010.

71-6405 State building code; compliance required; amendment by state agency.

All state agencies, including all state constitutional offices, state administrative departments, and state boards and commissions, the University of Nebraska, and the Nebraska state colleges, shall comply with the state building code. No state agency may adopt, promulgate, or enforce any rule or regulation in conflict with the state building code unless otherwise specifically authorized by statute to adopt or enforce a building or construction code other than the state building code. Nothing in the Building Construction Act shall authorize any state agency to apply such act to manufactured homes or recreational vehicles

regulated by the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or to modular housing units regulated by the Nebraska Uniform Standards for Modular Housing Units Act. A state agency may, by rule or regulation, amend the state building code by adopting any supplement, new edition, or appendix of the International Building Code (IBC), 2000 edition, International Residential Code (IRC), 2000 edition, or the International Existing Building Code, 2009 Edition, referred to in section 71-6403, except that all amendments shall be approved in advance by the Director of Administrative Services. Amendments to the state building code may also include variations from the code which will reduce unnecessary costs of construction, increase safety, durability, or efficiency, or address special local conditions within the state.

Source: Laws 1987, LB 227, § 5; Laws 1993, LB 319, § 3; Laws 1996, LB 1304, § 5; Laws 2003, LB 643, § 2; Laws 2010, LB799, § 3.
Effective date July 15, 2010.

Cross References

Nebraska Uniform Standards for Modular Housing Units Act, see section 71-1555.

Uniform Standard Code for Manufactured Homes and Recreational Vehicles, see section 71-4601.

71-6406 Political subdivision; building code; adopt; amend; enforce.

(1) Any political subdivision may enact, administer, or enforce a local building or construction code if or as long as such political subdivision adopts the state building code. The political subdivision shall regularly update its code. For purposes of this section, a code shall be deemed to be regularly updated if the most recent edition is adopted by the political subdivision within two years after the publication date of the edition. No political subdivision may adopt or enforce a local building or construction code other than as provided by this section.

(2) A political subdivision may amend its local building or construction code if the amendment:

- (a) Conforms generally with the state building code;
- (b) Adopts a special or differing building standard to reduce unnecessary costs of construction, increase safety, durability, or efficiency, or address special local conditions within its jurisdiction; or
- (c) Adopts any supplement, new edition, appendix, or component or combination of components of the state building code.

(3) A political subdivision may adopt and promulgate amendments for the proper administration and enforcement of its local building or construction code including organization of enforcement, qualifications of staff members, examination of plans, inspections, appeals, permits, and fees. Any amendment adopted pursuant to this section shall be published separately from the local building or construction code. Fees, if any, for services which monitor a builder's application of codes shall be negotiable between the political subdivisions involved, but such fees shall not exceed the actual expenses incurred by the political subdivision doing the monitoring.

(4) Notwithstanding the provisions of the Building Construction Act, a public building of a political subdivision shall be built in accordance with the applicable local building or construction code.

Source: Laws 1987, LB 227, § 6; Laws 1993, LB 319, § 4; Laws 2010, LB799, § 4.
Effective date July 15, 2010.

ARTICLE 74

WHOLESALE DRUG DISTRIBUTOR LICENSING

Section

71-7447. Wholesale drug distributor; licenses; requirements; exemptions.

71-7447 Wholesale drug distributor; licenses; requirements; exemptions.

(1) No person or entity may act as a wholesale drug distributor in this state without first obtaining a wholesale drug distributor license from the department. The department shall issue a license to any applicant that satisfies the requirements for licensure under the Wholesale Drug Distributor Licensing Act. Manufacturers are exempt from any licensing and other requirements of the act to the extent not required by federal law or regulation except for those requirements deemed necessary and appropriate under rules and regulations adopted and promulgated by the department.

(2) Wholesale medical gas distributors shall be exempt from any licensing and other requirements of the Wholesale Drug Distributor Licensing Act to the extent not required under federal law but shall be licensed as wholesale drug distributors by the department for the limited purpose of engaging in the wholesale distribution of medical gases upon application to the department, payment of a licensure fee, and inspection of the applicant's facility by the department, except that the applicant may submit and the department may accept an inspection accepted in another state or an inspection conducted by a nationally recognized accreditation program approved by the board. For purposes of such licensure, wholesale medical gas distributors shall only be required to provide information required under subdivisions (1)(a) through (1)(c) of section 71-7448.

(3) The Wholesale Drug Distributor Licensing Act does not apply to:

(a) An agent or employee of a licensed wholesale drug distributor who possesses drug samples when such agent or employee is acting in the usual course of his or her business or employment; or

(b) Any person who (i) engages in a wholesale transaction relating to the manufacture, distribution, sale, transfer, or delivery of medical gases the gross dollar value of which does not exceed five percent of the total retail sales of medical gases by such person during the immediately preceding calendar year and (ii) has either a pharmacy permit or license or a delegated dispensing permit or is exempt from the practice of pharmacy under subdivision (12) of section 38-2850.

Source: Laws 1992, LB 1019, § 17; Laws 1997, LB 752, § 198; Laws 2001, LB 398, § 84; Laws 2003, LB 242, § 148; R.S.1943, (2003), § 71-7417; Laws 2006, LB 994, § 21; Laws 2010, LB849, § 27. Operative date July 15, 2010.

ARTICLE 84

MEDICAL RECORDS

Section

71-8403. Access to medical records.

71-8403 Access to medical records.

(1) A patient may request a copy of the patient's medical records or may request to examine such records. Access to such records shall be provided upon

request pursuant to sections 71-8401 to 71-8407, except that mental health medical records may be withheld if any treating physician, psychologist, or mental health practitioner determines in his or her professional opinion that release of the records would not be in the best interest of the patient unless the release is required by court order. The request and any authorization shall be in writing. If an authorization does not contain an expiration date or specify an event the occurrence of which causes the authorization to expire, the authorization shall expire twelve months after the date the authorization was executed by the patient.

(2) Upon receiving a written request for a copy of the patient's medical records under subsection (1) of this section, the provider shall furnish the person making the request a copy of such records not later than thirty days after the written request is received.

(3) Upon receiving a written request to examine the patient's medical records under subsection (1) of this section, the provider shall, as promptly as required under the circumstances but no later than ten days after receiving the request: (a) Make the medical records available for examination during regular business hours; (b) inform the patient if the records do not exist or cannot be found; (c) if the provider does not maintain the records, inform the patient of the name and address of the provider who maintains such records, if known; or (d) if unusual circumstances have delayed handling the request, inform the patient in writing of the reasons for the delay and the earliest date, not later than twenty-one days after receiving the request, when the records will be available for examination. The provider shall furnish a copy of medical records to the patient as provided in subsection (2) of this section if requested.

(4) This section does not require the retention of records or impose liability for the destruction of records in the ordinary course of business prior to receipt of a request made under subsection (1) of this section. A provider shall not be required to disclose confidential information in any medical record concerning another patient or family member who has not consented to the release of the record.

Source: Laws 1999, LB 17, § 3; Laws 2010, LB849, § 28.
Operative date April 14, 2010.

ARTICLE 86

BLIND AND VISUALLY IMPAIRED

Section

71-8612. Commission for the Blind and Visually Impaired Cash Fund; created; use; investment.

71-8612 Commission for the Blind and Visually Impaired Cash Fund; created; use; investment.

The Commission for the Blind and Visually Impaired Cash Fund is created. The fund shall contain money received pursuant to the Commission for the Blind and Visually Impaired Act and shall include a percentage of the net proceeds derived from the operation of vending facilities. The net proceeds from the operation of vending facilities shall accrue to the blind vending facility operator, except for the percentage of the net proceeds that shall revert to the cash fund. Such fund shall be used for supervision and other administrative purposes as necessary, except that transfers may be made from the fund to the

General Fund at the direction of the Legislature. The commission, in consultation with the Committee of Blind Vendors, shall determine the percentage of the net proceeds that reverts to the Commission for the Blind and Visually Impaired Cash Fund after an investigation to reveal the gross proceeds, cost of operation, amount necessary to replenish the stock of merchandise, and the business needs of the blind vending facility operator. All equipment purchased from the fund is the property of the state and shall be disposed of only by sale at a fair market price. 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 1947, c. 343, § 1, p. 1085; Laws 1949, c. 292, § 1, p. 996; Laws 1957, c. 386, § 1, p. 1343; Laws 1961, c. 442, § 1, p. 1362; Laws 1965, c. 561, § 1, p. 1845; Laws 1969, c. 584, § 113, p. 2418; Laws 1971, LB 334, § 6; Laws 1976, LB 674, § 1; Laws 1995, LB 7, § 142; R.S.1943, (1999), § 83-210.01; Laws 2000, LB 352, § 12; Laws 2005, LB 55, § 2; Laws 2009, First Spec. Sess., LB3, § 48.

Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 72

PUBLIC LANDS, BUILDINGS, AND FUNDS

Article.

- 2. School Lands and Funds. 72-270 to 72-274.
- 8. Public Buildings. 72-815.
- 10. Building Funds. 72-1001.
- 20. Niobrara River Corridor. 72-2009.
- 22. Nebraska State Capitol Preservation and Restoration Act. 72-2211.
- 25. Nebraska Incentives Fund. 72-2501.

ARTICLE 2

SCHOOL LANDS AND FUNDS

Section

- 72-270. Production of wind or solar energy; leases; sections applicable.
- 72-271. Production of wind or solar energy; leases; terms, defined.
- 72-272. Production of wind or solar energy; leases; board; powers.
- 72-273. Wind or solar energy lease; prior lease; effect on rights; compensation for damages.
- 72-274. Wind or solar energy lease; rules and regulations.

72-270 Production of wind or solar energy; leases; sections applicable.

Leases involving the production of wind or solar energy on lands under the control of the Board of Educational Lands and Funds shall be regulated by sections 72-270 to 72-274.

Source: Laws 2010, LB235, § 1.
Effective date February 12, 2010.

72-271 Production of wind or solar energy; leases; terms, defined.

For purposes of sections 72-270 to 72-274:

- (1) Board means the Board of Educational Lands and Funds;
- (2) Lease means any lease, easement, covenant, or other such contractual arrangement;
- (3) Lessee means any individual, corporation, or other entity that enters into a lease with the board;
- (4) Solar energy means radiant energy, direct, diffuse, or reflected, received from the sun at wavelengths suitable for conversion into thermal, chemical, or electrical energy; and
- (5) Wind energy means the use of wind to produce electricity.

Source: Laws 2010, LB235, § 2.
Effective date February 12, 2010.

72-272 Production of wind or solar energy; leases; board; powers.

The board may authorize leases of any school or public lands belonging to the state and under its control for exploration and development of wind or solar energy for such durations and under such terms and conditions as the board

shall deem appropriate, except that the initial term for any such wind energy lease and any amendment thereto shall not exceed forty years. In making such determinations, the board shall consider comparable arrangements involving other lands similarly situated and any other relevant factors bearing upon such leases. Any such lease authorized by the board shall be created in writing and shall be filed, duly recorded, and indexed in the office of the register of deeds of the county in which the real property subject to the lease is located. Such leases shall run with the land benefited and burdened and shall include, as applicable, the contents specified in sections 66-911 and 66-911.01.

Source: Laws 2010, LB235, § 3.
Effective date February 12, 2010.

72-273 Wind or solar energy lease; prior lease; effect on rights; compensation for damages.

(1) If a wind or solar energy lease is authorized by the board on land already being leased for agricultural or other purposes by a prior lessee, the existing rights of the prior lessee shall not be impaired, and the board shall reduce the rental amount due from such prior lessee in proportion to the amount of land that is removed from use as a result of the wind or solar energy lease.

(2) A lessee for agricultural or other purposes shall be compensated for all damages to personal property owned by such lessee or to growing crops, including grass, caused by operations under a concurrent lease of such land for wind or solar energy purposes, and the board shall require the lessee under the wind or solar energy lease to provide such insurance and indemnity agreements which the board determines are necessary for the protection of the state and its lessees.

(3) If a wind or solar energy lease is authorized by the board on land concurrently being leased for agricultural purposes, the lessee for agricultural purposes shall have priority as to the use of the water on the land, but lessees for other purposes, including wind or solar energy lessees, shall be allowed reasonable use of the water on the land.

Source: Laws 2010, LB235, § 4.
Effective date February 12, 2010.

72-274 Wind or solar energy lease; rules and regulations.

The board may adopt and promulgate such rules and regulations as it shall deem necessary and proper to regulate the leasing of school and public lands for wind or solar energy exploration and development pursuant to sections 72-270 to 72-274 and to prescribe such terms and conditions, including bonds, as it shall deem necessary in order to protect the interests of the state and its lessees.

Source: Laws 2010, LB235, § 5.
Effective date February 12, 2010.

**ARTICLE 8
PUBLIC BUILDINGS**

Section

72-815. Vacant buildings and excess land; state building division; powers and duties; demolition; sale; lease; proceeds; disposition; maintenance.

72-815 Vacant buildings and excess land; state building division; powers and duties; demolition; sale; lease; proceeds; disposition; maintenance.

(1) The state building division of the Department of Administrative Services shall be responsible for the sale, lease, or other disposal of a building or land, whichever action is ordered by the committee.

(2) If a building is to be demolished, section 72-810 shall not apply, but the state building division shall notify the State Historic Preservation Officer of such demolition at least thirty days prior to the beginning of the demolition or disassembly so that the officer may collect any photographic or other evidence he or she may find of historic value.

(3)(a) If a building or land is to be sold or leased, the state building division shall cause an appraisal to be made of the building or land. The sale, lease, or other disposal of the building or land shall comply with all relevant statutes pertaining to the sale or lease of surplus state property, except that if the state building division fails to receive an offer from a state agency in which the agency certifies that it (i) intends to use the building for the purposes for which it was designed, intended, or remodeled or to remodel the building for uses which will serve the agency's purposes or (ii) intends to use the land for the purposes for which it was acquired or received, the state building division shall then notify the Department of Economic Development that the building or land is available for sale or lease so that the department may refer to the state building division any potential buyers or lessees of which the department may be aware. The state building division may then sell or lease the building or land by such method as is to the best advantage of the State of Nebraska, including auction, sealed bid, or public sale and, if necessary, by private sale, but in all situations only after notice of the property sale is publicly advertised on at least two separate occasions in the newspaper with the largest circulation in the county where the surplus property is located and not less than thirty days prior to the sale of the property. The state building division may use the services of a real estate broker licensed under the Nebraska Real Estate License Act. Priority shall be given to other political subdivisions of state government, then to persons contracting with the state or political subdivisions of the state who will use the building or land for middle-income or low-income rental housing for at least fifteen years, and finally to referrals from the Department of Economic Development.

(b) When a building or land designated for sale is listed in the National Register of Historic Places, the state building division, in its discretion and based on the best interests of the state, may follow the procedure outlined in subdivision (3)(a) of this section or may sell the building or land by any method deemed in the best interests of the state to a not-for-profit community organization that intends to maintain the historic and cultural integrity of the building or land.

(c) All sales and leases shall be in the name of the State of Nebraska. The state building division may provide that a deed of sale include restrictions on the building or land to ensure that the use and appearance of the building or land remain compatible with any adjacent state-owned property.

(d) Except as otherwise provided in subsection (4) of this section, the proceeds of the sale or lease shall be remitted to the State Treasurer for credit to the Vacant Building and Excess Land Cash Fund unless the state agency

formerly responsible for the building or land certifies to the state building division that the building or land was purchased in part or in total from cash, federal, or revolving funds, in which event, after the costs of selling or leasing the building or land are deducted from the proceeds of the sale or lease and such amount is credited to the fund, the remaining proceeds of the sale or lease shall be credited to the cash, federal, or revolving fund in the percentage used in originally purchasing the building or land.

(4) Any state-owned military property, including any armories considered surplus property, shall be sold by such method as is to the best advantage of the State of Nebraska, including auction, sealed bid, or public sale, and if necessary, by private sale, but in all situations only after notice of the property sale is publicly advertised on at least two separate occasions in the newspaper with the largest circulation in the county where the surplus property is located and not less than thirty days prior to the sale of the property, and pursuant to section 72-816, all proceeds from the sale of the property, less maintenance expenses pending the sale and selling expenses, but including investment income on the sale proceeds of the property, shall be promptly transferred from the Vacant Building and Excess Land Cash Fund to the General Fund by the State Building Administrator.

(5) The state building division shall be responsible for the maintenance of the building or land if maintenance is ordered by the committee and shall be responsible for maintenance of the building or land pending sale or lease of the building or land.

Source: Laws 1988, LB 1143, § 5; Laws 1989, LB 18, § 6; Laws 1990, LB 830, § 5; Laws 1992, LB 1241, § 10; Laws 2000, LB 1216, § 21; Laws 2003, LB 403, § 6; Laws 2010, LB722, § 2.
Effective date July 15, 2010.

Cross References

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

**ARTICLE 10
BUILDING FUNDS**

Section

72-1001. Nebraska Capital Construction Fund; created; use; investment.

72-1001 Nebraska Capital Construction Fund; created; use; investment.

The Nebraska Capital Construction Fund is created. The fund shall consist of revenue and transfers credited to the fund as authorized by law. Money shall be appropriated from the fund to state agencies for making payments on projects as determined by the Legislature, including, but not limited to, purchases of land, structural improvements to land, acquisition of buildings, construction of buildings, including architectural and engineering costs, replacement of or major repairs to structural improvements to land or buildings, additions to existing structures, remodeling of buildings, and acquisition of equipment and furnishings of new or remodeled buildings. The fund shall be administered by the State Treasurer as a multiple-agency-use fund and appropriated to state agencies as determined by the Legislature. 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.

NEBRASKA STATE CAPITOL PRESERVATION AND RESTORATION § 72-2211

The State Treasurer shall transfer four million five hundred seventy-four thousand four hundred sixty-six dollars from the Nebraska Capital Construction Fund to the General Fund on or before June 30, 2010, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2005, LB 426, § 1; Laws 2009, First Spec. Sess., LB2, § 3.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**ARTICLE 20
NIOBRARA RIVER CORRIDOR**

Section
72-2009. Niobrara Council Fund; created; use; investment.

72-2009 Niobrara Council Fund; created; use; investment.

The Niobrara Council Fund is created. The fund shall be administered by the Niobrara Council. The council may accept any private or public funds to carry out its work and such funds shall be remitted to the State Treasurer for credit to the fund. The fund shall consist of such funds and legislative appropriations made to the council. Transfers may be made from the fund to the General Fund at the direction of the Legislature through June 30, 2011. Any money in the Niobrara Council 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 1234, § 5; Laws 2009, First Spec. Sess., LB3, § 49.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**ARTICLE 22
NEBRASKA STATE CAPITOL PRESERVATION AND RESTORATION ACT**

Section
72-2211. Capitol Restoration Cash Fund; created; use; investment.

72-2211 Capitol Restoration Cash Fund; created; use; investment.

The Capitol Restoration Cash Fund is created. The administrator shall administer the fund, which shall consist of money received from the sale of material, rental revenue, private donations, and public donations. The fund shall be used to finance projects to restore the State Capitol and capitol grounds to their original condition, to purchase and conserve items to be added to the Nebraska Capitol Collections housed in the State Capitol, and to produce promotional material concerning the State Capitol, its grounds, and the Nebraska State Capitol Environs District, except that transfers may be made from the fund to

the General Fund at the direction of the Legislature. Such expenditures shall be prescribed by the administrator and approved by the commission. Any money in the Capitol Restoration Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2004, LB 439, § 11; Laws 2009, First Spec. Sess., LB3, § 50.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 25

NEBRASKA INCENTIVES FUND

Section

72-2501. Nebraska Incentives Fund; created; investment.

72-2501 Nebraska Incentives Fund; created; investment.

The Nebraska Incentives Fund is created. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Incentives 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 2008, LB914, § 24; Laws 2009, First Spec. Sess., LB3, § 51.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 75

PUBLIC SERVICE COMMISSION

Article.

1. Organization and Composition, Regulatory Scope, and Procedure. 75-159.
3. Motor Carriers.
 - (e) Safety Regulations. 75-362 to 75-364.

ARTICLE 1

ORGANIZATION AND COMPOSITION, REGULATORY SCOPE, AND PROCEDURE

Section

75-159. Public Service Commission Housing and Recreational Vehicle Cash Fund; created; use; investment.

75-159 Public Service Commission Housing and Recreational Vehicle Cash Fund; created; use; investment.

(1) The Public Service Commission Housing and Recreational Vehicle Cash Fund is created. The fund shall consist of fees collected under the Nebraska Uniform Standards for Modular Housing Units Act and fees collected pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles.

(2) Money credited to the fund shall be used by the Public Service Commission for the purposes of administering the Nebraska Uniform Standards for Modular Housing Units Act and the Uniform Standard Code for Manufactured Homes and Recreational Vehicles.

(3) Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Public Service Commission Housing and Recreational Vehicle 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.

(4) On July 1, 2010, the State Treasurer shall transfer any money in the Modular Housing Units Cash Fund and any money in the Manufactured Homes and Recreational Vehicles Cash Fund to the Public Service Commission Housing and Recreational Vehicle Cash Fund.

Source: Laws 2010, LB849, § 36.
Operative date July 1, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

Nebraska Uniform Standards for Modular Housing Units Act, see section 71-1555.

Uniform Standard Code for Manufactured Homes and Recreational Vehicles, see section 71-4601.

**ARTICLE 3
MOTOR CARRIERS**

(e) SAFETY REGULATIONS

Section

75-362. Federal regulations; terms, defined.

75-363. Federal motor carrier safety regulations; provisions adopted; exceptions.

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

(e) SAFETY REGULATIONS

75-362 Federal regulations; terms, defined.

For purposes of sections 75-362 to 75-369.07, unless the context otherwise requires:

(1) Accident means:

(a) Except as provided in subdivision (b) of this subdivision, an occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in:

(i) A fatality;

(ii) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicles to be transported away from the scene by a tow truck or other motor vehicle.

(b) The term accident does not include:

(i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or

(ii) An occurrence involving only the loading or unloading of cargo;

(2) Bulk packaging means a packaging, other than a vessel or a barge, including a transport vehicle or freight container, in which hazardous materials are loaded with no intermediate form of containment and which has:

(a) A maximum capacity greater than one hundred nineteen gallons as a receptacle for a liquid;

(b) A maximum net mass greater than eight hundred eighty-two pounds and a maximum capacity greater than one hundred nineteen gallons as a receptacle for a solid; or

(c) A water capacity greater than one thousand pounds as a receptacle for a gas as defined in 49 C.F.R. 173.115;

(3) Cargo tank means a bulk packaging that:

(a) Is a tank intended primarily for the carriage of liquids or gases and includes appurtenances, reinforcements, fittings, and closures;

(b) Is permanently attached to or forms a part of a motor vehicle or is not permanently attached to a motor vehicle but which, by reason of its size, construction, or attachment to a motor vehicle, is loaded or unloaded without being removed from the motor vehicle; and

(c) Is not fabricated under a specification for cylinders, intermediate bulk containers, multi-unit tank-car tanks, portable tanks, or tank cars;

(4) Cargo tank motor vehicle means a motor vehicle with one or more cargo tanks permanently attached to or forming an integral part of the motor vehicle;

(5) Commercial enterprise means any business activity relating to or based upon the production, distribution, or consumption of goods or services;

(6) Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce or intrastate commerce to transport passengers or property when the vehicle:

(a) Has a gross vehicle weight rating or gross combination weight rating or gross vehicle weight or gross combination weight of ten thousand one pounds or more, whichever is greater;

(b) Is designed or used to transport more than eight passengers, including the driver, for compensation;

(c) Is designed or used to transport more than fifteen passengers, including the driver, and is not used to transport passengers for compensation; or

(d) Is used in transporting material found to be hazardous and such material is transported in a quantity requiring placarding pursuant to section 75-364;

(7) Compliance review means an onsite examination of motor carrier operations, such as drivers' hours of service, maintenance and inspection, driver qualification, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints or other evidence of safety violations. The compliance review may result in the initiation of an enforcement action with penalties;

(8) Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(a) Inclusions: Damage to motor vehicles that could have been driven but would have been further damaged if so driven.

(b) Exclusions:

(i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts;

(ii) Tire disablement without other damage even if no spare tire is available;

(iii) Headlight or taillight damage; and

(iv) Damage to turnsignals, horn, or windshield wipers which makes them inoperative;

(9) Driver means any person who operates any commercial motor vehicle;

(10) Elevated temperature material means a material which, when offered for transportation or transported in a bulk packaging:

(a) Is in a liquid phase and at a temperature at or above two hundred twelve degrees Fahrenheit;

(b) Is in a liquid phase with a flash point at or above one hundred degrees Fahrenheit that is intentionally heated and offered for transportation or transported at or above its flash point; or

(c) Is in a solid phase and at a temperature at or above four hundred sixty-four degrees Fahrenheit;

(11) Employee means any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle, including an independent contractor while in the course of operating a commercial motor vehicle, a mechanic, and a freight handler. Such term does not include an employee of the United States, any state, any political subdivision of a state, or any agency established under a compact between states and approved by the Congress of the United States who is acting within the course of such employment;

(12) Employer means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business or assigns employees to operate it. Such term does not include the United States, any state, any political subdivision of a state, or an agency established under a compact between states approved by the Congress of the United States;

(13) Exempt motor carrier means a person engaged in transportation exempt from economic regulation under 49 U.S.C. 13506. An exempt motor carrier is subject to the safety regulations adopted in sections 75-362 to 75-369.07;

(14) Farm vehicle driver means a person who drives only a commercial motor vehicle that is controlled and operated by a farmer as a private motor carrier of property;

(15) Farmer means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which:

(a) Are owned by that person; or

(b) Are under the direct control of that person;

(16) Fatality means any injury which results in the death of a person at the time of the motor vehicle accident or within thirty days after the accident;

(17) Fertilizer and agricultural chemical application and distribution equipment means:

(a) Self-propelled or towed equipment, designed and used exclusively to apply commercial fertilizer, as that term is defined in section 81-2,162.02, chemicals, or related products to agricultural soil and crops; or

(b) Towed equipment designed and used exclusively to carry commercial fertilizer, as that term is defined in section 81-2,162.02, chemicals, or related products for use on agricultural soil and crops, which are equipped with implement or floatation tires;

(18) For-hire motor carrier means a person engaged in the transportation of goods or passengers for compensation;

(19) Gross combination weight means the sum of the empty weight of a motor vehicle plus the total weight of any load carried thereon and the empty weight of the towed unit or units plus the total weight of any load carried on such towed unit or units;

(20) Gross combination weight rating means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, gross combination weight rating will be determined by adding either the gross vehicle weight

rating or gross vehicle weight of the motor vehicle plus the gross vehicle weight rating or gross vehicle weight of the towed unit or units;

(21) Gross vehicle weight means the sum of the empty weight of a motor vehicle plus the total weight of any load carried thereon;

(22) Gross vehicle weight rating means the value specified by the manufacturer as the loaded weight of a single motor vehicle. In the absence of such value specified by the manufacturer or the absence of any marking of such value on the vehicle, the gross vehicle weight rating shall be determined from the sum of the axle weight ratings of the vehicle or the sum of the tire weight ratings as marked on the sidewall of the tires, whichever is greater. In the absence of any tire sidewall marking, the tire weight ratings shall be determined for the specified tires from any of the publications of any of the organizations listed in 49 C.F.R. 571.119;

(23) Hazardous material means a substance or material that the Secretary of the United States Department of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce and has designated as hazardous under 49 U.S.C. 5103. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table, 49 C.F.R. 172.101, and materials that meet the defining criteria for hazard classes and divisions in 49 C.F.R. part 173;

(24) Hazardous substance means a material, including its mixtures and solutions, that is listed in 49 C.F.R. 172.101, Appendix A, List Of Hazardous Substances and Reportable Quantities, and is in a quantity, in one package, which equals or exceeds the reportable quantity listed in 49 C.F.R. 172.101, Appendix A. This definition does not apply to petroleum products that are lubricants or fuels or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in 49 C.F.R. 171.8 under the definition of hazardous substance based on the reportable quantity specified for the materials listed in 49 C.F.R. 172.101, Appendix A;

(25) Hazardous waste means any material that is subject to the hazardous waste manifest requirements of the United States Environmental Protection Agency specified in 40 C.F.R. 262;

(26) Highway means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(27) Interstate commerce means trade, traffic, or transportation provided in the furtherance of a commercial enterprise in the United States:

(a) Between a place in a state and a place outside of such state, including a place outside of the United States;

(b) Between two places in a state through another state or a place outside of the United States; or

(c) Between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States;

(28) Intrastate commerce means any trade, traffic, or transportation provided in the furtherance of a commercial enterprise between any place in the State of Nebraska and any other place in Nebraska and not through any other state;

(29) Marine pollutant means a material which is listed in the Hazardous Materials Table, 49 C.F.R. 172.101, Appendix B, as a marine pollutant (see 49

C.F.R. 171.4 for applicability to marine pollutants) and, when in a solution or mixture of one or more marine pollutants, is packaged in a concentration which equals or exceeds:

(a) Ten percent by weight of the solution or mixture for materials listed in 49 C.F.R. 172.101, Appendix B; or

(b) One percent by weight of the solution or mixture for materials that are identified as severe marine pollutants in the Hazardous Materials Table, 49 C.F.R. 172.101, Appendix B;

(30) Motor carrier means a for-hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers, and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment or accessories. This definition includes the terms employer and exempt motor carrier;

(31) Motor vehicle means any vehicle, truck, truck-tractor, trailer, or semi-trailer propelled or drawn by mechanical power except (a) farm tractors, (b) vehicles which run only on rails or tracks, and (c) road and general-purpose construction and maintenance machinery which by design and function is obviously not intended for use on a public highway, including, but not limited to, motor scrapers, earthmoving equipment, backhoes, trenchers, motor graders, compactors, tractors, bulldozers, bucket loaders, ditchdigging apparatus, asphalt spreaders, leveling graders, power shovels, and crawler tractors;

(32) Nonbulk packaging means a packaging which has:

(a) A maximum capacity of one hundred nineteen gallons or less as a receptacle for a liquid;

(b) A maximum net mass of eight hundred eighty-two pounds or less and a maximum capacity of one hundred nineteen gallons or less as a receptacle for a solid; or

(c) A water capacity of one thousand pounds or less as a receptacle for a gas as defined in 49 C.F.R. 173.115;

(33) Out-of-service order means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 C.F.R. 386.72, 392.5, 392.9a, 395.13, or 396.9, or compatible laws or the North American Uniform Out-of-Service Criteria;

(34) Packaging means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packing requirements of Title 49 of the Code of Federal Regulations. For radioactive materials packaging, see 49 C.F.R. 173.403;

(35) Person means any individual, partnership, association, corporation, business trust, or any other organized group of individuals;

(36) Principal place of business means the single location designated by the motor carrier, normally its headquarters, for purposes of identification. The motor carrier must make records required by the regulations referred to in sections 75-363 to 75-369.07 and this section available for inspection at this location within forty-eight hours, Saturdays, Sundays, and state or federal holidays excluded, after a request has been made by an officer of the Nebraska State Patrol;

(37) Private motor carrier means a person who provides transportation of property or passengers by commercial motor vehicle and is not a for-hire motor carrier;

(38) Safety audit means an examination of a motor carrier's operations to provide educational and technical assistance on drivers' hours of service, maintenance and inspection, driver qualification, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. The purpose of a safety audit is to gather critical safety data needed to make an assessment of the carrier's safety performance and basic safety management controls. Safety audits do not result in safety ratings; and

(39) Tank means a container, consisting of a shell and heads, that forms a pressure-tight vessel having openings designed to accept pressure-tight fittings or closures, but excludes any appurtenances, reinforcements, fittings, or closures.

Source: Laws 2006, LB 1007, § 14; Laws 2010, LB725, § 2; Laws 2010, LB805, § 12.
Effective date July 15, 2010.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB725, section 2, with LB805, section 12, to reflect all amendments.

75-363 Federal motor carrier safety regulations; provisions adopted; exceptions.

(1) The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, as modified in this section, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, 2010, are adopted as Nebraska law.

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

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

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

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

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

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

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

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

(a) Part 382 - Controlled Substances And Alcohol Use And Testing;

- (b) Part 385 - Safety Fitness Procedures;
- (c) Part 386 - Rules Of Practice For Motor Carrier, Broker, Freight Forwarder, And Hazardous Materials Proceedings;
- (d) Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers;
- (e) Part 390 - Federal Motor Carrier Safety Regulations; General;
- (f) Part 391 - Qualifications Of Drivers And Longer Combination Vehicle (LCV) Driver Instructors;
- (g) Part 392 - Driving Of Commercial Motor Vehicles;
- (h) Part 393 - Parts And Accessories Necessary For Safe Operation;
- (i) Part 395 - Hours Of Service Of Drivers;
- (j) Part 396 - Inspection, Repair, And Maintenance;
- (k) Part 397 - Transportation Of Hazardous Materials; Driving And Parking Rules; and
- (l) Part 398 - Transportation Of Migrant Workers.

(4) The provisions of subpart E - Physical Qualifications And Examinations of 49 C.F.R. part 391 - Qualifications Of Drivers And Longer Combination Vehicle (LCV) Driver Instructors shall not apply to any driver subject to this section who: (a) Operates a commercial motor vehicle exclusively in intrastate commerce; and (b) holds, or has held, a commercial driver's license issued by this state prior to July 30, 1996.

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

- (a) All of part 391;
- (b) Section 395.8 of part 395; and
- (c) Section 396.11 of part 396.

(6) Part 393 - Parts And Accessories Necessary For Safe Operation and Part 396 - Inspection, Repair, And Maintenance shall not apply to fertilizer and agricultural chemical application and distribution equipment transported in units with a capacity of three thousand five hundred gallons or less.

(7) For purposes of this section, intrastate motor carriers shall not include any motor carrier or driver excepted from 49 C.F.R. chapter III by section 390.3(f) of part 390 or any nonprofit entity, operating solely in intrastate commerce, organized for the purpose of furnishing electric service.

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

- (i) More than twelve hours following eight consecutive hours off duty; or
- (ii) For any period after having been on duty sixteen hours following eight consecutive hours off duty.

(b) No motor carrier who engages in intrastate commerce shall permit or require a driver of a commercial motor vehicle, regardless of the number of

motor carriers using the driver's services, to drive, nor shall any driver of a commercial motor vehicle drive, for any period after:

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

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

(9) Part 395 - Hours Of Service Of Drivers, as adopted in subsections (3) and (8) of this section, shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes when the transportation of such commodities or supplies occurs within a one-hundred-air-mile radius of the source of the commodities or the distribution point for the supplies when such transportation occurs during the period beginning on February 15 up to and including December 15 of each calendar year.

(10) 49 C.F.R. 390.21 - Marking Of Commercial Motor Vehicles shall not apply to farm trucks and farm truck-tractors registered pursuant to section 60-3,146 and operated solely in intrastate commerce.

(11) 49 C.F.R. 392.9a - Operating Authority shall not apply to Nebraska motor carriers operating commercial motor vehicles solely in intrastate commerce.

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

Source: Laws 1986, LB 301, § 1; Laws 1987, LB 224, § 23; Laws 1988, LB 884, § 1; Laws 1989, LB 285, § 140; Laws 1990, LB 980, § 29; Laws 1991, LB 854, § 3; Laws 1993, LB 410, § 1; Laws 1994, LB 1061, § 5; Laws 1995, LB 461, § 1; Laws 1996, LB 938, § 4; Laws 1997, LB 722, § 1; Laws 1998, LB 1056, § 8; Laws 1999, LB 161, § 1; Laws 1999, LB 704, § 49; Laws 2000, LB 1361, § 11; Laws 2001, LB 375, § 1; Laws 2002, LB 499, § 5; Laws 2003, LB 480, § 2; Laws 2004, LB 878, § 1; Laws 2005, LB 83, § 1; Laws 2005, LB 274, § 271; Laws 2006, LB 1007, § 13; Laws 2007, LB239, § 8; Laws 2008, LB756, § 28; Laws 2008, LB845, § 1; Laws 2009, LB48, § 1; Laws 2009, LB331, § 15; Laws 2010, LB725, § 3; Laws 2010, LB805, § 13.
Effective date July 15, 2010.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB725, section 3, with LB805, section 13, to reflect all amendments.

Cross References

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

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

(1) The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, 2010, are adopted as part of Nebraska law and, except as provided in subsections (2) and (3) of this section, shall be applicable to all motor carriers whether engaged in interstate or intrastate commerce, drivers of such motor carriers, and vehicles of such motor carriers:

(a) Part 107 - Hazardous Materials Program Procedures, subpart F - Registration Of Cargo Tank And Cargo Tank Motor Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design Certifying Engineers;

(b) Part 107 - Hazardous Materials Program Procedures, subpart G - Registration Of Persons Who Offer Or Transport Hazardous Materials;

(c) Part 171 - General Information, Regulations, And Definitions;

(d) Part 172 - Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements;

(e) Part 173 - Shippers - General Requirements For Shipments And Packagings;

(f) Part 177 - Carriage By Public Highway;

(g) Part 178 - Specifications For Packagings; and

(h) Part 180 - Continuing Qualification And Maintenance Of Packagings.

(2) Agricultural operations exceptions:

(a) The transportation of an agricultural product other than a Class 2 material (Compressed Gases) as defined in 49 C.F.R. 171.8, over roads, other than the National System of Interstate and Defense Highways, between fields of the same farm, is excepted from subsection (1) of this section when:

(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier; and

(ii) The movement of the agricultural product conforms to all other laws in effect on or before July 1, 1998, and 49 C.F.R. 173.24, 173.24a, and 173.24b;

(b) The transportation of an agricultural product to or from a farm, within one hundred fifty miles of the farm, is excepted from the requirements in 49 C.F.R. part 172, subparts G (emergency response information) and H (training), and from the specific packaging requirements of subsection (1) of this section when:

(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier;

(ii) The total amount of agricultural product being transported on a single vehicle does not exceed:

(A) Sixteen thousand ninety-four pounds of ammonium nitrate fertilizer properly classed as Division 5.1, PGIII, in a bulk packaging; or

(B) Five hundred two gallons for liquids or gases, or five thousand seventy pounds for solids, of any other agricultural product;

(iii) The packaging conforms to the requirements of state law and is specifically authorized for transportation of the agricultural product by state law and such state law has been in effect on or before July 1, 1998; and

(iv) Each person having any responsibility for transporting the agricultural product or preparing the agricultural product for shipment has been instructed in the applicable requirements of the parts, subparts, and sections of Title 49 of the Code of Federal Regulations adopted in this section; and

(c) Formulated liquid agricultural products in specification packagings of fifty-eight-gallon capacity or less, with closures manifolded to a closed mixing system and equipped with positive dry disconnect devices, may be transported

by a private motor carrier between a final distribution point and an ultimate point of application or for loading aboard an airplane for aerial application.

(3) Exceptions for nonspecification packagings used in intrastate transportation:

(a) Nonspecification cargo tanks for petroleum products: Notwithstanding requirements for specification packagings in 49 C.F.R. part 173, subpart F, and 49 C.F.R. parts 178 and 180, a nonspecification metal tank permanently secured to a transport vehicle and protected against leakage or damage in the event of a turnover, having a capacity of less than three thousand five hundred gallons, may be used by an intrastate motor carrier for transportation of a flammable liquid petroleum product in accordance with subdivision (c) of this subsection;

(b) Permanently secured nonbulk tanks for petroleum products: Notwithstanding requirements for specification packagings in 49 C.F.R. part 173, subpart F, and 49 C.F.R. parts 178 and 180, a nonspecification metal tank permanently secured to a transport vehicle and protected against leakage or damage in the event of a turnover, having a capacity of less than one hundred nineteen gallons, may be used by an intrastate motor carrier for transportation of a flammable liquid petroleum product in accordance with subdivision (c) of this subsection; and

(c) Additional requirements: A packaging used pursuant to subdivision (a) or (b) of this subsection must:

(i) Be operated by an intrastate motor carrier and in use as a packaging for hazardous material before July 1, 1998;

(ii) Be operated in conformance with the requirements of the State of Nebraska;

(iii) Be specifically authorized by state law in effect before July 1, 1998, for use as a packaging for the hazardous material being transported and by 49 C.F.R. 173.24, 173.24a, and 173.24b;

(iv) Be offered for transportation and transported in conformance with all other applicable requirements of the hazardous material regulations;

(v) Not be used to transport a flammable cryogenic liquid, hazardous substance, hazardous waste, or marine pollutant as defined in 49 C.F.R. 171.8; and

(vi) On and after July 1, 2000, for a tank authorized under subdivision (a) or (b) of this subsection, conform to all requirements in 49 C.F.R. part 180, except for 49 C.F.R. 180.405(g), in the same manner as required for a United States Department of Transportation specification MC306 cargo tank motor vehicle.

(4) For purposes of this section:

(a) Agricultural product means a hazardous material, other than a hazardous waste, whose end use directly supports the production of an agricultural commodity, including, but not limited to, a fertilizer, pesticide, soil amendment, or fuel. An agricultural product is limited to a material in Class 3 (Flammable Liquids), Class 8 (Corrosives), or Class 9 (Miscellaneous), Division 2.1 (Flammable Gas), Division 2.2 (Nonflammable Gas), Division 5.1 (Oxidizers), or Division 6.1 (Poisons), or an ORM-D material (Consumer Commodity), as defined in 49 C.F.R. 171.8;

(b) Bulk package means a packaging, including a transport vehicle or freight container, in which hazardous materials are loaded with no other intermediate form of containment and which has:

(i) A maximum capacity greater than one hundred nineteen gallons as a receptacle for a liquid;

(ii) A maximum net mass greater than eight hundred eighty-two pounds and a maximum capacity greater than one hundred nineteen gallons as a receptacle for a solid; or

(iii) A water capacity greater than one thousand pounds as a receptacle for a gas, pursuant to standards set forth in 49 C.F.R. 173.115;

(c) Farmer means a person engaged in the production or raising of crops, poultry, or livestock; and

(d) Private motor carrier means a person or persons engaged in the transportation of persons or product while in commerce, but not for hire.

Source: Laws 1986, LB 301, § 2; Laws 1987, LB 538, § 1; Laws 1988, LB 884, § 2; Laws 1990, LB 980, § 30; Laws 1991, LB 854, § 4; Laws 1993, LB 410, § 2; Laws 1994, LB 1061, § 6; Laws 1995, LB 461, § 2; Laws 1996, LB 938, § 5; Laws 1997, LB 722, § 2; Laws 1998, LB 1056, § 9; Laws 1999, LB 161, § 2; Laws 2000, LB 1361, § 12; Laws 2001, LB 375, § 2; Laws 2002, LB 499, § 6; Laws 2003, LB 480, § 3; Laws 2004, LB 878, § 2; Laws 2005, LB 83, § 2; Laws 2006, LB 1007, § 15; Laws 2007, LB239, § 9; Laws 2008, LB756, § 29; Laws 2009, LB48, § 2; Laws 2009, LB331, § 16; Laws 2010, LB805, § 14.

Effective date July 15, 2010.

CHAPTER 76 REAL PROPERTY

Article.

- 5. Abstracters.
(e) Abstracters Act. 76-545 to 76-550.
- 7. Eminent Domain. 76-710.04.
- 10. Trust Deeds. 76-1004, 76-1009.
- 22. Real Property Appraiser Act. 76-2202 to 76-2249.

ARTICLE 5

ABSTRACTERS

(e) ABSTRACTERS ACT

Section

- 76-545. Business of abstracting; requirements; certificate of authority; authority; fee.
- 76-547. Certificates; term; renewal; requirements; fees.
- 76-549. Abstracters Board of Examiners Cash Fund; created; investment; board members and director; compensation.
- 76-550. Register and roster of applicants and abstracters.

(e) ABSTRACTERS ACT

76-545 Business of abstracting; requirements; certificate of authority; authority; fee.

Any individual or business entity desiring to engage in the business of abstracting in this state shall make application to the board for a certificate of authority. Such application shall be in a form prepared by the board and shall contain such information as may be necessary to assist the board in determining whether the applicant has complied with the Abstracters Act. Such application shall be accompanied by an application fee of not less than twenty-five dollars or more than two hundred dollars. The board shall establish such fee based on the administrative costs of the board. The applicant shall furnish proof that such applicant is or has employed a registered abstracter and shall provide the name and address of a resident agent for service of process under the act. When this section has been complied with, the board shall issue a certificate of authority in such form as it may prescribe, attesting to the same, and such certificate shall be prominently displayed in the place of business of the applicant.

Source: Laws 1965, c. 453, § 14, p. 1442; Laws 1969, c. 615, § 11, p. 2499; R.S.1943, (1981), § 76-522; Laws 1985, LB 47, § 15; Laws 2002, LB 1071, § 6; Laws 2010, LB1051, § 1.
Effective date April 2, 2010.

76-547 Certificates; term; renewal; requirements; fees.

(1) All certificates of authority issued pursuant to section 76-545 shall expire on April 1 of each even-numbered year irrespective of when issued. Such certificates shall be renewed, as provided in this section, for a two-year period upon payment of a renewal fee of not less than fifty dollars or more than four

hundred dollars. The board shall establish such fee based on the administrative costs of the board.

(2) All certificates of registration, including duplicate certificates of registration, issued pursuant to section 76-543 shall expire on April 1 of each even-numbered year irrespective of when issued. Such certificates shall be renewed, as provided in this section, for a two-year period upon payment of a renewal fee of not less than twenty dollars or more than two hundred dollars. The board shall establish such fee based on the administrative costs of the board. The board shall not renew the certificate of registration or duplicate certificate of registration for any registered abstractor who has failed to complete the professional development requirements set forth in section 76-544, unless the registered abstractor has shown good cause why he or she was unable to comply with such requirements. If the board determines that good cause was shown for not completing the professional development requirements, the board shall permit the registered abstractor to make up all outstanding hours of professional development within six months of the renewal of such certificates. If the hours are not completed in six months, such certificates shall be revoked.

(3) Thirty to sixty days prior to the expiration date of the certificates, the board shall cause a notice of expiration and application for renewal, including a statement for the fee for each certificate, to be mailed to each of the holders of such certificates. The notice and application shall be in a form prepared by the board.

Source: Laws 1965, c. 453, § 15, p. 1442; Laws 1973, LB 330, § 4; R.S.1943, (1981), § 76-523; Laws 1985, LB 47, § 17; Laws 2002, LB 1071, § 7; Laws 2005, LB 640, § 1; Laws 2010, LB1051, § 2. Effective date April 2, 2010.

76-549 Abstracters Board of Examiners Cash Fund; created; investment; board members and director; compensation.

(1) All fees collected pursuant to the Abstracters Act shall be deposited in the state treasury to be credited to the Abstracters Board of Examiners Cash Fund which is hereby created. All actual and necessary expenses of the board shall be paid from such fund.

(2) No member of the board shall receive a salary. Each member of the board shall receive as compensation for each day or part thereof of actual service while attending meetings or otherwise engaged upon the business of the board fifty dollars and expenses incurred in the performance of official duties. The director shall be paid a salary to be determined by the board.

(3) Transfers may be made from the Abstracters Board of Examiners Cash Fund to the General Fund at the direction of the Legislature. Any money in the Abstracters Board of Examiners 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 1965, c. 453, § 5, p. 1438; Laws 1969, c. 615, § 6, p. 2497; Laws 1971, LB 25, § 1; Laws 1973, LB 330, § 2; Laws 1981, LB 204, § 147; R.S.1943, (1981), § 76-513; Laws 1985, LB 47, § 19; Laws 2009, First Spec. Sess., LB3, § 52. Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

76-550 Register and roster of applicants and abstracters.

The board shall keep a register of the name of each applicant for certification, with his or her place of business and such other information as may be deemed appropriate, including a notation of the action taken by the board thereon, the date upon which the certificate of registration or certificate of authority is issued, and the date of renewal of such certificates. The board shall maintain other records, registers, and files as may be necessary for the proper administration of its duties pursuant to the Abstracters Act. A roster showing the names and places of business of abstracters holding an operative certificate of registration shall be prepared by the director during the month of June of each even-numbered year, sent to all registered abstracters, and furnished to the public on request at the cost of producing such roster.

Source: Laws 1965, c. 453, § 7, p. 1439; Laws 1981, LB 409, § 7; R.S.1943, (1981), § 76-515; Laws 1985, LB 47, § 20; Laws 2010, LB1051, § 3.
Effective date April 2, 2010.

ARTICLE 7

EMINENT DOMAIN

Section

76-710.04. Economic development purpose; restriction on use of eminent domain.

76-710.04 Economic development purpose; restriction on use of eminent domain.

(1) A condemner may not take property through the use of eminent domain under sections 76-704 to 76-724 if the taking is primarily for an economic development purpose.

(2) For purposes of this section, economic development purpose means taking property for subsequent use by a commercial for-profit enterprise or to increase tax revenue, tax base, employment, or general economic conditions.

(3) This section does not affect the use of eminent domain for:

(a) Public projects or private projects that make all or a major portion of the property available for use by the general public or for use as a right-of-way, aqueduct, pipeline, transmission line, or similar use;

(b) Removing harmful uses of property if such uses constitute an immediate threat to public health and safety;

(c) Leasing property to a private person who occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building;

(d) Acquiring abandoned property;

(e) Clearing defective property title;

(f) Taking private property for use by a utility or railroad;

(g) Taking private property based upon a finding of blighted or substandard conditions under the Community Development Law if the private property is not agricultural land or horticultural land as defined in section 77-1359; and

(h) Taking private property for a transmission line to serve a privately developed facility generating electricity using wind, solar, biomass, or landfill gas. Nothing in this subdivision shall be construed to grant the power of eminent domain to a private entity.

Source: Laws 2006, LB 924, § 2; Laws 2010, LB1048, § 9.
Effective date July 15, 2010.

Cross References

Community Development Law, see section 18-2101.

**ARTICLE 10
TRUST DEEDS**

Section

76-1004. Successor trustee; appointment by beneficiary; effect; substitution of trustee; recording; form.

76-1009. Sale of trust property; public auction; bids; postponement of sale; notice.

76-1004 Successor trustee; appointment by beneficiary; effect; substitution of trustee; recording; form.

(1) The beneficiary may appoint a successor trustee at any time by filing for record in the office of the register of deeds of each county in which the trust property or some part thereof is situated a substitution of trustee. From the time the substitution is filed for record, the new trustee shall succeed to all the power, duties, authority, and title of the trustee named in the deed of trust and of any successor trustee.

(2) The substitution shall identify the trust deed by stating the names of the original parties thereto, the date of recordation, the full legal description of the realty affected, and the book and page or computer system reference where the trust deed is recorded, shall state the name of the new trustee, and shall be executed and acknowledged by all of the beneficiaries under the trust deed or their successors in interest.

(3) The recorded substitution shall also contain or have attached to it an affidavit that a copy of the substitution has, by regular United States mail with postage prepaid, been mailed to the last-known address of the trustee being replaced or an affidavit of personal service of a copy thereof or of publication of notice thereof, which notice shall be published one time in a newspaper having general circulation in any county in which the trust property or some part thereof is situated.

(4) Any affidavit contained in or attached to the substitution shall constitute prima facie evidence of the facts required to be stated and conclusive evidence of such facts as to bona fide purchasers and encumbrancers for value of the trust property or of any beneficial interest in the trust deed.

(5) On and after April 3, 1997, no recorded substitution filed for record shall be required to contain or have attached to it an affidavit pursuant to subsection (3) of this section, and any recorded substitution filed for record without containing or having attached to it an affidavit pursuant to such subsection prior to April 3, 1997, shall not be deemed incomplete or defective because such affidavit was not contained therein or attached.

(6) On and after March 4, 2010, there shall be no requirement for a beneficiary, in connection with the recording of the substitution of trustee, to provide notice of the substitution by mail, personal service, publication, or in any other manner to the trustee being replaced, and any recorded substitution filed for record prior to March 4, 2010, without having provided such notice, shall not be deemed incomplete or defective because such notice was not provided.

(7) A substitution of trustee shall be sufficient if made in substantially the following form:

Substitution of Trustee

(insert name and address of new trustee)

is hereby appointed successor trustee under the trust deed executed by as trustor, in which is named beneficiary and as trustee, and filed for record, 20..., and recorded in book, page (or computer system reference), Records of County, Nebraska. The trust property affected is legally described as follows:

.....
.....
.....
.....

Signature

Source: Laws 1965, c. 451, § 4, p. 1424; Laws 1984, LB 679, § 18; Laws 1989, LB 334, § 1; Laws 1993, LB 547, § 1; Laws 1995, LB 288, § 2; Laws 1997, LB 284, § 1; Laws 2004, LB 813, § 28; Laws 2010, LB738, § 1.
Effective date March 4, 2010.

76-1009 Sale of trust property; public auction; bids; postponement of sale; notice.

On the date and at the time and place designated in the notice of sale, the trustee shall sell the property at public auction to the highest bidder. The attorney for the trustee may conduct the sale. Any person, including the beneficiary, may bid at the sale. Every bid shall be deemed an irrevocable offer. If the purchaser refuses to pay the amount bid by him or her for the property struck off to him or her at the sale, the trustee may again sell the property at any time to the highest bidder, except that notice of the sale shall be given again in the same manner as the original notice of sale was required to be given. The party refusing to pay shall be liable for any loss occasioned thereby, and the trustee may also, in his or her discretion, thereafter reject any other bid of such person.

The person conducting the sale may, for any cause he or she deems expedient, postpone the sale of all or any portion of the property from time to time until it is completed, and in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale. The public declaration of the notice of postponement shall include the new date, time, and place of sale. No other notice of the postponed sale need be given unless the sale is postponed for longer than forty-

five days beyond the day designated in the notice of sale, in which event notice thereof shall be given in the same manner as the original notice of sale is required to be given.

Source: Laws 1965, c. 451, § 9, p. 1428; Laws 2004, LB 999, § 45; Laws 2010, LB732, § 4.
Effective date July 15, 2010.

ARTICLE 22

REAL PROPERTY APPRAISER ACT

Section

- 76-2202. Legislative findings.
- 76-2206. Appraisal report, defined.
- 76-2207. Repealed. Laws 2010, LB 931, § 30.
- 76-2209. Repealed. Laws 2010, LB 931, § 30.
- 76-2211. Repealed. Laws 2010, LB 931, § 30.
- 76-2213. Licensed residential real property appraiser, defined.
- 76-2213.01. Uniform Standards of Professional Appraisal Practice, defined.
- 76-2216. Real property appraiser, defined.
- 76-2221. Act; exemptions.
- 76-2223. Real Property Appraiser Board; powers and duties; rules and regulations.
- 76-2225. Civil and criminal immunity.
- 76-2226. Real Property Appraiser Fund; created; use; investment.
- 76-2228. Appraisers; classification.
- 76-2228.01. Trainee real property appraiser; applicant; qualifications; upgraded credential; requirements.
- 76-2229. Use of titles; restrictions.
- 76-2229.01. Credential as a registered real property appraiser; applicant; qualifications; upgraded credential; requirements.
- 76-2230. Credential as a licensed residential real property appraiser; applicant; qualifications; upgraded credential; requirements.
- 76-2231.01. Credential as a certified residential real property appraiser; applicant; qualifications; upgraded credential; requirements.
- 76-2232. Credential as a certified general real property appraiser; applicant; qualifications.
- 76-2233. Nonresident; credential; issuance; when.
- 76-2233.01. Nonresident; temporary credential; issuance; when.
- 76-2233.02. Credential; expiration; renewal.
- 76-2236. Continuing education; requirements.
- 76-2237. Uniform Standards of Professional Appraisal Practice; rules and regulations.
- 76-2238. Disciplinary action; denial of application; grounds.
- 76-2240. Complaints; hearing; decision; order; appeal.
- 76-2241. Fees.
- 76-2249. Directory of appraisers; information; distribution.

76-2202 Legislative findings.

The Legislature finds that as a result of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as the act existed on January 1, 2010, Nebraska's laws providing for regulation of real property appraisers require restructuring in order to comply with Title XI of the act. Compliance with the act is necessary to ensure an adequate number of appraisers in Nebraska to conduct appraisals of real estate involved in federally related transactions as defined in the act.

Source: Laws 1990, LB 1153, § 2; Laws 1991, LB 203, § 7; Laws 1994, LB 1107, § 7; Laws 2006, LB 778, § 14; Laws 2010, LB931, § 1.
Effective date April 15, 2010.

76-2206 Appraisal report, defined.

Appraisal report means any communication, written, oral, or by electronic means, of an appraisal. The testimony of a real property appraiser dealing with the appraiser's analyses, conclusions, or opinions concerning identified real estate or identified real property is deemed to be an oral appraisal report.

Source: Laws 1990, LB 1153, § 6; Laws 2006, LB 778, § 19; Laws 2010, LB931, § 2.

Effective date April 15, 2010.

76-2207 Repealed. Laws 2010, LB 931, § 30.**76-2209 Repealed. Laws 2010, LB 931, § 30.****76-2211 Repealed. Laws 2010, LB 931, § 30.****76-2213 Licensed residential real property appraiser, defined.**

Licensed residential real property appraiser means a person who holds a valid credential as a licensed residential real property appraiser issued under the Real Property Appraiser Act. Licensed residential real property appraiser includes persons defined as licensed real property appraisers prior to April 15, 2010.

Source: Laws 1990, LB 1153, § 13; Laws 1991, LB 203, § 16; Laws 2006, LB 778, § 30; Laws 2007, LB186, § 4; Laws 2010, LB931, § 3.

Effective date April 15, 2010.

76-2213.01 Uniform Standards of Professional Appraisal Practice, defined.

Uniform Standards of Professional Appraisal Practice means the standards promulgated by the Appraisal Foundation as the standards existed on January 1, 2010.

Source: Laws 2001, LB 162, § 11; R.S.1943, (2003), § 76-2218.01; Laws 2006, LB 778, § 31; Laws 2007, LB186, § 5; Laws 2008, LB1011, § 2; Laws 2010, LB931, § 4.

Effective date April 15, 2010.

76-2216 Real property appraiser, defined.

Real property appraiser means a person (1) who engages in real property appraisal activity, (2) who advertises or holds himself or herself out to the general public as a real property appraiser, or (3) who offers, attempts, or agrees to perform or performs real property appraisal activity. Real property appraiser includes persons defined as real estate appraisers prior to July 14, 2006.

Source: Laws 1990, LB 1153, § 16; Laws 2001, LB 162, § 8; Laws 2006, LB 778, § 34; Laws 2010, LB931, § 5.

Effective date April 15, 2010.

76-2221 Act; exemptions.

The Real Property Appraiser Act shall not apply to:

(1) Any real property appraiser who is a salaried employee of (a) the federal government, (b) any agency of the state government or a political subdivision which appraises real estate, (c) any insurance company authorized to do

business in this state, or (d) any bank, savings bank, savings and loan association, building and loan association, credit union, or small loan company licensed by the state or supervised or regulated by or through federal enactments covering financial institutions, except that any employee of the entities listed in subdivisions (a) through (d) of this subdivision who signs an appraisal report as a credentialed real property appraiser shall be subject to the act and the Uniform Standards of Professional Appraisal Practice. Any salaried employee of the entities listed in subdivisions (a) through (d) of this subdivision who does not sign an appraisal report as a credentialed real property appraiser shall include the following disclosure prominently with such report: This opinion of value may not meet the minimum standards contained in the Uniform Standards of Professional Appraisal Practice and is not governed by the Real Property Appraiser Act;

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

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

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

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

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

(7) Any person appointed by a county board of equalization to act as a referee pursuant to section 77-1502.01, except that any person who also practices as an independent real property appraiser for others shall be subject to the Real Property Appraiser Act and shall be credentialed prior to engaging in such other appraising. Any appraiser appointed to act as a referee pursuant to section 77-1502.01 and who prepares an appraisal report for the county board of equalization shall not sign such appraisal report as a credentialed appraiser

and shall include the following disclosure prominently with such report: This opinion of value may not meet the minimum standards contained in the Uniform Standards of Professional Appraisal Practice and is not governed by the Real Property Appraiser Act.

Source: Laws 1990, LB 1153, § 21; Laws 1991, LB 203, § 22; Laws 1994, LB 1107, § 17; Laws 1999, LB 618, § 5; Laws 2001, LB 162, § 13; Laws 2003, LB 131, § 35; Laws 2005, LB 676, § 1; Laws 2006, LB 778, § 41; Laws 2008, LB1011, § 4; Laws 2010, LB931, § 6.
Effective date April 15, 2010.

Cross References

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

76-2223 Real Property Appraiser Board; powers and duties; rules and regulations.

The Real Property Appraiser Board shall administer and enforce the Real Property Appraiser Act and may:

(1) Receive applications for credentialing under the act, process such applications and regulate the issuance of credentials to qualified applicants, and maintain a directory of the names and addresses of persons who receive credentials under the act;

(2) Hold meetings, public hearings, informal conferences, and administrative hearings, prepare or cause to be prepared specifications for all appraiser classifications, solicit bids and enter into contracts with one or more testing services, and administer or contract for the administration of examinations approved by the Appraiser Qualifications Board in such places and at such times as deemed appropriate;

(3) Develop the specifications for credentialing examinations, including timing, location, and security necessary to maintain the integrity of the examinations;

(4) Review the procedures and criteria of a contracted testing service to ensure that the testing meets with the approval of the Appraiser Qualifications Board;

(5) Collect all fees required or permitted by the act. The Real Property Appraiser Board shall remit all such receipts to the State Treasurer for credit to the Real Property Appraiser Fund. In addition, the board may collect and transmit to the appropriate federal authority any fees established under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as the act existed on January 1, 2010;

(6) Establish appropriate administrative procedures for disciplinary proceedings conducted pursuant to the Real Property Appraiser Act;

(7) Issue subpoenas to compel the attendance of witnesses and the production of books, documents, records, and other papers, administer oaths, and take testimony and require submission of and receive evidence concerning all matters within its jurisdiction. In case of disobedience of a subpoena, the Real Property Appraiser Board may make application to the district court of Lancaster County to require the attendance and testimony of witnesses and the production of documentary evidence. If any person fails to obey an order of the court, he or she may be punished by the court as for contempt thereof;

(8) Deny, censure, suspend, or revoke an application or credential if it finds that the applicant or credential holder has committed any of the acts or omissions set forth in section 76-2238 or otherwise violated the act. Any disciplinary matter may be resolved through informal disposition pursuant to section 84-913;

(9) Take appropriate disciplinary action against a credential holder if the Real Property Appraiser Board determines that a credential holder has violated any provision of the act or the Uniform Standards of Professional Appraisal Practice;

(10) Enter into consent decrees and issue cease and desist orders upon a determination that a violation of the act has occurred;

(11) Promote research and conduct studies relating to the profession of real property appraisal, sponsor real property appraisal educational activities, and incur, collect fees for, and pay the necessary expenses in connection with activities which shall be open to all credential holders;

(12) Establish and adopt minimum standards for appraisals as required under section 76-2237;

(13) Adopt and promulgate rules and regulations to carry out the act. The rules and regulations may include provisions establishing minimum standards for schools, courses, and instructors. The rules and regulations shall be adopted pursuant to the Administrative Procedure Act; and

(14) Do all other things necessary to carry out the Real Property Appraiser Act.

Source: Laws 1990, LB 1153, § 23; Laws 1991, LB 203, § 24; Laws 1994, LB 1107, § 19; Laws 2001, LB 162, § 15; Laws 2006, LB 778, § 43; Laws 2007, LB186, § 8; Laws 2008, LB1011, § 6; Laws 2010, LB931, § 7.

Effective date April 15, 2010.

Cross References

Administrative Procedure Act, see section 84-920.

76-2225 Civil and criminal immunity.

The members of the board and the board's employees or persons under contract with the board shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of or any disciplinary proceeding concerning a credential holder pursuant to the Real Property Appraiser Act if such action is taken without malicious intent and in the reasonable belief that it was taken pursuant to the powers vested in the members of the board or such employees or persons.

Source: Laws 1990, LB 1153, § 25; Laws 1991, LB 203, § 26; Laws 1994, LB 1107, § 21; Laws 2001, LB 162, § 16; Laws 2006, LB 778, § 45; Laws 2010, LB931, § 8.

Effective date April 15, 2010.

76-2226 Real Property Appraiser Fund; created; use; investment.

There is hereby created the Real Property Appraiser Fund. The board may use the fund for the administration and enforcement of the Real Property Appraiser Act and to meet the necessary expenditures of the board. The fund

shall include a sufficient cash fund balance as determined by the board. The expense of administering and enforcing the act shall not exceed the money collected by the board under the act. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Real Property Appraiser 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 1153, § 26; Laws 1991, LB 203, § 27; Laws 1994, LB 1066, § 78; Laws 1994, LB 1107, § 22; Laws 2001, LB 162, § 17; Laws 2006, LB 778, § 46; Laws 2007, LB186, § 9; Laws 2009, First Spec. Sess., LB3, § 53.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

76-2228 Appraisers; classification.

There shall be five classes of credentials issued to real property appraisers as follows:

- (1) Trainee real property appraiser, which classification shall consist of those persons who meet the requirements set forth in section 76-2228.01;
- (2) Registered real property appraiser, which classification shall consist of those persons who meet the requirements set forth in section 76-2229.01;
- (3) Licensed residential real property appraiser, which classification shall consist of those persons who meet the requirements set forth in section 76-2230;
- (4) Certified residential real property appraiser, which classification shall consist of those persons who meet the requirements set forth in section 76-2231.01; and
- (5) Certified general real property appraiser, which classification shall consist of those persons who meet the requirements set forth in section 76-2232.

Source: Laws 1990, LB 1153, § 28; Laws 1991, LB 203, § 29; Laws 1994, LB 1107, § 24; Laws 2001, LB 162, § 19; Laws 2006, LB 778, § 48; Laws 2007, LB186, § 11; Laws 2008, LB1011, § 7; Laws 2010, LB931, § 9.
Effective date April 15, 2010.

76-2228.01 Trainee real property appraiser; applicant; qualifications; up-graded credential; requirements.

- (1) To qualify for a credential as a trainee real property appraiser, an applicant shall:
 - (a) Be at least nineteen years of age;
 - (b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the board;
 - (c) Have successfully completed no fewer than seventy-five class hours in board-approved courses of study which relate to appraisal and which include completion of the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course as approved by the Appraiser Qualifications Board as

of January 1, 2010, or the equivalent of the course as approved by the Real Property Appraiser Board. The fifteen-hour course shall be taught by a Uniform Standards of Professional Appraisal Practice Instructor who is certified by the Appraiser Qualifications Board and who is a state-certified appraiser in good standing. The courses of study shall be conducted by an accredited, degree-awarding university, college, or community college, an appraisal society, institute, or association, a state or federal agency or commission, a proprietary school, or such other educational provider as may be approved by the Real Property Appraiser Board and shall be, at a minimum, fifteen class hours in length. Each course shall include an examination pertinent to the material presented. The applicant shall have completed the class hours within the five-year period immediately preceding submission of the application and shall have completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course within the two-year period immediately preceding submission of the application;

(d) Be subject to direct supervision by a supervising appraiser or appraisers who are certified residential real property appraisers or certified general real property appraisers in good standing. The supervising appraiser shall be responsible for the training and direct supervision of the trainee by accepting responsibility for the appraisal report by signing and certifying the report is in compliance with the Uniform Standards of Professional Appraisal Practice, reviewing the trainee appraisal reports, and personally inspecting each appraised property with the trainee as is consistent with his or her scope of practice until the supervising appraiser determines the trainee is competent in accordance with the competency rule of the Uniform Standards of Professional Appraisal Practice. The trainee shall maintain an appraisal log for each supervising appraiser in accordance with standards set by rule and regulation of the board; and

(e) Not have been convicted of any felony or, if so convicted, have had his or her civil rights restored.

(2) To qualify for an upgraded credential, a trainee real property appraiser shall satisfy at least one of the appropriate requirements as follows:

(a) For a credential as a licensed residential real property appraiser, he or she shall (i) complete seventy-five additional hours of designated core curriculum education and (ii) meet the experience requirements pursuant to subdivision (1)(d) of section 76-2230;

(b) For a credential as a certified residential real property appraiser, he or she shall (i) complete one hundred twenty-five additional hours of designated core curriculum education, (ii) meet the experience requirements pursuant to subdivision (1)(d) of section 76-2231.01, and (iii) meet the postsecondary educational requirements pursuant to subdivision (1)(b)(i) or (ii) of section 76-2231.01; or

(c) For a credential as a certified general real property appraiser, he or she shall (i) complete two hundred twenty-five additional hours of designated core curriculum education, (ii) meet the experience requirements pursuant to subdivision (1)(d) of section 76-2232, and (iii) meet the postsecondary educational requirements pursuant to subdivision (1)(b)(i) or (ii) of section 76-2232.

(3) If a trainee real property appraiser remains in the classification in excess of two years, the trainee shall be required in the third and successive years to successfully complete no fewer than fourteen hours of instruction in courses or

seminars for each year of the period preceding the renewal and shall have completed the seven-hour National Uniform Standards of Professional Appraisal Practice Update Course, as the course existed on January 1, 2010, or the equivalent of the course as approved by the Real Property Appraiser Board, at a minimum of every two years. The courses of study shall be conducted by an accredited, degree-awarding university, college, or community college, an appraisal society, institute, or association, a state or federal agency or commission, a proprietary school, or such other educational provider as may be approved by the board. Credit may be granted for educational offerings and for participation other than as a student as approved by the board.

(4) The application for a credential as a trainee real property appraiser shall include the applicant's social security number and such other information as the board may require.

Source: Laws 2006, LB 778, § 49; Laws 2007, LB186, § 12; Laws 2010, LB931, § 10.

Effective date April 15, 2010.

76-2229 Use of titles; restrictions.

(1) No person other than a registered real property appraiser shall assume or use the title registered real property appraiser or any title, designation, or abbreviation likely to create the impression of credentialing as a registered real property appraiser by this state. No person other than a licensed residential real property appraiser shall assume or use the title licensed residential real property appraiser or any title, designation, or abbreviation likely to create the impression of credentialing as a licensed residential real property appraiser by this state. No person other than a certified residential real property appraiser shall assume or use the title certified residential real property appraiser or any title, designation, or abbreviation likely to create the impression of credentialing as a certified residential real property appraiser by this state. No person other than a certified general real property appraiser shall assume or use the title certified general real property appraiser or any title, designation, or abbreviation likely to create the impression of credentialing as a certified general real property appraiser by this state. No person other than a trainee real property appraiser shall assume or use the title trainee real property appraiser or any title, designation, or abbreviation likely to create the impression of credentialing as a trainee real property appraiser by this state. A real property appraiser shall state whether he or she is a registered real property appraiser, licensed residential real property appraiser, certified residential real property appraiser, certified general real property appraiser, or trainee real property appraiser whenever he or she identifies himself or herself as a real property appraiser, including on all reports which are signed individually or as cosigner.

(2) The terms registered real property appraiser, licensed residential real property appraiser, certified residential real property appraiser, certified general real property appraiser, and trainee real property appraiser may only be used to refer to a person who is credentialed as such under the Real Property Appraiser Act and may not be used following or immediately in connection with the name or signature of a corporation, partnership, limited liability company, firm, or group or in such manner that it might be interpreted as referring to a corporation, partnership, limited liability company, firm, or group or to anyone

other than the credential holder. This requirement shall not be construed to prevent a credential holder from signing an appraisal report on behalf of a corporation, partnership, limited liability company, firm, or group if it is clear that only the individual holds the credential and that the corporation, partnership, limited liability company, firm, or group does not.

Source: Laws 1990, LB 1153, § 29; Laws 1991, LB 203, § 30; Laws 1993, LB 121, § 491; Laws 1994, LB 1107, § 25; Laws 2001, LB 162, § 20; Laws 2006, LB 778, § 50; Laws 2007, LB186, § 13; Laws 2008, LB1011, § 8; Laws 2010, LB931, § 11.
Effective date April 15, 2010.

76-2229.01 Credential as a registered real property appraiser; applicant; qualifications; upgraded credential; requirements.

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

- (a) Be at least nineteen years of age;
- (b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the board;
- (c) Have successfully completed no fewer than ninety class hours in board-approved courses of study which relate to appraisal and which include the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course as approved by the Appraiser Qualifications Board as of January 1, 2010, or the equivalent of the course as approved by the Real Property Appraiser Board. The courses of study shall be conducted by an accredited, degree-awarding university, college, or community college, an appraisal society, institute, or association, or such other educational provider as may be approved by the Real Property Appraiser Board and shall be, at a minimum, fifteen class hours in length. Each course of study shall include an examination pertinent to the material presented;
- (d) Within the twelve months following approval of the applicant by the Real Property Appraiser Board, pass an examination approved by the Appraiser Qualifications Board as of January 1, 2010, and administered by a contracted testing service which demonstrates that the applicant has:
 - (i) Knowledge of technical terms commonly used in or related to appraisal and the writing of appraisal reports;
 - (ii) Knowledge of depreciation theories, cost estimating, methods of capitalization, market data analysis, appraisal mathematics, and economic concepts applicable to real estate;
 - (iii) An understanding of the basic principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and processing of data involved in the valuation of real property;
 - (iv) Knowledge of the appraisal of various types of and interests in real property for various functions and purposes;
 - (v) An understanding of basic real estate law;
 - (vi) An understanding of the types of misconduct for which disciplinary proceedings may be initiated;
 - (vii) An understanding of the Uniform Standards of Professional Appraisal Practice;

(viii) An understanding of the recognized methods and techniques necessary for the development and communication of a credible appraisal; and

(ix) Knowledge of such other principles and procedures as may be appropriate to produce a credible appraisal; and

(e) Not have been convicted of any felony or, if so convicted, have had his or her civil rights restored.

(2) To qualify for an upgraded credential, a registered real property appraiser shall satisfy at least one of the appropriate requirements as follows:

(a) For a credential as a licensed residential real property appraiser, he or she shall (i) complete sixty additional hours of designated core curriculum education and (ii) meet the experience requirements pursuant to subdivision (1)(d) of section 76-2230;

(b) For a credential as a certified residential real property appraiser, he or she shall (i) complete one hundred ten additional hours of designated core curriculum education, (ii) meet the experience requirements pursuant to subdivision (1)(d) of section 76-2231.01, and (iii) meet the postsecondary educational requirements pursuant to subdivision (1)(b)(i) or (ii) of section 76-2231.01; or

(c) For a credential as a certified general real property appraiser, he or she shall (i) complete two hundred twenty-five additional hours of designated core curriculum education, (ii) meet the experience requirements pursuant to subdivision (1)(d) of section 76-2232, and (iii) meet the postsecondary educational requirements pursuant to subdivision (1)(b)(i) or (ii) of section 76-2232.

(3) The application for registration shall include the applicant's social security number and such other information as the Real Property Appraiser Board may require.

(4) The scope of practice of a registered real property appraiser shall be limited to the appraisal of noncomplex property having one, two, three, or four residential units having a transaction value of less than two hundred fifty thousand dollars.

(5) An applicant shall receive no more than three successive annual renewals for credentialing as a registered real property appraiser. Notwithstanding any other provision of section 76-2228 to the contrary, the board shall not approve any initial application for credentialing as a registered real property appraiser on and after January 1, 2012.

Source: Laws 1991, LB 203, § 31; Laws 1994, LB 1107, § 26; Laws 1997, LB 752, § 204; Laws 2001, LB 162, § 21; Laws 2006, LB 778, § 51; Laws 2007, LB186, § 14; Laws 2008, LB1011, § 9; Laws 2010, LB931, § 12.

Effective date April 15, 2010.

76-2230 Credential as a licensed residential real property appraiser; applicant; qualifications; upgraded credential; requirements.

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

(a) Be at least nineteen years of age;

(b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the board;

(c) Have successfully completed no fewer than one hundred fifty class hours, which may include the class hours set forth in section 76-2229.01, in board-approved courses of study which relate to appraisal and which include completion of the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course as approved by the Appraiser Qualifications Board as of January 1, 2010, or the equivalent of the course as approved by the Real Property Appraiser Board. The fifteen-hour course shall be taught by a Uniform Standards of Professional Appraisal Practice Instructor who is certified by the Appraiser Qualifications Board and who is a state-certified appraiser in good standing. The courses of study shall be conducted by an accredited, degree-awarding university, college, or community college, an appraisal society, institute, or association, a state or federal agency or commission, a proprietary school, or such other educational provider as may be approved by the Real Property Appraiser Board and shall be, at a minimum, fifteen class hours in length. Each course shall include a closed-book examination pertinent to the material presented;

(d) Have no fewer than two thousand hours of experience in any combination of the following: Fee and staff appraisal; ad valorem tax appraisal; condemnation appraisal; technical review appraisal; appraisal analysis; real estate consulting; highest-and-best-use analysis; and feasibility analysis or study. The required experience shall not be limited to the listed items but shall be acceptable to the board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than twelve months. If requested, evidence acceptable to the board concerning the experience shall be presented by the applicant in the form of written reports or file memoranda;

(e) Within the twelve months following approval of the applicant by the board, pass an examination approved by the Appraiser Qualifications Board as of January 1, 2010, and administered by a contracted testing service which demonstrates that the applicant has:

(i) Knowledge of technical terms commonly used in or related to appraisal and the writing of appraisal reports;

(ii) Knowledge of depreciation theories, cost estimating, methods of capitalization, market data analysis, appraisal mathematics, and economic concepts applicable to real estate;

(iii) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and processing of data involved in the valuation of real property;

(iv) Knowledge of the appraisal of various types of and interests in real property for various functions and purposes;

(v) An understanding of basic real estate law;

(vi) An understanding of the types of misconduct for which disciplinary proceedings may be initiated;

(vii) An understanding of the Uniform Standards of Professional Appraisal Practice;

(viii) An understanding of the recognized methods and techniques necessary for the development and communication of a credible appraisal; and

(ix) Knowledge of such other principles and procedures as may be appropriate to produce a credible appraisal; and

(f) Not have been convicted of any felony or, if so convicted, have had his or her civil rights restored.

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

(a) For a credential as a certified residential real property appraiser, he or she shall (i) complete fifty additional hours of designated core curriculum education, (ii) meet the experience requirements pursuant to subdivision (1)(d) of section 76-2231.01, and (iii) meet the postsecondary educational requirements pursuant to subdivision (1)(b)(i) or (ii) of section 76-2231.01; or

(b) For a credential as a certified general real property appraiser, he or she shall (i) complete one hundred fifty additional hours of designated core curriculum education, (ii) meet the experience requirements pursuant to subdivision (1)(d) of section 76-2232, and (iii) meet the postsecondary educational requirements pursuant to subdivision (1)(b)(i) or (ii) of section 76-2232.

(3) The scope of practice for a licensed residential real property appraiser shall be limited to the appraisal of noncomplex property having one, two, three, or four residential units with a transaction value of less than one million dollars and complex property having one, two, three, or four residential units with a transaction value of less than two hundred fifty thousand dollars.

(4) If an applicant is applying for renewal of a credential as a licensed residential real property appraiser, the applicant shall have successfully completed no fewer than fourteen hours of instruction in courses or seminars for each year of the two-year continuing education period during which the application is submitted and shall have completed the seven-hour National Uniform Standards of Professional Appraisal Practice Update Course as approved by the Appraiser Qualifications Board as of January 1, 2010, or the equivalent of the course as approved by the Real Property Appraiser Board, at a minimum of every two years. The seven-hour course shall be taught by a Uniform Standards of Professional Appraisal Practice Instructor who is certified by the Appraiser Qualifications Board and who is a state-certified appraiser in good standing. Credit toward a classroom hour requirement may be granted only when the length of the educational offering is at least two hours. The courses of study shall be conducted by an accredited, degree-awarding university, college, or community college, an appraisal society, institute, or association, a state or federal agency or commission, a proprietary school, or such other educational provider as may be approved by the Real Property Appraiser Board. Credit may be granted for educational offerings and for participation other than as a student as approved by the board.

(5) The application for the credential as a licensed residential real property appraiser shall include the applicant's social security number and such other information as the board may require.

Source: Laws 1990, LB 1153, § 30; Laws 1991, LB 203, § 33; Laws 1994, LB 1107, § 28; Laws 1997, LB 29, § 1; Laws 1997, LB 752, § 205; Laws 2001, LB 162, § 22; Laws 2006, LB 778, § 52; Laws 2007, LB186, § 15; Laws 2008, LB1011, § 10; Laws 2010, LB931, § 13.

Effective date April 15, 2010.

76-2231.01 Credential as a certified residential real property appraiser; applicant; qualifications; upgraded credential; requirements.

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

(a) Be at least nineteen years of age;

(b)(i) Hold an associate degree, or higher, from an accredited, degree-awarding university, college, or community college; or

(ii) Have successfully completed, as verified by the board, twenty-one semester hours of coursework or its equivalent from an accredited, degree-awarding university, college, or community college that shall have included English composition; principles of macroeconomics or microeconomics; finance; algebra, geometry, or higher mathematics; statistics; introduction to computers, including word processing and spread sheets; and business or real estate law;

(c) Have successfully completed no fewer than two hundred class hours, which may include the class hours set forth in sections 76-2229.01 and 76-2230, in board-approved courses of study which relate to appraisal and which include completion of the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course as approved by the Appraiser Qualifications Board as of January 1, 2010, or the equivalent of the course as approved by the Real Property Appraiser Board. The fifteen-hour course shall be taught by a Uniform Standards of Professional Appraisal Practice Instructor who is certified by the Appraiser Qualifications Board and who is a state-certified appraiser in good standing. The courses of study shall be conducted by an accredited, degree-awarding university, college, or community college, an appraisal society, institute, or association, a state or federal agency or commission, a proprietary school, or such other educational provider as may be approved by the Real Property Appraiser Board and shall be, at a minimum, fifteen class hours in length. Each course shall include a closed-book examination pertinent to the material presented;

(d) Have no fewer than two thousand five hundred hours of experience in any combination of the following: Fee and staff appraisal; ad valorem tax appraisal; condemnation appraisal; technical review appraisal; appraisal analysis; real estate consulting; highest-and-best-use analysis; and feasibility analysis or study. The required experience shall not be limited to the listed items but shall be acceptable to the board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than twenty-four months. If requested, evidence acceptable to the board concerning the experience shall be presented by the applicant in the form of written reports or file memoranda;

(e) Within the twelve months following approval of the applicant by the board, pass an examination approved by the Appraiser Qualifications Board as of January 1, 2010, and administered by a contracted testing service which demonstrates that the applicant has:

(i) Knowledge of technical terms commonly used in or related to appraisal and the writing of appraisal reports;

(ii) Knowledge of depreciation theories, cost estimating, methods of capitalization, market data analysis, appraisal mathematics, and economic concepts applicable to real estate;

(iii) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and processing of data involved in the valuation of real property;

(iv) Knowledge of the appraisal of various types of and interests in real property for various functions and purposes;

(v) An understanding of basic real estate law;

(vi) An understanding of the types of misconduct for which disciplinary proceedings may be initiated;

(vii) An understanding of the Uniform Standards of Professional Appraisal Practice;

(viii) An understanding of the recognized methods and techniques necessary for the development and communication of a credible appraisal; and

(ix) Knowledge of such other principles and procedures as may be appropriate to produce a credible appraisal; and

(f) Not have been convicted of any felony or, if so convicted, have had his or her civil rights restored.

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

(a) Complete one hundred additional hours of designated core curriculum education;

(b) Meet the experience requirements pursuant to subdivision (1)(d) of section 76-2232; and

(c) Meet the postsecondary educational requirements pursuant to subdivision (1)(b)(i) or (ii) of section 76-2232.

(3) The scope of practice of a certified residential real property appraiser shall be limited to the appraisal of property having one, two, three, or four residential units without regard to transaction value or complexity.

(4) If an applicant is applying for renewal of a credential as a certified residential real property appraiser, the applicant shall have successfully completed no fewer than fourteen hours of instruction in courses or seminars for each year of the two-year continuing education period during which the application is submitted and shall have completed the seven-hour National Uniform Standards of Professional Appraisal Practice Update Course as approved by the Appraiser Qualifications Board as of January 1, 2010, or the equivalent of the course as approved by the Real Property Appraiser Board, at a minimum of every two years. The seven-hour course shall be taught by a Uniform Standards of Professional Appraisal Practice Instructor who is certified by the Appraiser Qualifications Board and who is a state-certified appraiser in good standing. Credit toward a classroom hour requirement may be granted only if the length of the educational offering is at least two hours. The courses of study shall be conducted by an accredited, degree-awarding university, college, or community college, an appraisal society, institute, or association, a state or federal agency or commission, a proprietary school, or such other educational provider as may be approved by the Real Property Appraiser Board. Credit may be granted for educational offerings and for participation other than as a student as approved by the board.

(5) The application for a credential as a certified residential real property appraiser shall include the applicant's social security number and such other information as the board may require.

Source: Laws 1994, LB 1107, § 29; Laws 1997, LB 29, § 2; Laws 1997, LB 752, § 206; Laws 2001, LB 162, § 23; Laws 2006, LB 778, § 53; Laws 2007, LB186, § 16; Laws 2008, LB1011, § 11; Laws 2010, LB931, § 14.
Effective date April 15, 2010.

76-2232 Credential as a certified general real property appraiser; applicant; qualifications.

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

(a) Be at least nineteen years of age;

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

(ii) Have successfully completed, as verified by the board, thirty semester hours of coursework or its equivalent from an accredited, degree-awarding university or college that shall have included English composition; macroeconomics; microeconomics; finance; algebra, geometry, or higher mathematics; statistics; introduction to computers, including word processing and spread sheets; business or real estate law; and two elective courses in accounting, geography, agricultural economics, business management, or real estate;

(c) Have successfully completed no fewer than three hundred class hours, which may include the class hours set forth in sections 76-2229.01, 76-2230, and 76-2231.01, in board-approved courses of study which relate to appraisal and which include completion of the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course as approved by the Appraiser Qualifications Board as of January 1, 2010, or the equivalent of the course as approved by the Real Property Appraiser Board. The fifteen-hour course shall be taught by a Uniform Standards of Professional Appraisal Practice Instructor who is certified by the Appraiser Qualifications Board and who is a state-certified appraiser in good standing. The courses of study shall be conducted by an accredited, degree-awarding university, college, or community college, an appraisal society, institute, or association, a state or federal agency or commission, a proprietary school, or such other educational provider as may be approved by the Real Property Appraiser Board and shall be, at a minimum, fifteen class hours in length. Each course shall include a closed-book examination pertinent to the material presented;

(d) Have no fewer than three thousand hours of experience in any combination of the following: Fee and staff appraisal; ad valorem tax appraisal; condemnation appraisal; technical review appraisal; appraisal analysis; real estate consulting; highest-and-best-use analysis; and feasibility analysis or study. The required experience shall not be limited to the listed items but shall be acceptable to the board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than thirty months. If requested, evidence acceptable to the board concerning the experience shall be presented by the applicant in the form of written reports or file memoranda;

(e) Within the twelve months following approval of the applicant by the board, pass an examination approved by the Appraiser Qualifications Board as of January 1, 2010, and administered by a contracted testing service which demonstrates that the applicant has:

(i) Knowledge of technical terms commonly used in or related to appraisal and the writing of appraisal reports;

(ii) Knowledge of depreciation theories, cost estimating, methods of capitalization, market data analysis, appraisal mathematics, and economic concepts applicable to real estate;

(iii) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and processing of data involved in the valuation of real property;

(iv) Knowledge of the appraisal of various types of and interests in real property for various functions and purposes;

(v) An understanding of basic real estate law;

(vi) An understanding of the types of misconduct for which disciplinary proceedings may be initiated;

(vii) An understanding of the Uniform Standards of Professional Appraisal Practice;

(viii) An understanding of the recognized methods and techniques necessary for the development and communication of a credible appraisal; and

(ix) Knowledge of such other principles and procedures as may be appropriate to produce a credible appraisal; and

(f) Not have been convicted of any felony or, if so convicted, have had his or her civil rights restored.

(2) If an applicant is applying for renewal of a credential as a certified general real property appraiser, the applicant shall have successfully completed no fewer than fourteen hours of instruction in courses or seminars for each year of the two-year continuing education period during which the application is submitted and shall have completed the seven-hour National Uniform Standards of Professional Appraisal Practice Update Course as approved by the Appraiser Qualifications Board as of January 1, 2010, or the equivalent of the course as approved by the Real Property Appraiser Board, at a minimum of every two years. The seven-hour course shall be taught by a Uniform Standards of Professional Appraisal Practice Instructor who is certified by the Appraiser Qualifications Board and who is a state-certified appraiser in good standing. Credit toward a classroom hour requirement may be granted only if the length of the educational offering is at least two hours. The courses of study shall be conducted by an accredited, degree-awarding university, college, or community college, an appraisal society, institute, or association, a state or federal agency or commission, a proprietary school, or such other educational provider as may be approved by the Real Property Appraiser Board. Credit may be granted for educational offerings and for participation other than as a student as approved by the board.

(3) The application for a credential as a certified general real property appraiser shall include the applicant's social security number and such other information as the board may require.

Source: Laws 1990, LB 1153, § 32; Laws 1991, LB 203, § 34; Laws 1994, LB 1107, § 30; Laws 1997, LB 29, § 3; Laws 1997, LB 752,

§ 207; Laws 2001, LB 162, § 24; Laws 2006, LB 778, § 54; Laws 2007, LB186, § 17; Laws 2008, LB1011, § 12; Laws 2010, LB931, § 15.

Effective date April 15, 2010.

76-2233 Nonresident; credential; issuance; when.

(1) A nonresident of this state may obtain a credential as a licensed residential real property appraiser, a certified residential real property appraiser, or a certified general real property appraiser by (a) complying with all of the provisions of the Real Property Appraiser Act relating to the appropriate classification of credentialing, (b) submitting an application on a form approved by the board, and (c) submitting an irrevocable consent that service of process upon him or her may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant in an action against the applicant in a court of this state arising out of the applicant's activities in this state.

(2) If, in the determination of the board, another state or territory or the District of Columbia has substantially equivalent requirements to the requirements of this state, an applicant who is a resident of that state, territory, or district and is currently credentialed to appraise real estate and real property under the laws of that state, territory, or district may through reciprocity become credentialed under the act. To qualify for reciprocal credentialing, the applicant shall:

(a) Submit evidence that he or she is currently a resident of the state, territory, or District of Columbia in which he or she is credentialed to appraise real estate and real property and that such credential is in good standing, along with his or her social security number and such other information as the board may require;

(b) Certify that disciplinary proceedings are not pending against him or her or state the nature of any pending disciplinary proceedings;

(c) Submit an irrevocable consent that service of process upon him or her may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant in an action against the applicant in a court of this state arising out of the applicant's activities as a real property appraiser in this state;

(d) Pay fees as established in section 76-2241; and

(e) Comply with such other terms and conditions as may be determined by the board.

Source: Laws 1990, LB 1153, § 33; Laws 1991, LB 203, § 35; Laws 1994, LB 1107, § 31; Laws 1997, LB 752, § 208; Laws 2001, LB 162, § 25; Laws 2006, LB 778, § 55; Laws 2007, LB186, § 18; Laws 2008, LB1011, § 13; Laws 2010, LB931, § 16.

Effective date April 15, 2010.

76-2233.01 Nonresident; temporary credential; issuance; when.

A nonresident may obtain a temporary credential as a licensed residential real property appraiser, a certified residential real property appraiser, or a certified general real property appraiser to perform a contract relating to the

appraisal of real estate or real property in this state. To qualify for the issuance of a temporary credential, an applicant shall:

- (1) Submit an application on a form approved by the board;
- (2) Submit an irrevocable consent that service of process upon him or her may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant in an action against the applicant in a court of this state arising out of the applicant's activities in this state;
- (3) Submit evidence that he or she is credentialed as a licensed or certified appraiser of real estate and real property and is currently in good standing in the jurisdiction of residency, along with his or her social security number and such other information as the board may require;
- (4) Certify that disciplinary proceedings are not pending against the applicant in the applicant's state of domicile or in any other jurisdiction or state the nature of any pending disciplinary proceedings; and
- (5) Pay an application fee in an amount established by the board.

A temporary credential issued under this section shall be expressly limited to a grant of authority to perform the appraisal work required by the contract for appraisal services in this state. Each temporary credential shall expire upon the completion of the appraisal work required by the contract for appraisal services or upon the expiration of a period of six months from the date of issuance, whichever occurs first. A temporary credential may be renewed for one additional six-month period.

Source: Laws 1991, LB 203, § 36; Laws 1994, LB 1107, § 32; Laws 1997, LB 752, § 209; Laws 2001, LB 162, § 26; Laws 2006, LB 778, § 56; Laws 2007, LB186, § 19; Laws 2010, LB931, § 17.
Effective date April 15, 2010.

76-2233.02 Credential; expiration; renewal.

A credential issued under the Real Property Appraiser Act other than a temporary credential shall remain in effect until December 31 of the designated year unless surrendered, revoked, suspended, or canceled prior to such date. To renew a valid credential, the credential holder shall file an application on a form approved by the board and pay the prescribed renewal fee to the board not later than November 30 of the designated year. In every second year of renewal, as specified in section 76-2236, evidence of completion of continuing education requirements shall accompany renewal application or be on file with the board prior to renewal.

If a credential holder fails to apply and meet the requirements for renewal by November 30 of the designated year, such credential holder may obtain a renewal of such credential by satisfying all of the requirements for renewal and paying a late renewal fee if such late renewal takes place prior to July 1 of the following year. The board may refuse to renew any credential if the credential holder has continued to perform real property appraisal activities or other related activities in this state following the expiration of his or her credential.

Source: Laws 1991, LB 203, § 37; Laws 1994, LB 1107, § 33; Laws 2001, LB 162, § 27; Laws 2006, LB 778, § 57; Laws 2010, LB931, § 18.
Effective date April 15, 2010.

76-2236 Continuing education; requirements.

Every credential holder shall furnish evidence to the board that he or she has satisfactorily completed no fewer than twenty-eight hours of approved continuing education activities in each two-year continuing education period. Hours of satisfactorily completed approved continuing education activities cannot be carried over from one two-year continuing education period to another. As prescribed by rule or regulation of the board and at least once every two years, the seven-hour National Uniform Standards of Professional Appraisal Practice Update Course as approved by the Appraiser Qualifications Board as of January 1, 2010, or the equivalent of the course as approved by the Real Property Appraiser Board, shall be included in the continuing education requirement of each credential holder. As prescribed by rule or regulation of the Real Property Appraiser Board and at least once every four years, a seven-hour report writing update course shall be included in the continuing education requirement of each credential holder. The Real Property Appraiser Board shall approve continuing education activities which it determines would protect the public by improving the competency of credential holders. Evidence of completion of such continuing education activities for the two-year continuing education period may be submitted to the board as each activity is completed. A person who holds a temporary or reciprocal credential shall not have to meet any continuing education requirements in this state.

Source: Laws 1990, LB 1153, § 36; Laws 1991, LB 203, § 40; Laws 1994, LB 1107, § 37; Laws 1997, LB 29, § 4; Laws 2001, LB 162, § 28; Laws 2006, LB 778, § 58; Laws 2007, LB186, § 20; Laws 2010, LB931, § 19.

Effective date April 15, 2010.

76-2237 Uniform Standards of Professional Appraisal Practice; rules and regulations.

Each credential holder shall comply with the Uniform Standards of Professional Appraisal Practice. The board shall adopt and promulgate rules and regulations which conform to the Uniform Standards of Professional Appraisal Practice. The board shall review such rules and regulations annually. A copy of each such rule or regulation shall be transmitted electronically to each credential holder and shall be made available on the board's web site.

Source: Laws 1990, LB 1153, § 37; Laws 1991, LB 203, § 41; Laws 1994, LB 1107, § 38; Laws 2001, LB 162, § 29; Laws 2006, LB 778, § 59; Laws 2007, LB186, § 21; Laws 2010, LB931, § 20.

Effective date April 15, 2010.

76-2238 Disciplinary action; denial of application; grounds.

The following acts and omissions shall be considered grounds for disciplinary action or denial of an application by the board:

(1) Failing to meet the minimum qualifications for credentialing established by or pursuant to the Real Property Appraiser Act;

(2) Procuring or attempting to procure a credential under the act by knowingly making a false statement, submitting false information, or making a material misrepresentation in an application filed with the board or procuring or attempting to procure a credential through fraud or misrepresentation;

(3) Paying money or other valuable consideration other than the fees provided for by the act to any member or employee of the board to procure a credential;

(4) An act or omission involving real estate or appraisal practice which constitutes dishonesty, fraud, or misrepresentation with or without the intent to substantially benefit the credential holder or another person or with the intent to substantially injure another person;

(5) Entry of a final civil or criminal judgment against a credential holder on grounds of fraud, misrepresentation, or deceit involving real estate or in the making of an appraisal;

(6) Conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is related to the qualifications, functions, or duties of a real property appraiser;

(7) Engaging in the business of real property appraising under an assumed or fictitious name;

(8) Paying a finder's fee or a referral fee to any person in connection with the appraisal of real estate or real property, except that an intracompany payment for business development shall not be considered to be unethical or a violation of this subdivision;

(9) Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

(10) Any violation of the act or any rule or regulation adopted and promulgated pursuant to the act;

(11) Violation of the confidential nature of any information to which a credential holder gained access through employment for evaluation assignments or valuation assignments;

(12) Acceptance of a fee for performing a real property appraisal valuation assignment or evaluation assignment when the fee is or was contingent upon (a) the real property appraiser reporting a predetermined analysis, opinion, or conclusion, (b) the analysis, opinion, conclusion, or valuation reached, or (c) the consequences resulting from the appraisal;

(13) Failure or refusal to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(14) Negligence or incompetence in developing an appraisal, preparing an appraisal report, or communicating an appraisal, including failure to follow the standards and ethical rules adopted by the board;

(15) Failure to maintain, or to make available for inspection and copying, records required by the board;

(16) Demonstrating negligence, incompetence, or unworthiness to act as an appraiser, whether of the same or of a different character as otherwise specified in this section;

(17) Suspension or revocation of an appraisal credential or a license in another regulated occupation, trade, or profession in this or any other jurisdiction;

(18) Failure to comply with terms of a consent agreement or settlement agreement;

(19) Failure to submit or produce books, records, documents, work files, appraisal reports, or other materials requested by the board concerning any matter under investigation;

(20) Failure of an educational provider to produce records, documents, reports, or other materials, including, but not limited to, required student attendance reports, to the board;

(21) Presentation to the board of any check which is returned to the State Treasurer unpaid, whether payment of fee is for an initial or renewal credential or for examination; and

(22) Failure to pass the examination.

Source: Laws 1990, LB 1153, § 38; Laws 1991, LB 203, § 42; Laws 1994, LB 1107, § 39; Laws 2001, LB 162, § 30; Laws 2006, LB 778, § 60; Laws 2010, LB931, § 21.
Effective date April 15, 2010.

76-2240 Complaints; hearing; decision; order; appeal.

(1) The administrative hearing on the allegations in the complaint filed pursuant to section 76-2239 shall be heard by a hearing officer at the time and place prescribed by the board and in accordance with the Administrative Procedure Act. If, at the conclusion of the hearing, the hearing officer determines that the credential holder is guilty of the violation, the board shall take such disciplinary action as the board deems appropriate. Disciplinary actions which may be taken shall include, but not be limited to, revocation, suspension, probation, admonishment, letter of reprimand, and formal censure, with publication, of the credential holder and may or may not include an education requirement. Costs incurred for an administrative hearing, including fees of counsel, the hearing officer, court reporters, investigators, and witnesses, shall be taxed as costs in such action as the board may direct.

(2) The decision and order of the board shall be final. Any decision or order of the board may be appealed. The appeal shall be on questions of law only and otherwise shall be in accordance with the Administrative Procedure Act.

Source: Laws 1990, LB 1153, § 40; Laws 1991, LB 203, § 44; Laws 1994, LB 1107, § 41; Laws 2001, LB 162, § 32; Laws 2010, LB931, § 22.
Effective date April 15, 2010.

Cross References

Administrative Procedure Act, see section 84-920.

76-2241 Fees.

The board shall charge and collect appropriate fees for its services under the Real Property Appraiser Act as follows:

(1) An application fee of one hundred fifty dollars;

(2) An examination fee of no more than three hundred dollars. The board may direct applicants to pay the fee directly to a third party who has contracted to administer the examination;

(3) An initial and renewal credentialing fee, other than temporary credentialing, of no more than three hundred dollars;

(4) A late renewal fee of twenty-five dollars for each month or portion of a month the fee is late;

(5) A temporary credential application fee for a licensed residential real property appraiser, a certified residential real property appraiser, or a certified general real property appraiser of no more than one hundred dollars; and

(6) A pocket card fee of no more than fifty dollars for a licensed residential real property appraiser, certified residential real property appraiser, or certified general real property appraiser holding a temporary credential under the act.

All fees for credentialing through reciprocity shall be the same as those paid by others pursuant to this section.

In addition to the fees set forth in this section, the board may collect and transmit to the appropriate federal authority any fees established under the provisions of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as the act existed on January 1, 2010. The board may establish such fees as it deems appropriate for special examinations and other services provided by the board. All fees and other revenue collected pursuant to the Real Property Appraiser Act shall be remitted by the board to the State Treasurer for credit to the Real Property Appraiser Fund.

Source: Laws 1990, LB 1153, § 41; Laws 1991, LB 203, § 45; Laws 1994, LB 1107, § 42; Laws 2001, LB 162, § 33; Laws 2006, LB 778, § 62; Laws 2007, LB186, § 22; Laws 2008, LB1011, § 14; Laws 2010, LB931, § 23.

Effective date April 15, 2010.

76-2249 Directory of appraisers; information; distribution.

(1) The board may prepare a printed directory showing the name and place of business of credential holders under the Real Property Appraiser Act. Copies of the directory shall be made available to the public at such reasonable price per copy as may be fixed by the board and shall be provided to federal authorities as required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as the act existed on January 1, 2010.

(2) The board shall provide without charge to any credential holder under the act a set of rules and regulations adopted and promulgated by the board and any other information which the board deems important in the area of real property appraisal in the State of Nebraska. The information may be printed in a booklet, a pamphlet, or any other form the board determines appropriate. The board may update such material as often as it deems necessary. The board may provide such material to any other person upon request and may charge a fee for the material. The fee shall be reasonable and shall not exceed any reasonable or necessary costs of producing the material for distribution.

Source: Laws 1990, LB 1153, § 49; Laws 1991, LB 203, § 53; Laws 1993, LB 842, § 1; Laws 1994, LB 1107, § 46; Laws 2001, LB 162, § 41; Laws 2006, LB 778, § 69; Laws 2008, LB1011, § 16; Laws 2010, LB931, § 24.

Effective date April 15, 2010.



CHAPTER 77

REVENUE AND TAXATION

Article.

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ARTICLE 1

DEFINITIONS

Section

- 77-105. Tangible personal property, intangible personal property, defined.

77-105 Tangible personal property, intangible personal property, defined.

The term tangible personal property includes all personal property possessing a physical existence, excluding money. The term tangible personal property also includes trade fixtures, which means machinery and equipment, regardless of the degree of attachment to real property, used directly in commercial, manufacturing, or processing activities conducted on real property, regardless of whether the real property is owned or leased, and all property used in the generation of electricity using wind as the fuel source, including, but not limited to, that listed in subsection (9) of section 77-202. The term intangible personal property includes all other personal property, including money.

Source: Laws 1921, c. 133, art. I, § 4, p. 545; C.S.1922, § 5811; C.S.1929, § 77-104; Laws 1933, c. 156, § 2, p. 592; C.S.Supp.,1941, § 77-104; R.S.1943, § 77-105; Laws 1991, LB 829, § 6; Laws 2007, LB334, § 14; Laws 2010, LB1048, § 10.
Effective date July 15, 2010.

ARTICLE 2

PROPERTY TAXABLE, EXEMPTIONS, LIENS

Section

- 77-202. Property taxable; exemptions enumerated.
- 77-202.03. Property taxable; exempt status; period of exemption; change of status; late filing authorized; when; penalty; lien; new applications; reviewed; hearing; procedure; list.
- 77-202.04. Property taxable; exempt status; delivery of copy of final decision; appeal; failure to give notice; effect.
- 77-202.09. Cemetery organization; exemption; application; procedure; late filing.

77-202 Property taxable; exemptions enumerated.

(1) The following property shall be exempt from property taxes:

(a) Property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose. For purposes of this subdivision, public purpose means use of the property (i) to provide public services with or without cost to the recipient, including the general operation of government, public education, public safety, transportation, public works, civil and criminal justice, public health and welfare, developments by a public housing authority, parks, culture, recreation, community development, and cemetery purposes, or (ii) to carry out the duties and responsibilities conferred by law with or without consideration. Public purpose does not include leasing of property to a private party unless the lease of the property is at fair market value for a public purpose. Leases of property by a public housing authority to low-income individuals as a place of residence are for the authority's public purpose;

(b) Unleased property of the state or its governmental subdivisions which is not being used or developed for use for a public purpose but upon which a payment in lieu of taxes is paid for public safety, rescue, and emergency services and road or street construction or maintenance services to all governmental units providing such services to the property. Except as provided in Article VIII, section 11, of the Constitution of Nebraska, the payment in lieu of taxes shall be based on the proportionate share of the cost of providing public safety, rescue, or emergency services and road or street construction or maintenance services unless a general policy is adopted by the governing body of the governmental subdivision providing such services which provides for a different method of determining the amount of the payment in lieu of taxes. The governing body may adopt a general policy by ordinance or resolution for determining the amount of payment in lieu of taxes by majority vote after a hearing on the ordinance or resolution. Such ordinance or resolution shall nevertheless result in an equitable contribution for the cost of providing such services to the exempt property;

(c) Property owned by and used exclusively for agricultural and horticultural societies;

(d) Property owned by educational, religious, charitable, or cemetery organizations, or any organization for the exclusive benefit of any such educational, religious, charitable, or cemetery organization, and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not (i) owned or used for financial gain or profit to either the owner or user, (ii) used for the sale of alcoholic liquors for more than twenty hours per week, or

(iii) owned or used by an organization which discriminates in membership or employment based on race, color, or national origin. For purposes of this subdivision, educational organization means (A) an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects or assisting students through services relating to the origination, processing, or guarantying of federally reinsured student loans for higher education or (B) a museum or historical society operated exclusively for the benefit and education of the public. For purposes of this subdivision, charitable organization means an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an indefinite number of persons; and

(e) Household goods and personal effects not owned or used for financial gain or profit to either the owner or user.

(2) The increased value of land by reason of shade and ornamental trees planted along the highway shall not be taken into account in the valuation of land.

(3) Tangible personal property which is not depreciable tangible personal property as defined in section 77-119 shall be exempt from property tax.

(4) Motor vehicles required to be registered for operation on the highways of this state shall be exempt from payment of property taxes.

(5) Business and agricultural inventory shall be exempt from the personal property tax. For purposes of this subsection, business inventory includes personal property owned for purposes of leasing or renting such property to others for financial gain only if the personal property is of a type which in the ordinary course of business is leased or rented thirty days or less and may be returned at the option of the lessee or renter at any time and the personal property is of a type which would be considered household goods or personal effects if owned by an individual. All other personal property owned for purposes of leasing or renting such property to others for financial gain shall not be considered business inventory.

(6) Any personal property exempt pursuant to subsection (2) of section 77-4105 or section 77-5209.02 shall be exempt from the personal property tax.

(7) Livestock shall be exempt from the personal property tax.

(8) Any personal property exempt pursuant to the Nebraska Advantage Act shall be exempt from the personal property tax.

(9) Any property used directly in the generation of electricity using wind as the fuel source shall be exempt from the property tax. Personal property used directly in the generation of electricity using wind as the fuel source includes, but is not limited to, wind turbines, rotors and blades, towers, trackers, generating equipment, transmission components, substations, supporting structures or racks, inverters, and other system components such as wiring, control systems, switchgears, and generator step-up transformers.

Source: Laws 1903, c. 73, § 13, p. 390; R.S.1913, § 6301; Laws 1921, c. 133, art. II, § 2, p. 547; C.S.1922, § 5821; C.S.1929, § 77-202; R.S.1943, § 77-202; Laws 1955, c. 290, § 1, p. 921; Laws 1965, c. 468, § 1, p. 1514; Laws 1965, c. 469, § 1, p. 1516; Laws 1967, c. 494, § 1, p. 1685; Laws 1967, c. 495, § 1, p. 1686; Laws 1971, LB 945, § 2; Laws 1975, LB 530, § 3; Laws 1980, LB 882, § 1; Laws 1980, LB 913, § 1; Laws 1982, LB 383, § 5; Laws 1984, LB 891,

§ 1; Laws 1985, LB 268, § 1; Laws 1986, LB 732, § 1; Laws 1987, LB 775, § 13; Laws 1988, LB 855, § 3; Laws 1989, Spec. Sess., LB 7, § 2; Laws 1991, LB 829, § 7; Laws 1992, LB 1063, § 53; Laws 1992, Second Spec. Sess., LB 1, § 51; Laws 1994, LB 961, § 7; Laws 1997, LB 271, § 39; Laws 1999, LB 271, § 4; Laws 2002, LB 994, § 10; Laws 2005, LB 312, § 4; Laws 2008, LB1027, § 1; Laws 2010, LB1048, § 11.
Effective date July 15, 2010.

Cross References

Nebraska Advantage Act, see section 77-5701.

77-202.03 Property taxable; exempt status; period of exemption; change of status; late filing authorized; when; penalty; lien; new applications; reviewed; hearing; procedure; list.

(1) A properly granted exemption of real or tangible personal property, except real property used for cemetery purposes, provided for in subdivisions (1)(c) and (d) of section 77-202 shall continue for a period of four years if the statement of reaffirmation of exemption required by subsection (2) of this section is filed when due. The four-year period shall begin with years evenly divisible by four.

(2) In each intervening year occurring between application years, the organization or society which filed the granted exemption application for the real or tangible personal property, except real property used for cemetery purposes, shall file a statement of reaffirmation of exemption with the county assessor on or before December 31 of the year preceding the year for which the exemption is sought, on forms prescribed by the Tax Commissioner, certifying that the ownership and use of the exempted property has not changed during the year. Any organization or society which misses the December 31 deadline for filing the statement of reaffirmation of exemption may file the statement of reaffirmation of exemption by June 30. Such filing shall maintain the tax-exempt status of the property without further action by the county and regardless of any previous action by the county board of equalization to deny the exemption due to late filing of the statement of reaffirmation of exemption. Upon any such late filing, the county assessor shall assess a penalty against the property of ten percent of the tax that would have been assessed had the statement of reaffirmation of exemption not been filed or one hundred dollars, whichever is less, for each calendar month or fraction thereof for which the filing of the statement of reaffirmation of exemption is late. The penalty shall be collected and distributed in the same manner as a tax on the property and interest shall be assessed at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax would have been delinquent until paid. The penalty shall also become a lien in the same manner as a tax pursuant to section 77-203.

(3)(a) If any organization or society seeks a tax exemption for any real or tangible personal property acquired on or after January 1 of any year or converted to exempt use on or after January 1 of any year, the organization or society shall make application for exemption on or before July 1 of that year as provided in subsection (1) of section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.05, except that the

exempt use shall be determined as of the date of application and the review by the county board of equalization shall be completed by August 15.

(b) If an organization as described in subdivision (1)(c) or (d) of section 77-202 purchases, between July 1 and the levy date, property that has been granted tax exemption and the property continues to be qualified for a property tax exemption, the purchaser shall on or before November 15 make application for exemption as provided in section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.05, and the review by the county board of equalization shall be completed by December 15.

(4) In any year, the county assessor or the county board of equalization may cause a review of any exemption to determine whether the exemption is proper. Such a review may be taken even if the ownership or use of the property has not changed from the date of the allowance of the exemption. If it is determined that a change in an exemption is warranted, the procedure for hearing set out in section 77-202.02 shall be followed, except that the published notice shall state that the list provided in the county assessor's office only includes those properties being reviewed. If an exemption is denied, the county board of equalization shall place the property on the tax rolls retroactive to January 1 of that year if on the date of the decision of the county board of equalization the property no longer qualifies for an exemption.

The county board of equalization shall give notice of the assessed value of the real property in the same manner as outlined in section 77-1507, and the procedures for filing a protest shall be the same as those in section 77-1502.

When personal property which was exempt becomes taxable because of lost exemption status, the owner or his or her agent has thirty days after the date of denial to file a personal property return with the county assessor. Upon the expiration of the thirty days for filing a personal property return pursuant to this subsection, the county assessor shall proceed to list and value the personal property and apply the penalty pursuant to section 77-1233.04.

(5) During the month of September of each year, the county board of equalization shall cause to be published in a paper of general circulation in the county a list of all real estate in the county exempt from taxation for that year pursuant to subdivisions (1)(c) and (d) of section 77-202. Such list shall be grouped into categories as provided by the Property Tax Administrator. A copy of the list and proof of publication shall be forwarded to the Property Tax Administrator.

Source: Laws 1963, c. 441, § 3, p. 1460; Laws 1965, c. 470, § 1, p. 1517; Laws 1969, c. 641, § 1, p. 2554; Laws 1973, LB 530, § 1; Laws 1973, LB 114, § 1; Laws 1976, LB 786, § 1; Laws 1979, LB 17, § 8; Laws 1980, LB 688, § 3; Laws 1981, LB 179, § 3; Laws 1983, LB 494, § 1; Laws 1986, LB 817, § 2; Laws 1989, LB 133, § 1; Laws 1990, LB 919, § 1; Laws 1993, LB 734, § 42; Laws 1995, LB 490, § 30; Laws 1996, LB 1122, § 2; Laws 1997, LB 270, § 14; Laws 1997, LB 271, § 42; Laws 1998, LB 1104, § 6; Laws 1999, LB 194, § 11; Laws 1999, LB 271, § 6; Laws 2000, LB 968, § 28; Laws 2004, LB 973, § 7; Laws 2007, LB166, § 4; Laws 2007, LB334, § 17; Laws 2010, LB708, § 1.
Operative date January 1, 2011.

77-202.04 Property taxable; exempt status; delivery of copy of final decision; appeal; failure to give notice; effect.

(1) Notice of a county board of equalization's decision granting or denying an application for exemption from taxation for real or tangible personal property shall be mailed or delivered to the applicant and the county assessor by the county clerk within seven days after the date of the board's decision. Persons, corporations, or organizations may appeal denial of an application for exemption by a county board of equalization. Only the county assessor, the Tax Commissioner, or the Property Tax Administrator may appeal the granting of such an exemption by a county board of equalization. Appeals pursuant to this section shall be made to the Tax Equalization and Review Commission in accordance with section 77-5013 within thirty days after the decision of the county board of equalization. The Tax Commissioner or Property Tax Administrator may in his or her discretion intervene in any such appeal pursuant to this section. If the county assessor, Tax Commissioner, or Property Tax Administrator appeals a county board of equalization's final decision granting an exemption from property taxation, the person, corporation, or organization granted such exemption by the county board of equalization shall be made a party to the appeal and shall be issued a notice of the appeal by the Tax Equalization and Review Commission within thirty days after the appeal is filed.

(2) A copy of the final decision by a county board of equalization shall be delivered electronically to the Tax Commissioner and the Property Tax Administrator within seven days after the date of the board's decision. The Tax Commissioner or the Property Tax Administrator shall have thirty days after the final decision to appeal the decision.

(3) Any owner may petition the Tax Equalization and Review Commission in accordance with section 77-5013, on or before December 31 of each year, to determine the taxable status of real property for that year if a failure to give notice as prescribed by this section prevented timely filing of a protest or appeal provided for in sections 77-202 to 77-202.25.

Source: Laws 1963, c. 441, § 4, p. 1461; Laws 1969, c. 642, § 1, p. 2556; Laws 1995, LB 490, § 31; Laws 1997, LB 271, § 43; Laws 2000, LB 968, § 29; Laws 2004, LB 973, § 8; Laws 2005, LB 15, § 3; Laws 2007, LB334, § 18; Laws 2010, LB877, § 1.
Effective date April 14, 2010.

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

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

cemetery organization which fails to file on or before December 31 for exemption may apply on or before June 30 pursuant to subsection (2) of section 77-202.01, and the penalty and procedures specified in section 77-202.01 shall apply.

Source: Laws 1997, LB 270, § 16; Laws 1999, LB 271, § 7; Laws 2007, LB334, § 20; Laws 2010, LB708, § 2.
Operative date January 1, 2011.

ARTICLE 3

DEPARTMENT OF REVENUE

Section

- 77-362.02. Department of Motor Vehicles; provide information to Department of Revenue.
- 77-378. Delinquent taxpayers; Department of Revenue and Department of Labor; prepare, maintain, and publish list; Tax Commissioner and Commissioner of Labor; duties.
- 77-3,110. Department of Revenue Miscellaneous Receipts Fund; created; use; investment.
- 77-3,111. Miscellaneous Services Revolving Fund; created; administration; investment.

77-362.02 Department of Motor Vehicles; provide information to Department of Revenue.

In order to assist the Department of Revenue in carrying out its duties, the Department of Motor Vehicles shall provide information about individuals holding an operator's or driver's license or a state identification card under the Motor Vehicle Operator's License Act to the Department of Revenue in a manner agreed to by the Department of Revenue and the Department of Motor Vehicles. The information shall include:

- (1) The individual's name;
- (2) The individual's address of record;
- (3) The individual's social security number, if available and permissible under law, and the individual's date of birth;
- (4) The type of license, permit, or card held;
- (5) The issuance date of the license, permit, or card;
- (6) The expiration date of the license, permit, or card; and
- (7) The status of the license, permit, or card.

The Department of Revenue may enter into agreements with the Director of Motor Vehicles to carry out this section.

Source: Laws 2010, LB879, § 5.
Operative date July 15, 2010.

Cross References

Motor Vehicle Operator's License Act, see section 60-462.

77-378 Delinquent taxpayers; Department of Revenue and Department of Labor; prepare, maintain, and publish list; Tax Commissioner and Commissioner of Labor; duties.

(1) The Department of Revenue and the Department of Labor shall prepare, maintain, and publish a list of delinquent taxpayers who owe taxes or fees,

including interest, penalties, and costs, in excess of twenty thousand dollars for which a notice of lien has been filed with the appropriate filing officer in accordance with the Uniform State Tax Lien Registration and Enforcement Act, except that no such list of delinquent taxpayers shall include any taxpayer that has not exhausted or waived all rights of appeal from a final balance of tax liability. The list may be posted on the web site of the Department of Revenue or the Department of Labor. The list shall include the name and address of the delinquent taxpayer, the type of tax or fee due, and the amount of tax or fee due, including interest, penalties, and costs.

(2) The Tax Commissioner and Commissioner of Labor shall update the list of delinquent taxpayers on a quarterly basis. The list shall not include (a) the name or related information of any taxpayer who has entered into a payment agreement with the Tax Commissioner or Commissioner of Labor and who is in compliance with that agreement or (b) the name or related information of any person who is protected by a stay that is in effect under the federal bankruptcy law. The name of a taxpayer shall be removed from the list within fifteen days after the payment in full of the debt or within fifteen days after the taxpayer enters into a payment agreement with the Tax Commissioner or Commissioner of Labor. A taxpayer may be placed back on the list if the taxpayer is more than fifteen days delinquent on a payment agreement.

(3) At least thirty days before the disclosure of the name of a delinquent taxpayer pursuant to subsection (1) of this section, the Tax Commissioner or Commissioner of Labor shall mail a written notice to the delinquent taxpayer at the taxpayer's last-known address informing the taxpayer that the failure to cure the tax delinquency could result in the taxpayer's name being included in a list of delinquent taxpayers that is published by the Tax Commissioner or Commissioner of Labor pursuant to this section.

Source: Laws 2010, LB879, § 6.
Operative date July 15, 2010.

Cross References

Uniform State Tax Lien Registration and Enforcement Act, see section 77-3901.

77-3,110 Department of Revenue Miscellaneous Receipts Fund; created; use; investment.

All funds received pursuant to sections 77-3,109 and 77-3,118 shall be remitted to the State Treasurer for credit to the Department of Revenue Miscellaneous Receipts Fund which is hereby created. All money in the fund shall be administered by the Department of Revenue and shall be used to defray the cost of production of the publications listed in section 77-3,109 or of the listings described in section 77-3,118, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Department of Revenue Miscellaneous Receipts Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1986, LB 1027, § 212; Laws 1993, LB 345, § 10; Laws 1994, LB 1066, § 79; Laws 2009, First Spec. Sess., LB3, § 54.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

77-3,111 Miscellaneous Services Revolving Fund; created; administration; investment.

There is hereby created a fund to be known as the Miscellaneous Services Revolving Fund to which shall be credited all money received by the Department of Revenue for services performed and billed to other agencies or persons. All reimbursements to the department for such services shall be credited to the fund and expenditures therefrom shall be made only when such funds are available. The Department of Revenue shall only bill for the actual amount expended in performing such services.

Any money in the fund shall be administered by the Department of Revenue, and 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 entire amount in the Miscellaneous Services Revolving Fund shall lapse to the General Fund on December 15, 2009.

Source: Laws 1987, LB 523, § 44; Laws 1995, LB 7, § 86; Laws 2009, First Spec. Sess., LB2, § 4.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 7**DEPARTMENT OF PROPERTY ASSESSMENT AND TAXATION**

Section

77-701. Property assessment division; established; Property Tax Administrator; powers and duties; appeal rights.

77-701 Property assessment division; established; Property Tax Administrator; powers and duties; appeal rights.

(1) A division of state government to be known as the property assessment division of the Department of Revenue is established. The Property Tax Administrator shall be the chief administrative officer of the division but shall be under the general supervision of the Tax Commissioner.

(2) The goals and functions of the division shall be to: (a) Execute faithfully the property tax laws of the State of Nebraska; (b) provide for efficient, updated methods and systems of property tax reporting, enforcement, and related activities; and (c) continually seek to improve its system of administration.

(3) All employees, budget requirements, appropriations, encumbrances, and assets and liabilities of the Department of Property Assessment and Taxation for the administration of property valuation and equalization shall be transferred and delivered to the division. The transferred employees shall not lose any accrued benefits or status due to the transfer and shall receive the same benefits as other state employees, including participation in the State Employees Retirement Act.

(4) The Tax Commissioner or Property Tax Administrator may appeal any final decision of a county board of equalization relating to the granting or denying of an exemption of real or personal property to the Tax Equalization and Review Commission. If the Tax Commissioner or Property Tax Administrator files such an appeal, the person, corporation, or organization granted or denied the exemption by the county board of equalization shall be made a party to the appeal and shall be issued a notice of the appeal by the Tax Equalization and Review Commission within thirty days after the appeal is filed. The Tax Commissioner or Property Tax Administrator may appeal any final decision of the Tax Equalization and Review Commission relating to the granting or denying of an exemption of real or personal property or relating to the valuation or equalization of real property.

Source: Laws 1999, LB 36, § 21; Laws 2007, LB334, § 43; Laws 2010, LB877, § 2.
Effective date April 14, 2010.

Cross References

State Employees Retirement Act, see section 84-1331.

ARTICLE 9

INSURANCE COMPANIES

Section

77-908. Insurance companies; tax on gross premiums; rate; exceptions.

77-912. Tax; Director of Insurance; disposition; exceptions.

77-908 Insurance companies; tax on gross premiums; rate; exceptions.

Every insurance company organized under the stock, mutual, assessment, or reciprocal plan, except fraternal benefit societies, which is transacting business in this state shall, on or before March 1 of each year, pay a tax to the director of one percent of the gross amount of direct writing premiums received by it during the preceding calendar year for business done in this state, except that (1) for group sickness and accident insurance the rate of such tax shall be five-tenths of one percent and (2) for property and casualty insurance, excluding individual sickness and accident insurance, the rate of such tax shall be one percent. A captive insurer authorized under the Captive Insurers Act that is transacting business in this state shall, on or before March 1 of each year, pay to the director a tax of one-fourth of one percent of the gross amount of direct writing premiums received by such insurer during the preceding calendar year for business transacted in the state. The taxable premiums shall include premiums paid on the lives of persons residing in this state and premiums paid for risks located in this state whether the insurance was written in this state or not, including that portion of a group premium paid which represents the premium for insurance on Nebraska residents or risks located in Nebraska included within the group when the number of lives in the group exceeds five hundred. The tax shall also apply to premiums received by domestic companies for insurance written on individuals residing outside this state or risks located outside this state if no comparable tax is paid by the direct writing domestic company to any other appropriate taxing authority. Companies whose scheme of operation contemplates the return of a portion of premiums to policyholders, without such policyholders being claimants under the terms of their policies, may deduct such return premiums or dividends from their gross premiums for

the purpose of tax calculations. Any such insurance company shall receive a credit on the tax imposed as provided in the Community Development Assistance Act.

Source: Laws 1951, c. 256, § 2, p. 878; Laws 1984, LB 372, § 13; Laws 1986, LB 1114, § 10; Laws 1989, LB 92, § 275; Laws 1992, LB 1063, § 91; Laws 1992, Second Spec. Sess., LB 1, § 64; Laws 2001, LB 433, § 1; Laws 2002, Second Spec. Sess., LB 9, § 3; Laws 2006, LB 1248, § 83; Laws 2007, LB117, § 53; Laws 2007, LB367, § 5; Laws 2010, LB698, § 3.
Effective date March 4, 2010.

Cross References

Captive Insurers Act, see section 44-8201.

Community Development Assistance Act, see section 13-201.

77-912 Tax; Director of Insurance; disposition; exceptions.

The Director of Insurance shall transmit fifty percent of the taxes paid in conformity with Chapter 44, article 1, and Chapter 77, article 9, to the State Treasurer, forty percent of such taxes paid to the General Fund, and ten percent of such taxes paid to the Mutual Finance Assistance Fund promptly upon completion of his or her audit and examination and in no event later than May 1 of each year, except that:

(1) All fire insurance taxes paid pursuant to sections 44-150 and 81-523 shall be remitted to the State Treasurer for credit to the General Fund;

(2) All workers' compensation insurance taxes paid pursuant to section 44-150 shall be remitted to the State Treasurer for credit to the Compensation Court Cash Fund; and

(3) Commencing with the premium and related retaliatory taxes for the taxable year ending December 31, 2001, and for each taxable year thereafter, all premium and related retaliatory taxes imposed by section 44-150 or 77-908 paid by insurers writing health insurance in this state shall be remitted to the Comprehensive Health Insurance Pool Distributive Fund.

Source: Laws 1951, c. 256, § 6, p. 880; Laws 1986, LB 1114, § 13; Laws 1987, LB 302, § 8; Laws 1993, LB 757, § 35; Laws 1996, LB 693, § 8; Laws 1998, LB 1120, § 27; Laws 1999, LB 113, § 3; Laws 2000, LB 1253, § 44; Laws 2002, Second Spec. Sess., LB 9, § 4; Laws 2003, LB 408, § 3; Laws 2006, LB 1248, § 84; Laws 2007, LB296, § 702; Laws 2010, LB698, § 4.
Effective date March 4, 2010.

ARTICLE 10

**NEBRASKA ADVANTAGE TRANSFORMATIONAL
TOURISM AND REDEVELOPMENT ACT**

Section

- 77-1001. Act, how cited.
- 77-1002. Legislative findings and declarations.
- 77-1003. Definitions, where found.
- 77-1004. Tax terms, meaning.
- 77-1005. Approved cost, defined.
- 77-1006. Approved project, defined.
- 77-1007. Cultural development, defined.

§ 77-1001**REVENUE AND TAXATION**

Section

- 77-1008. Destination dining, defined.
77-1009. Entertainment destination center, defined.
77-1010. Entitlement period, defined.
77-1011. Full-service restaurant, defined.
77-1012. Historical redevelopment, defined.
77-1013. Investment, defined.
77-1014. Lodging, defined.
77-1015. Mixed-use project, defined.
77-1016. Nebraska crafts and products center, defined.
77-1017. Project, defined.
77-1018. Qualified business, defined.
77-1019. Qualified property, defined.
77-1020. Recreation facility, defined.
77-1021. Redevelopment project, defined.
77-1022. Related persons, defined.
77-1023. Structured parking, defined.
77-1024. Taxpayer, defined.
77-1025. Tourism attraction, defined.
77-1026. Year, defined.
77-1027. Year of application, defined.
77-1028. Election required; procedures applicable.
77-1029. Verification of work eligibility status.
77-1030. Application; form; contents; confidentiality; fee; municipality; duties; certification; written agreement; contents; modification.
77-1031. Incentives; tiers; project requirements; refund of taxes.
77-1032. Department of Revenue; duties; review of projects; recapture of incentives; Nebraska Advantage Transformational Tourism and Redevelopment Act Cash Fund; created; use; investment.
77-1033. Transfer of incentives; when; liability for recapture.
77-1034. Refunds; interest not allowable.
77-1035. Act; restrictions on use.

77-1001 Act, how cited.

Sections 77-1001 to 77-1035 shall be known and may be cited as the Nebraska Advantage Transformational Tourism and Redevelopment Act.

Source: Laws 2010, LB1018, § 1.

Effective date July 15, 2010.

77-1002 Legislative findings and declarations.

The Legislature hereby finds and declares that it is the policy of this state to utilize Nebraska's tax structure in order to encourage new businesses to relocate to Nebraska as a component of a program to develop new tourism attractions as well as to redevelop areas of municipalities which are suffering the effects of age. In addition, the policy of this state is to promote the creation and retention of new jobs in Nebraska and attract and retain Nebraska's best and brightest young people.

Source: Laws 2010, LB1018, § 2.

Effective date July 15, 2010.

77-1003 Definitions, where found.

For purposes of the Nebraska Advantage Transformational Tourism and Redevelopment Act, the definitions found in sections 77-1004 to 77-1027 shall be used.

Source: Laws 2010, LB1018, § 3.

Effective date July 15, 2010.

77-1004 Tax terms, meaning.

Any term shall have the same meaning as used in Chapter 77, article 27.

Source: Laws 2010, LB1018, § 4.
Effective date July 15, 2010.

77-1005 Approved cost, defined.

Approved cost means:

- (1) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, delivery persons, and material suppliers in connection with the acquisition, construction, equipping, and installation of a project;
- (2) The cost of acquiring real property or rights in real property and any cost incidental thereto;
- (3) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a project which is not paid by the vendor, supplier, delivery person, or contractor or otherwise provided;
- (4) The cost of architectural and engineering services, including, but not limited to, estimates, plans, specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a project;
- (5) The cost required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a project;
- (6) The cost required for the installation of utilities, including, but not limited to: Water; sewer; sewer treatment; gas; electricity; and communications, including offsite construction of facilities paid for by the project owner; and
- (7) All other costs comparable with those described in this section.

Source: Laws 2010, LB1018, § 5.
Effective date July 15, 2010.

77-1006 Approved project, defined.

Approved project means any project that is certified by a municipality under the Nebraska Advantage Transformational Tourism and Redevelopment Act.

Source: Laws 2010, LB1018, § 6.
Effective date July 15, 2010.

77-1007 Cultural development, defined.

Cultural development means a real estate development with a primary purpose of promoting cultural education or development, such as a museum or related visual arts centers, performing arts facility, or facilities housing, incubating, developing, or promoting art, music, theater, dance, zoology, botany, natural history, cultural history, or the sciences.

Source: Laws 2010, LB1018, § 7.
Effective date July 15, 2010.

77-1008 Destination dining, defined.

Destination dining means a real estate development primarily selling and serving prepared food and beverage to the public in a setting with sit-down dining. In addition, the development must offer a unique food or experience concept not found in this state within (1) the same metropolitan statistical area as determined by the United States Office of Management and Budget and (2) a fifty-mile radius of the development.

Source: Laws 2010, LB1018, § 8.
Effective date July 15, 2010.

77-1009 Entertainment destination center, defined.

Entertainment destination center means a facility containing a minimum of two hundred thousand square feet of gross leasable area adjacent or complementary to an existing tourism attraction, an approved tourism development project, or a convention facility, and which provides a variety of entertainment and leisure options that contain at least six full-service restaurants and at least three additional entertainment venues, including, but not limited to, live entertainment, multiplex theaters, large-format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure-time activities. Entertainment, food, and drink options and adjacent lodging shall occupy a minimum of sixty percent of the total gross area. Other retail stores shall occupy no more than forty percent of the total gross area.

Source: Laws 2010, LB1018, § 9.
Effective date July 15, 2010.

77-1010 Entitlement period, defined.

Entitlement period means the year during which the required increases in employment and investment were met or exceeded and each year thereafter until the end of the ninth year following the year of application.

Source: Laws 2010, LB1018, § 10.
Effective date July 15, 2010.

77-1011 Full-service restaurant, defined.

Full-service restaurant means any public place (1) which is kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served, (2) which has no sleeping accommodations, (3) which has adequate and sanitary kitchen and dining room equipment and capacity and a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests to consume on premise, and (4) which has wait staff and table service with an average per-table bill of at least fifteen dollars.

Source: Laws 2010, LB1018, § 11.
Effective date July 15, 2010.

77-1012 Historical redevelopment, defined.

Historical redevelopment means a real estate development project that redevelops a historic building, as listed on either the National Register of Historic Places or the Nebraska Historic Buildings Survey. The reuse of the historic

building can be any approved use, including retail for an entertainment destination center or a mixed-use project.

Source: Laws 2010, LB1018, § 12.
Effective date July 15, 2010.

77-1013 Investment, defined.

Investment means the value of qualified property incorporated into or used at the project. For qualified property owned by the taxpayer, the value shall be the original cost of the property. Investment does not include real property for a tourism development project.

Source: Laws 2010, LB1018, § 13.
Effective date July 15, 2010.

77-1014 Lodging, defined.

(1) Lodging means any lodging facility with the following attributes:

(a) The facility constitutes a portion of an approved project and represents less than fifty percent of the total approved cost of the tourism attraction project, or the facility is to be located on recreational property owned or leased by the state or the federal government and has received prior approval from the appropriate state or federal agency;

(b) The facility utilizes a historical redevelopment; or

(c) The facility involves the construction, reconstruction, restoration, rehabilitation, or upgrade of a full-service lodging facility having not less than two hundred fifty guestrooms, with reconstruction, restoration, rehabilitation, or upgrade costs exceeding the minimum. The hotel facilities or attached conference facility must also include a minimum of fifteen thousand square feet of net function space, including exhibit space, ballrooms, meeting rooms, or lecture halls.

(2) Lodging includes a lodging facility constructed as part of a development prior to the construction of retail development or a tourism attraction under the Nebraska Advantage Transformational Tourism and Redevelopment Act.

Source: Laws 2010, LB1018, § 14.
Effective date July 15, 2010.

77-1015 Mixed-use project, defined.

Mixed-use project means a facility containing a minimum of fifty thousand square feet. The project must include at least two vertical stories of usable or leasable space and contain a minimum of two uses, such as restaurant, office, retail, or residential, not including parking. Retail stores shall occupy no more than forty percent of the total gross usable area.

Source: Laws 2010, LB1018, § 15.
Effective date July 15, 2010.

77-1016 Nebraska crafts and products center, defined.

Nebraska crafts and products center means a real estate retail development primarily selling products created, grown, or assembled in Nebraska. Nebraska

crafts and products must constitute a minimum of fifty percent of the total sales volume of the development.

Source: Laws 2010, LB1018, § 16.
Effective date July 15, 2010.

77-1017 Project, defined.

Project means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten years, construction, and equipping of a tourism attraction or redevelopment project; the construction and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction or redevelopment project, including, but not limited to, surveys; installation of utilities which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and offsite construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that allows the approved company to attract persons.

Source: Laws 2010, LB1018, § 17.
Effective date July 15, 2010.

77-1018 Qualified business, defined.

(1) For a tourism development project, qualified business means any business engaged in:

- (a) Cultural development;
- (b) Historical redevelopment;
- (c) Recreation facilities;
- (d) Entertainment destination centers;
- (e) Lodging;
- (f) Destination dining;
- (g) Tourism attraction;
- (h) Nebraska crafts and products center; or
- (i) Any combination of the activities listed in this subsection.

(2) For a redevelopment project, qualified business means any business engaged in:

- (a) Cultural development;
- (b) Historical redevelopment;
- (c) Recreation facilities;
- (d) Entertainment destination centers;
- (e) Mixed-use projects;
- (f) Lodging;
- (g) Full-service restaurants or destination dining;
- (h) Residential development;
- (i) Retail development;
- (j) Structured parking;
- (k) Tourism attraction;

- (l) Nebraska crafts and products center; or
- (m) Any combination of the activities listed in this subsection.

Source: Laws 2010, LB1018, § 18.
Effective date July 15, 2010.

77-1019 Qualified property, defined.

(1) Qualified property means any tangible property of a type subject to depreciation, amortization, or other recovery under the Internal Revenue Code of 1986, as amended, or the components of such property, that will be located and used at the project.

(2) Qualified property does not include (a) aircraft, barges, motor vehicles, railroad rolling stock, or watercraft or (b) property that is rented by the taxpayer qualifying under the Nebraska Advantage Transformational Tourism and Redevelopment Act to another person.

Source: Laws 2010, LB1018, § 19.
Effective date July 15, 2010.

77-1020 Recreation facility, defined.

Recreation facility means any real estate project with a primary purpose of promoting and hosting sports or recreation activities, including sports facilities, golf courses, beaches, parks, water parks, amusement parks, and related support amenities.

Source: Laws 2010, LB1018, § 20.
Effective date July 15, 2010.

77-1021 Redevelopment project, defined.

Redevelopment project means a project proposed on a parcel or parcels previously developed with real property improvements. Current usage cannot include agriculture or livestock. The redevelopment project must be within the municipal limits of a municipality. The existing improvements must be more than ten years old or have been demolished prior to application.

Source: Laws 2010, LB1018, § 21.
Effective date July 15, 2010.

77-1022 Related persons, defined.

Related persons means any corporations, partnerships, limited liability companies, or joint ventures which are or would otherwise be members of the same unitary group, if incorporated, or any persons who are considered to be related persons under either section 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as amended.

Source: Laws 2010, LB1018, § 22.
Effective date July 15, 2010.

77-1023 Structured parking, defined.

Structured parking means a real estate development used primarily as a covered parking facility for automobiles or related personal vehicles. The

parking facility must have a minimum of two levels of parking above or below ground.

Source: Laws 2010, LB1018, § 23.
Effective date July 15, 2010.

77-1024 Taxpayer, defined.

(1) Taxpayer means any person subject to sales and use taxes under the Nebraska Revenue Act of 1967 and subject to withholding under section 77-2753 and any corporation, partnership, limited liability company, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture that is or would otherwise be a member of the same unitary group, if incorporated, that is subject to such sales and use taxes or such withholding.

(2) Taxpayer does not include a political subdivision or an organization that is exempt from income taxes under section 501(a) of the Internal Revenue Code of 1986, as amended, or any partnership, limited liability company, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture in which political subdivisions or organizations described in section 501(c) or (d) of the Internal Revenue Code of 1986, as amended, hold an ownership interest of ten percent or more.

Source: Laws 2010, LB1018, § 24.
Effective date July 15, 2010.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-1025 Tourism attraction, defined.

Tourism attraction means a place of interest where tourists visit, typically for the inherent or exhibited cultural value, historical significance, natural or built beauty, or amusement opportunities, such as historical places, monuments, zoos, aquaria, museums, art galleries, botanical gardens, skyscrapers, parks, forests, natural recreation areas, theme parks, ethnic enclaves, historic transportation, and landmarks.

Source: Laws 2010, LB1018, § 25.
Effective date July 15, 2010.

77-1026 Year, defined.

Year means the taxable year of the taxpayer.

Source: Laws 2010, LB1018, § 26.
Effective date July 15, 2010.

77-1027 Year of application, defined.

Year of application means the year that a completed application is filed under the Nebraska Advantage Transformational Tourism and Redevelopment Act.

Source: Laws 2010, LB1018, § 27.
Effective date July 15, 2010.

77-1028 Election required; procedures applicable.

The powers granted by the Nebraska Advantage Transformational Tourism and Redevelopment Act shall not be exercised unless and until the question of directing the proceeds of the local option sales tax as authorized under the act has been submitted at a primary, general, or special election held within the municipality and in which all registered voters are entitled to vote on such question. The officials of the municipality shall order the submission of the question by submitting a certified copy of the resolution proposing the tax to the election commissioner or county clerk. The question may include any terms and conditions set forth in the resolution, such as a termination date, and shall include the following language: Shall the municipality direct the local option sales tax collected within an area defined by the municipality to require redevelopment or as a tourism development project for the benefit of that area? If a majority of the votes cast upon the question are in favor, the governing body may so direct the tax. If a majority of those voting on the question are opposed, the governing body shall not so direct the tax. Once approved, the municipality may exercise the powers granted by the act for a period of ten years. Any election under this section shall be conducted in accordance with the procedures provided in the Election Act.

Source: Laws 2010, LB1018, § 28.
Effective date July 15, 2010.

Cross References

Election Act, see section 32-101.

77-1029 Verification of work eligibility status.

A municipality shall not approve or grant to any person any incentive under the Nebraska Advantage Transformational Tourism and Redevelopment Act unless the taxpayer provides evidence satisfactory to the municipality that the taxpayer electronically verified the work eligibility status of all newly hired employees employed in Nebraska.

Source: Laws 2010, LB1018, § 29.
Effective date July 15, 2010.

77-1030 Application; form; contents; confidentiality; fee; municipality; duties; certification; written agreement; contents; modification.

(1) In order to utilize the incentives set forth in the Nebraska Advantage Transformational Tourism and Redevelopment Act, the taxpayer shall file an application, on a form developed by an association of municipalities organized statewide, requesting an agreement.

(2) The application shall contain:

(a) A written statement describing the plan of employment and investment for a qualified business in this state;

(b) Sufficient documents, plans, and specifications as required by the municipality to support the plan and to define a project and a feasibility study. The plans shall include evidence that demonstrates that the project is feasible only with the incentives provided by the act;

(c) A nonrefundable application fee of two thousand five hundred dollars; and

(d) A timetable showing the expected local option sales tax refunds and what year they are expected to be claimed.

The application and all supporting information shall be confidential except for the name of the taxpayer, the location of the project, and the amounts of increased employment and investment.

(3) An application must be complete to establish the date of the application. An application shall be considered complete once it contains the items listed in subsection (2) of this section, regardless of the municipality's additional needs pertaining to information or clarification in order to approve or not approve the application.

(4) The municipality shall conduct an internal review of the feasibility study. If the municipality determines that the feasibility study demonstrates that the project can meet the requirements of the act, then the municipality shall conduct its own study with an independent third party, the cost of which shall be paid in full by the applicant. The cost of the study required under this subsection shall be in addition to the fee required under subsection (2) of this section. The purpose of the study is to verify or nullify the results of the feasibility study provided by the applicant. Additionally, the study shall examine the ability of the applicant to meet the requirements of the act. The study shall make a recommendation to the municipality on whether to proceed with the project or not.

(5) Once satisfied that the plan in the application defines a project consistent with the purposes stated in the Nebraska Advantage Transformational Tourism and Redevelopment Act in one or more qualified business activities within this state, that the taxpayer and the plan will qualify for incentives under the act, and that the required levels of employment and investment for the project will be met prior to the end of the fourth year after the year in which the application was submitted, the municipality shall certify the application. Certification shall require approval by a majority vote by the members of the governing body of the municipality.

(6) After certification, the taxpayer and the municipality shall enter into a written agreement. The taxpayer shall agree to complete the project, and the municipality shall designate the approved plan of the taxpayer as a project and, in consideration of the taxpayer's agreement, agree to allow the taxpayer to use the incentives contained in the Nebraska Advantage Transformational Tourism and Redevelopment Act. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement shall state:

(a) The levels of employment and investment required by the act for the project;

(b) The time period under the act in which the required levels must be met;

(c) The documentation the taxpayer will need to supply when claiming an incentive under the act;

(d) The date the application was filed; and

(e) A requirement that the company update the municipality annually on any changes in plans or circumstances which affect the timetable of local option sales tax refunds as set out in the application. If the company fails to comply with this requirement, the municipality may defer any pending local option sales tax refunds until the company does comply.

(7) A taxpayer and a municipality may enter into agreements for more than one project and may include more than one project in a single agreement. The

projects may be either sequential or concurrent. A project may involve the same location as another project. No new employment or new investment shall be included in more than one project for either the meeting of the employment or investment requirements or the creation of incentives. When projects overlap and the plans do not clearly specify, then the taxpayer shall specify in which project the employment or investment belongs.

(8) The taxpayer may request that an agreement be modified if the modification is consistent with the purposes of the act and does not require a change in the description of the project. Once satisfied that the modification to the agreement is consistent with the purposes stated in the act, the municipality and taxpayer may amend the agreement.

(9) The agreement shall include performance-based metrics to insure compliance with the act.

Source: Laws 2010, LB1018, § 30.
Effective date July 15, 2010.

77-1031 Incentives; tiers; project requirements; refund of taxes.

(1) Applicants may qualify for incentives under the Nebraska Advantage Transformational Tourism and Redevelopment Act as follows:

(a)(i) Tourism development project, investment in qualified property as required by this subdivision and a net employment increase to the state. Net employment from the project shall be determined at stabilization of the project, typically by the third year, and shall include any lost jobs from semi-competitive venues.

(ii) The investment requirement for a tourism development project is as follows:

(A) Tier 1, fifty million dollars exclusive of land for a project located in a municipality within a county in which the net taxable sales in the preceding calendar year were at least nine hundred million dollars or a municipality within a county bordered by two counties in which the total net taxable sales in the preceding calendar year were at least nine hundred million dollars;

(B) Tier 2, thirty million dollars exclusive of land for a project in a municipality within a county in which the net taxable sales in the preceding calendar year were at least two hundred million dollars but less than nine hundred million dollars;

(C) Tier 3, twenty million dollars exclusive of land for a project in a municipality within a county in which the net taxable sales in the preceding calendar year were at least one hundred million dollars but less than two hundred million dollars; and

(D) Tier 4, ten million dollars exclusive of land for a project in a municipality within a county in which the net taxable sales in the preceding calendar year were less than one hundred million dollars.

(iii) All complete project applications shall be considered by the municipality and certified if the project and taxpayer qualify for incentives. Agreements may be executed with regard to completed project applications. A tourism development project shall be unique and not duplicate any other qualified business in this state within (A) the same metropolitan statistical area as determined by the United States Office of Management and Budget and (B) a fifty-mile radius of the project; and

(b) Redevelopment project, investment in qualified property of at least ten million dollars and a net employment increase to the state, except that for a redevelopment project in a municipality within a county in which the net taxable sales in the preceding calendar year were less than one hundred million dollars, the requirements shall be investment in qualified property of at least seven million five hundred thousand dollars and a net employment increase to the state. Net employment from the project shall be determined by comparing the impact of the project to the impact of not having the project. Agreements may be executed with regard to completed project applications.

(2) In addition to the requirements of subsection (1) of this section:

(a) The project shall be open at least one hundred fifty days each calendar year;

(b) The applicant shall demonstrate that the project is not feasible but for the incentives provided under the act; and

(c) The applicant shall demonstrate that the project has conditional financing prior to completion of the application and final approval of financing before final approval of the application by the municipality.

(3) When the taxpayer has met the requirements contained in the agreement for the project, the taxpayer shall be entitled to the following incentives:

(a) A refund of local option sales tax up to a rate of one and one-half percent from the date of the application through the meeting of the requirements contained in the agreement for the project for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by the owner of the improvement to real estate that is incorporated into real estate as a part of a project; and

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate;

(b) Except as provided in subdivision (c) of this subsection for redevelopment projects, a refund of local option sales tax up to a rate of one and one-half percent paid on all types of purchases on which the local option sales tax is levied within the boundaries of the project during each year of the entitlement period in which the taxpayer meets the requirements contained in the agreement for the project; and

(c) For a redevelopment project, if the taxpayer has been collecting local option sales tax for more than twenty-four months prior to completion of the project, a refund of the increase in local option sales tax revenue collected by the taxpayer within the boundaries of the project each calendar year after the completion of the project.

Source: Laws 2010, LB1018, § 31.

Effective date July 15, 2010.

77-1032 Department of Revenue; duties; review of projects; recapture of incentives; Nebraska Advantage Transformational Tourism and Redevelopment Act Cash Fund; created; use; investment.

(1) The Department of Revenue shall contract with an independent consultant to review each project under the Nebraska Advantage Transformational Tourism and Redevelopment Act every fifth year following July 15, 2010. The review shall be paid for by each project owner. The review shall examine patronage from outside the metropolitan statistical area as defined by the United States Office of Management and Budget in which the project is located, sales data, and employment records to determine the project owner's continued compliance with the provisions of the act. The project owner shall comply with the provisions of this subsection or be subject to the recapture provisions of this section. If it is determined that the project owner was not in compliance, the municipality may recapture all or a portion of the incentives provided under the act.

(2) If the taxpayer fails to meet the requirements contained in the agreement for the project either by the end of the fourth year after the end of the year the application was submitted or for the entire entitlement period, all or a portion of the incentives provided under the act shall be recaptured on behalf of the municipality.

(3) Notwithstanding any other limitations contained in the laws of this state, collection of any taxes deemed to be underpayments by this section shall be allowed for a period of four years after the end of the entitlement period.

(4) Any amounts due under this section shall be recaptured notwithstanding other allowable incentives and shall not be subsequently refunded under any provision of the act unless the recapture was in error.

(5) The recapture required by this section shall not occur if (a) the failure to maintain the required levels of employment or investment was caused by an act of God or national emergency or (b) the cost of recapture would exceed the amount to be recaptured in the opinion of the municipality.

(6) The Nebraska Advantage Transformational Tourism and Redevelopment Act Cash Fund is created. The fund shall be used by the department to carry out its duties under 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 2010, LB1018, § 32.

Effective date July 15, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

77-1033 Transfer of incentives; when; liability for recapture.

(1) The incentives allowed under the Nebraska Advantage Transformational Tourism and Redevelopment Act may be transferred when a project covered by an agreement is transferred in its entirety by sale or lease to another taxpayer or in an acquisition of assets qualifying under section 381 of the Internal Revenue Code of 1986, as amended.

(2) The acquiring taxpayer, as of the date of notification of the municipality of the completed transfer, shall be entitled to any future incentives allowable under the act.

(3) The acquiring taxpayer shall be liable for any recapture that becomes due after the date of the transfer for the repayment of any incentives received either before or after the transfer.

Source: Laws 2010, LB1018, § 33.
Effective date July 15, 2010.

77-1034 Refunds; interest not allowable.

Interest shall not be allowable on any refunds paid because of incentives earned under the Nebraska Advantage Transformational Tourism and Redevelopment Act.

Source: Laws 2010, LB1018, § 34.
Effective date July 15, 2010.

77-1035 Act; restrictions on use.

The Nebraska Advantage Transformational Tourism and Redevelopment Act may not be used for the construction or financing of a stadium or for support facilities for a stadium.

Source: Laws 2010, LB1018, § 35.
Effective date July 15, 2010.

ARTICLE 13

ASSESSMENT OF PROPERTY

Section

- 77-1342. Department of Revenue Property Assessment Division Cash Fund; created; use; investment.
77-1347. Agricultural or horticultural lands; special valuation; disqualification.
77-1363. Agricultural and horticultural land; classes and subclasses.

77-1342 Department of Revenue Property Assessment Division Cash Fund; created; use; investment.

There is hereby created a fund to be known as the Department of Revenue Property Assessment Division Cash Fund to which shall be credited all money received by the Department of Revenue for services performed for county and multicounty assessment districts, for charges for publications, manuals, and lists, as an assessor's examination fee authorized by section 77-421, and under the provisions of sections 60-3,202, 77-684, 77-1250, and 77-1340. The fund shall be used to carry out any duties and responsibilities of the department, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. The county or multicounty assessment district shall be billed by the department for services rendered. Reimbursements to the department shall be credited to the Department of Revenue Property Assessment Division Cash Fund, and expenditures therefrom shall be made only when such funds are available. The department shall only bill for the actual amount expended in performing the service.

The fund shall not, at the close of each year, be lapsed to the General Fund. Any money in the Department of Revenue Property Assessment 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 1969, c. 622, § 18, p. 2519; Laws 1971, LB 158, § 1; Laws 1971, LB 53, § 8; Laws 1973, LB 132, § 4; Laws 1985, LB 273, § 38; Laws 1989, Spec. Sess., LB 7, § 8; Laws 1992, LB 1063, § 123; Laws 1992, Second Spec. Sess., LB 1, § 96; Laws 1994, LB 1066, § 82; Laws 1995, LB 490, § 134; Laws 1997, LB 270, § 75; Laws 1997, LB 271, § 50; Laws 1999, LB 36, § 32; Laws 2001, LB 170, § 8; Laws 2002, LB 1310, § 9; Laws 2003, LB 563, § 42; Laws 2005, LB 274, § 272; Laws 2007, LB334, § 72; Laws 2009, LB121, § 7; Laws 2009, First Spec. Sess., LB3, § 55. Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

77-1347 Agricultural or horticultural lands; special valuation; disqualification.

Upon approval of an application, the county assessor shall value the land as provided in section 77-1344 until the land becomes disqualified for such valuation by:

- (1) Written notification by the applicant or his or her successor in interest to the county assessor to remove such special valuation;
- (2) Except as provided in subsection (2) of section 77-1344, inclusion of the land within the corporate boundaries of any sanitary and improvement district, city, or village; or
- (3) The land no longer qualifying as agricultural or horticultural land.

Source: Laws 1974, LB 359, § 5; Laws 1983, LB 26, § 4; Laws 1985, LB 271, § 19; Laws 1989, LB 361, § 12; Laws 2000, LB 968, § 53; Laws 2001, LB 170, § 11; Laws 2002, LB 994, § 18; Laws 2005, LB 263, § 12; Laws 2006, LB 808, § 31; Laws 2010, LB806, § 1. Effective date July 15, 2010.

77-1363 Agricultural and horticultural land; classes and subclasses.

Agricultural land and horticultural land shall be divided into classes and subclasses of real property under section 77-103.01, including, but not limited to, irrigated cropland, dryland cropland, grassland, wasteland, nurseries, feedlots, and orchards, so that the categories reflect uses appropriate for the valuation of such land according to law. Classes shall be inventoried by subclasses of real property based on soil classification standards developed by the Natural Resources Conservation Service of the United States Department of Agriculture as converted into land capability groups by the Property Tax Administrator. County assessors shall utilize soil surveys from the Natural Resources Conservation Service of the United States Department of Agriculture as directed by the Property Tax Administrator. Nothing in this section shall be construed to limit the classes and subclasses of real property that may be used

by county assessors or the Tax Equalization and Review Commission to achieve more uniform and proportionate valuations.

Source: Laws 1985, LB 271, § 8; Laws 1988, LB 1207, § 5; Laws 1989, LB 361, § 17; Laws 1991, LB 320, § 9; Laws 1994, LB 902, § 19; Laws 1995, LB 490, § 139; Laws 1997, LB 270, § 81; Laws 1999, LB 403, § 7; Laws 2001, LB 170, § 15; Laws 2004, LB 973, § 30; Laws 2006, LB 808, § 36; Laws 2006, LB 1115, § 31; Laws 2010, LB877, § 3.

Effective date April 14, 2010.

ARTICLE 15

EQUALIZATION BY COUNTY BOARD

Section

77-1502. Board; protests; report; notification.

77-1507. Board; duties; addition of omitted property; clerical errors; protest; procedure.

77-1502 Board; protests; report; notification.

(1) The county board of equalization shall meet for the purpose of reviewing and deciding written protests filed pursuant to this section beginning on or after June 1 and ending on or before July 25 of each year. Protests regarding real property shall be signed and filed after the county assessor's completion of the real property assessment roll required by section 77-1315 and on or before June 30. For protests of real property, a protest shall be filed for each parcel. Protests regarding taxable tangible personal property returns filed pursuant to section 77-1229 from January 1 through May 1 shall be signed and filed on or before June 30. The county board in a county with a population of more than one hundred thousand inhabitants based upon the most recent federal decennial census may adopt a resolution to extend the deadline for hearing protests from July 25 to August 10. The resolution must be adopted before July 25 and it will affect the time for hearing protests for that year only. By adopting such resolution, such county waives any right to petition the Tax Equalization and Review Commission for adjustment of a class or subclass of real property under section 77-1504.01 for that year.

(2) Each protest shall be signed and filed with the county clerk of the county where the property is assessed. The protest shall contain or have attached a statement of the reason or reasons why the requested change should be made and a description of the property to which the protest applies. If the property is real property, a description adequate to identify each parcel shall be provided. If the property is tangible personal property, a physical description of the property under protest shall be provided. If the protest does not contain or have attached the statement of the reason or reasons for the protest or the applicable description of the property, the protest shall be dismissed by the county board of equalization.

(3) No hearing of the county board of equalization on a protest filed under this section shall be held before a single commissioner or supervisor.

(4) The county clerk or county assessor shall prepare a separate report on each protest. The report shall include (a) a description adequate to identify the real property or a physical description of the tangible personal property to which the protest applies, (b) any recommendation of the county assessor for

action on the protest, (c) if a referee is used, the recommendation of the referee, (d) the date the county board of equalization heard the protest, (e) the decision made by the county board of equalization, (f) the date of the decision, and (g) the date notice of the decision was mailed to the protester. The report shall contain, or have attached to it, a statement, signed by the chairperson of the county board of equalization, describing the basis upon which the board's decision was made. The report shall have attached to it a copy of that portion of the property record file which substantiates calculation of the protested value unless the county assessor certifies to the county board of equalization that a copy is maintained in either electronic or paper form in his or her office. One copy of the report, if prepared by the county clerk, shall be given to the county assessor on or before August 2. The county assessor shall have no authority to make a change in the assessment rolls until there is in his or her possession a report which has been completed in the manner specified in this section. If the county assessor deems a report submitted by the county clerk incomplete, the county assessor shall return the same to the county clerk for proper preparation.

(5) On or before August 2, or on or before August 18 in a county that has adopted a resolution to extend the deadline for hearing protests, the county clerk shall mail to the protester written notice of the board's decision. The notice shall contain a statement advising the protester that a report of the board's decision is available at the county clerk's or county assessor's office, whichever is appropriate, and that a copy of the report may be used to complete an appeal to the Tax Equalization and Review Commission.

Source: Laws 1903, c. 73, § 121, p. 428; Laws 1905, c. 112, § 1, p. 515; Laws 1909, c. 112, § 1, p. 444; Laws 1911, c. 104, § 14, p. 379; R.S.1913, § 6437; C.S.1922, § 5972; C.S.1929, § 77-1702; R.S. 1943, § 77-1502; Laws 1947, c. 251, § 36, p. 826; Laws 1949, c. 233, § 1, p. 644; Laws 1953, c. 274, § 1, p. 899; Laws 1959, c. 355, § 25, p. 1267; Laws 1959, c. 371, § 1, p. 1307; Laws 1961, c. 377, § 6, p. 1158; Laws 1961, c. 384, § 1, p. 1177; Laws 1972, LB 1342, § 1; Laws 1975, LB 312, § 1; Laws 1984, LB 660, § 2; Laws 1986, LB 174, § 1; Laws 1986, LB 817, § 13; Laws 1987, LB 508, § 44; Laws 1992, LB 1063, § 124; Laws 1992, Second Spec. Sess., LB 1, § 97; Laws 1994, LB 902, § 21; Laws 1995, LB 452, § 23; Laws 1995, LB 490, § 147; Laws 1997, LB 270, § 86; Laws 2003, LB 292, § 12; Laws 2004, LB 973, § 33; Laws 2005, LB 283, § 2; Laws 2005, LB 299, § 1; Laws 2006, LB 808, § 37; Laws 2008, LB965, § 15; Laws 2009, LB166, § 15; Laws 2010, LB877, § 4.

Effective date April 14, 2010.

77-1507 Board; duties; addition of omitted property; clerical errors; protest; procedure.

(1) The county board of equalization may meet at any time for the purpose of assessing any omitted real property that was not reported to the county assessor pursuant to section 77-1318.01 and for correction of clerical errors as defined in section 77-128 that result in a change of assessed value. The county board of equalization shall give notice of the assessed value of the real property to the record owner or agent at his or her last-known address. For real property

which has been omitted in the current year, the county board of equalization shall not send notice pursuant to this section on or before June 1.

Protests of the assessed value proposed for omitted real property pursuant to this section or a correction for clerical errors shall be filed with the county board of equalization within thirty days after the mailing of the notice. All provisions of section 77-1502 except dates for filing a protest, the period for hearing protests, and the date for mailing notice of the county board of equalization's decision are applicable to any protest filed pursuant to this section.

(2) The county clerk shall, within seven days after the board's final decision, send:

(a) For protested action, a notification to the protester of the board's final action advising the protester that a report of the board's final decision is available at the county clerk's or county assessor's office, whichever is appropriate, and that a copy of the report may be used to complete an appeal to the Tax Equalization and Review Commission; and

(b) For protested and nonprotested action, a report to the Property Tax Administrator which shall state a description adequate to identify the property, the reason such property was not assessed pursuant to section 77-1301, and a statement of the board's justification for its action. A copy of the report shall be available for public inspection in the office of the county clerk.

(3) The action of the county board of equalization upon a protest filed pursuant to this section may be appealed to the Tax Equalization and Review Commission within thirty days after the board's final decision.

(4) Improvements to real property which were properly reported to the county assessor pursuant to section 77-1318.01 for the current year and were not added to the assessment roll by the county assessor on or before March 19 shall only be added to the assessment roll by the county board of equalization from June 1 through July 25. In counties that have adopted a resolution to extend the deadline for hearing protests under section 77-1502, the deadline of July 25 shall be extended to August 10.

Source: Laws 1903, c. 73, § 121, p. 428; Laws 1905, c. 112, § 1, p. 515; Laws 1909, c. 112, § 1, p. 444; Laws 1911, c. 104, § 14, p. 379; R.S.1913, § 6437; C.S.1922, § 5972; C.S.1929, § 77-1702; R.S. 1943, § 77-1507; Laws 1987, LB 508, § 48; Laws 1995, LB 490, § 150; Laws 1997, LB 270, § 89; Laws 1999, LB 194, § 27; Laws 2005, LB 263, § 14; Laws 2005, LB 283, § 5; Laws 2006, LB 808, § 39; Laws 2010, LB877, § 5.

Effective date April 14, 2010.

ARTICLE 17

COLLECTION OF TAXES

Section

77-1716. Collection of taxes; notice to taxpayer.

77-1736.06. Property tax refund; procedure.

77-1784. Electronic filings; electronic fund transfers; required; when; penalty; disclosure to taxpayer.

77-1716 Collection of taxes; notice to taxpayer.

The county treasurer shall, at any time prior to January 1 of each year, send a notice to each person on the personal tax roll and each person owing real estate

taxes on mobile homes, cabin trailers, manufactured homes, or similar property assessed and taxed as improvements to leased land, advising such taxpayer of the amount of such taxes owed for that year.

Source: Laws 1903, c. 73, § 154, p. 443; R.S.1913, § 6483; C.S.1922, § 6010; C.S.1929, § 77-1915; Laws 1933, c. 136, § 3, p. 518; Laws 1937, c. 167, § 22, p. 654; Laws 1939, c. 98, § 22, p. 441; Laws 1941, c. 157, § 22, p. 625; C.S.Supp.,1941, § 77-1915; Laws 1943, c. 181, § 1, p. 627; R.S.1943, § 77-1716; Laws 1995, LB 452, § 31; Laws 1995, LB 490, § 165; Laws 1998, LB 306, § 30; Laws 2000, LB 968, § 64; Laws 2010, LB873, § 1.
Effective date July 15, 2010.

77-1736.06 Property tax refund; procedure.

The following procedure shall apply when making a property tax refund:

(1) Within thirty days of the entry of a final nonappealable order, an unprotested determination of a county assessor, an unappealed decision of a county board of equalization, or other final action requiring a refund of real or personal property taxes paid or, for property valued by the state, within thirty days of a recertification of value by the Property Tax Administrator pursuant to section 77-1775 or 77-1775.01, the county assessor shall determine the amount of refund due the person entitled to the refund, certify that amount to the county treasurer, and send a copy of such certification to the person entitled to the refund. Within thirty days from the date the county assessor certifies the amount of the refund, the county treasurer shall notify each political subdivision, including any school district receiving a distribution pursuant to section 79-1073 or 79-1073.01, of its respective share of the refund, except that for any political subdivision whose share of the refund is two hundred dollars or less, the county board may waive this notice requirement. Notification shall be by first-class mail, postage prepaid, to the last-known address of record of the political subdivision. The county treasurer shall pay the refund from funds in his or her possession belonging to any political subdivision, including any school district receiving a distribution pursuant to section 79-1073 or 79-1073.01, which received any part of the tax or penalty being refunded. If sufficient funds are not available or the political subdivision, within thirty days of the mailing of the notice by the county treasurer if applicable, certifies to the county treasurer that a hardship would result and create a serious interference with its governmental functions if the refund of the tax or penalty is paid, the county treasurer shall register the refund or portion thereof which remains unpaid as a claim against such political subdivision and shall issue the person entitled to the refund a receipt for the registration of the claim. The certification by a political subdivision declaring a hardship shall be binding upon the county treasurer;

(2) The refund of a tax or penalty or the receipt for the registration of a claim made or issued pursuant to this section shall be satisfied in full as soon as practicable and in no event later than five years from the date the final order or other action approving a refund is entered. The governing body of the political subdivision shall make provisions in its budget for the amount of any refund or claim to be satisfied pursuant to this section. If a receipt for the registration of a claim is given:

(a) Such receipt shall be applied to satisfy any tax levied or assessed by that political subdivision next falling due from the person holding the receipt after the sixth next succeeding levy is made on behalf of the political subdivision following the final order or other action approving the refund; and

(b) To the extent the amount of such receipt exceeds the amount of such tax liability, the unsatisfied balance of the receipt shall be paid and satisfied within the five-year period prescribed in this subdivision from a combination of a credit against taxes anticipated to be due to the political subdivision during such period and cash payment from any funds expected to accrue to the political subdivision pursuant to a written plan to be filed by the political subdivision with the county treasurer no later than thirty days after the claim against the political subdivision is first reduced by operation of a credit against taxes due to such political subdivision.

If a political subdivision fails to fully satisfy the refund or claim prior to the sixth next succeeding levy following the entry of a final nonappealable order or other action approving a refund, interest shall accrue on the unpaid balance commencing on the sixth next succeeding levy following such entry or action at the rate set forth in section 45-103;

(3) The county treasurer shall mail the refund or the receipt by first-class mail, postage prepaid, to the last-known address of the person entitled thereto. Multiple refunds to the same person may be combined into one refund or credit. If a refund is not claimed by June 1 of the year following the year of mailing, the refund shall be canceled and the resultant amount credited to the various funds originally charged;

(4) When the refund involves property valued by the state, the Tax Commissioner shall be authorized to negotiate a settlement of the amount of the refund or claim due pursuant to this section on behalf of the political subdivision from which such refund or claim is due. Any political subdivision which does not agree with the settlement terms as negotiated may reject such terms, and the refund or claim due from the political subdivision then shall be satisfied as set forth in this section as if no such negotiation had occurred;

(5) In the event that the Legislature appropriates state funds to be disbursed for the purposes of satisfying all or any portion of any refund or claim, the Tax Commissioner shall order the county treasurer to disburse such refund amounts directly to the persons entitled to the refund in partial or total satisfaction of such persons' claims. The county treasurer shall disburse such amounts within forty-five days after receipt thereof; and

(6) If all or any portion of the refund is reduced by way of settlement or forgiveness by the person entitled to the refund, the proportionate amount of the refund that was paid by an appropriation of state funds shall be reimbursed by the county treasurer to the State Treasurer within forty-five days after receipt of the settlement agreement or receipt of the forgiven refund. The amount so reimbursed shall be credited to the General Fund.

Source: Laws 1991, LB 829, § 15; Laws 1992, LB 1063, § 138; Laws 1992, Second Spec. Sess., LB 1, § 111; Laws 1993, LB 555, § 1; Laws 1995, LB 490, § 167; Laws 2007, LB334, § 82; Laws 2008, LB965, § 18; Laws 2010, LB1070, § 3.
Effective date April 6, 2010.

77-1784 Electronic filings; electronic fund transfers; required; when; penalty; disclosure to taxpayer.

(1) The Tax Commissioner may accept electronic filing of applications, returns, and any other document required to be filed with the Tax Commissioner.

(2) The Tax Commissioner may use electronic fund transfers to collect any taxes, fees, or other amounts required to be paid to or collected by the Tax Commissioner or to pay any refunds of such amounts.

(3) The Tax Commissioner may adopt rules and regulations to establish the criteria for acceptability of filing documents and making payments electronically. The criteria may include requirements for electronic signatures, the type of tax for which electronic filings or payments will be accepted, the method of transfer, or minimum amounts which may be transferred. The Tax Commissioner may refuse to accept any electronic filings or payments that do not meet the criteria established.

(4) The Tax Commissioner may require the use of electronic fund transfers for any taxes, fees, or amounts required to be paid to or collected by the Tax Commissioner for any taxpayer who made payments exceeding five thousand dollars for a tax program in any prior year for that tax program. The requirement to make electronic fund transfers may be phased in as deemed necessary by the Tax Commissioner. Notice of the requirement to make electronic fund transfers shall be provided at least three months prior to the date the first electronic payment is required to be made.

(5) Except for individual income tax payments required under section 77-2715 and estimated payments for individuals under section 77-2769, any person who fails to make a required payment by electronic fund transfer shall be subject to a penalty of one hundred dollars for each required payment that was not made by electronic fund transfer. The penalty provided by this section shall be in addition to all other penalties and applies even if payment by some other method is timely made. The Tax Commissioner may waive the penalty provided in this section upon a showing of good cause.

(6) The use of electronic filing of documents and electronic fund transfers shall not change the rights of any party from the rights such party would have if a different method of filing or payment were used. Until criteria for electronic signatures are adopted under subsection (3) of this section, the document produced during the electronic filing of a taxpayer's information with the state shall be prima facie evidence for all purposes that the taxpayer's signature accompanied the taxpayer's information in the electronic transmission.

(7) For tax returns due on or after January 1, 2010, the Tax Commissioner may require any person that aids, procures, advises, or assists in the preparation of and files any tax return on behalf of any taxpayer for profit to file an electronic return if the person filed twenty-five or more tax returns in the prior calendar year. The requirement to require electronic filing may be phased in as deemed necessary by the Tax Commissioner.

Any person that files a tax return on behalf of a taxpayer must disclose in writing to the taxpayer that the return will be filed in an electronic format and in accordance with rules and regulations prescribed by the Tax Commissioner.

(8) Any person who fails to file an electronic return as required under subsection (7) of this section shall be subject to a penalty of one hundred dollars

for each return that was not properly filed in addition to other penalties provided by law. The Tax Commissioner may waive the penalty provided in this section upon a showing of good cause.

(9) The Legislature hereby finds and determines that the development of a comprehensive electronic filing and payment system for all state tax programs and fees administered by the Department of Revenue is of critical importance to the State of Nebraska. It is the intent of the Legislature that the department implement a mandatory electronic filing system for all state tax programs and fees administered by the department as deemed practicable and necessary for the proper administration of the Nebraska Revenue Act of 1967. It is the intent of the Legislature that the department require the use of electronic fund transfers for any taxes, fees, or amounts required to be paid to or collected by the department as deemed practicable and necessary for the proper administration of the Nebraska Revenue Act of 1967.

Source: Laws 1987, LB 523, § 42; Laws 1995, LB 134, § 1; Laws 2000, LB 1251, § 1; Laws 2005, LB 216, § 2; Laws 2009, LB165, § 3; Laws 2010, LB879, § 7.

Operative date January 1, 2011.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

ARTICLE 19

**COLLECTION OF DELINQUENT REAL ESTATE
TAXES THROUGH COURT PROCEEDINGS**

Section

77-1912. Foreclosure proceedings; sheriff's sale; political subdivision as purchaser; postponement of sale; notice.

77-1912 Foreclosure proceedings; sheriff's sale; political subdivision as purchaser; postponement of sale; notice.

(1) The sheriff shall sell the real property in the same manner provided by law for a sale on execution and shall at once pay the proceeds thereof to the clerk of the district court. Any governmental subdivision of the state, municipal corporation, or drainage or irrigation district to which any part of the taxes included in the decree of foreclosure is due may purchase any real property sold at sheriff's sale. The provisions of the law for the protection of the purchasers at tax sales shall apply to purchasers at foreclosure sales provided for in this section. The sheriff or officer conducting the sale shall not be entitled to any commission on the money received and paid out on foreclosure sales provided for herein.

(2) The sheriff or officer conducting the sale may, for any cause he or she deems expedient, postpone the sale of all or any portion of the real property from time to time until it is completed, and in every such case, notice of postponement shall be given by public declaration thereof by the sheriff or officer at the time and place last appointed for the sale. The public declaration of the notice of postponement shall include the new date, time, and place of sale. No other notice of the postponed sale need be given unless the sale is postponed for longer than forty-five days beyond the day designated in the

notice of sale, in which event notice shall be given in the same manner as the original notice of sale is required to be given.

Source: Laws 1943, c. 176, § 12, p. 617; R.S.1943, § 77-1912; Laws 1992, LB 1063, § 174; Laws 1992, Second Spec. Sess., LB 1, § 147; Laws 2010, LB732, § 5.
Effective date July 15, 2010.

ARTICLE 27

SALES AND INCOME TAX

(a) ACT, RATES, AND DEFINITIONS

Section

77-2701.38. Streamlined sales and use tax agreement, defined.

(b) SALES AND USE TAX

77-2704.57. Personal property used in C-BED project or community-based energy development project; exemption; Tax Commissioner; powers and duties; Department of Revenue; recover tax not paid.

77-2711. Sales and use tax; Tax Commissioner; enforcement; records; retain; reports; wrongful disclosures; exceptions; information provided to municipality; penalty; waiver; streamlined sales and use tax agreement; confidentiality rights.

77-2712.03. Streamlined sales and use tax agreement; ratified; governing board; members.

(c) INCOME TAX

77-2716. Income tax; adjustments.

77-2734.01. Small business corporation shareholders; limited liability company members; determination of income; credit; Tax Commissioner; powers; return; when required.

77-2756. Income tax; employer or payor; withholding for tax.

77-2769.02. Repealed. Laws 2010, LB 879, § 29.

77-2789. Income tax; failure to file return; penalty.

77-2790. Income tax; deficiency; interest; failure to report or file; prohibited acts; penalties.

77-2794. Income tax; overpayment; interest.

77-2796. Income tax; Tax Commissioner; claim for refund; denial; notice.

77-27,100. Income tax; claim for refund; limitation.

77-27,119. Income tax; Tax Commissioner; administer and enforce sections; prescribe forms; content; examination of return or report; uniform school district numbering system; audit by Auditor of Public Accounts or Legislative Auditor; wrongful disclosure; exception; penalty.

(e) GOVERNMENTAL SUBDIVISION AID

77-27,137.02. Aid to natural resources districts; distribution; manner.

(j) SETOFF FOR CHILD, SPOUSAL, AND MEDICAL SUPPORT DEBTS

77-27,165. Notice of claim to debtor; contents.

(a) ACT, RATES, AND DEFINITIONS

77-2701.38 Streamlined sales and use tax agreement, defined.

Streamlined sales and use tax agreement means the streamlined sales and use tax agreement approved by the implementing states on November 12, 2002, including amendments ratified by the Legislature pursuant to section 77-2712.03.

Source: Laws 2003, LB 282, § 42; Laws 2010, LB879, § 8.
Operative date October 1, 2010.

(b) SALES AND USE TAX

77-2704.57 Personal property used in C-BED project or community-based energy development project; exemption; Tax Commissioner; powers and duties; Department of Revenue; recover tax not paid.

(1) Sales and use tax shall not be imposed on the gross receipts from the sale, lease, or rental of personal property for use in a C-BED project or community-based energy development project. This exemption shall be conditioned upon filing requirements for the exemption as imposed by the Tax Commissioner. The requirements imposed by the Tax Commissioner shall be related to ensuring that the property purchased qualifies for the exemption. The Tax Commissioner may require the filing of the documents showing compliance with section 70-1907, the organization of the project, the distribution of the payments, the power purchase agreements, the project pro forma, articles of incorporation, operating agreements, and any amendments or changes to these documents during the life of the power purchase agreement.

(2) The Tax Commissioner shall notify an electric utility that has a power purchase agreement with a C-BED project if there is a change in project ownership which makes the project no longer eligible as a C-BED project. Purchase of a C-BED project by an electric utility prior to the end of the power purchase agreement disqualifies the C-BED project for the exemption, but the Department of Revenue may not recover the amount of the sales and use tax that was not paid by the project prior to the purchase.

(3) For purposes of this section:

(a) C-BED project or community-based energy development project means a new wind energy project that:

(i) Has an ownership structure as follows:

(A) For a C-BED project that consists of more than two turbines, has one or more qualified owners with no single individual qualified owner owning directly or indirectly more than fifteen percent of the project and with at least thirty-three percent of the gross power purchase agreement payments flowing to the qualified owner or owners or local community; or

(B) For a C-BED project that consists of one or two turbines, has one or more qualified owners with at least thirty-three percent of the gross power purchase agreement payments flowing to a qualified owner or owners or local community; and

(ii) Has a resolution of support adopted:

(A) By the county board of each county in which the C-BED project is to be located; or

(B) By the tribal council for a C-BED project located within the boundaries of an Indian reservation;

(b) Debt financing payments means principal, interest, and other typical financing costs paid by the C-BED project company to one or more third-party financial institutions for the financing or refinancing of the construction of the C-BED project. Debt financing payments does not include the repayment of principal at the time of a refinancing;

(c) New wind energy project means any tangible personal property incorporated into the manufacture, installation, construction, repair, or replacement of a device, such as a wind charger, windmill, or wind turbine, which is used to

convert wind energy to electrical energy or for the transmission of electricity to the purchaser; and

(d) Qualified owner means:

(i) A Nebraska resident;

(ii) A limited liability company that is organized under the Limited Liability Company Act or the Nebraska Uniform Limited Liability Company Act and that is entirely made up of members who are Nebraska residents;

(iii) A Nebraska nonprofit corporation organized under the Nebraska Nonprofit Corporation Act;

(iv) An electric supplier as defined in section 70-1001.01, except that ownership in a single C-BED project is limited to no more than:

(A) Fifteen percent either directly or indirectly by a single electric supplier; and

(B) A combined total of twenty-five percent ownership either directly or indirectly by multiple electric suppliers; or

(v) A tribal council.

(4) Gross power purchase agreement payments are the total amount of payments during the life of the agreement. For power purchase agreements entered into on or before December 31, 2011, if the qualified owners have a combined total of at least thirty-three percent of the equity ownership in the C-BED project, gross power purchase agreement payments shall be reduced by the debt financing payments. For the purpose of determining eligibility of the project, an estimate of the payments and their recipients shall be used.

(5) Payments to the local community include, but are not limited to, lease payments to property owners on whose property a turbine is located, wind energy easement payments, and real and personal property tax receipts from the C-BED project.

(6) The Department of Revenue may examine the actual payments and the distribution of the payments to determine if the projected distributions were met. If the payment distributions to qualified owners do not meet the requirements of this section, the department may recover the amount of the sales or use tax that was not paid by the project at any time up until the end of three years after the end of the power purchase agreement.

(7) At any time prior to the end of the power purchase agreements, the project may voluntarily surrender the exemption granted by the Tax Commissioner and pay the amount of sales and use tax that would otherwise have been due.

(8) The amount of the tax due under either subsection (6) or (7) of this section shall be increased by interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date the tax would have been due if no exemption was granted until the date paid.

Source: Laws 2007, LB367, § 11; Laws 2008, LB916, § 21; Laws 2009, LB561, § 5; Laws 2010, LB888, § 103.
Operative date January 1, 2011.

Cross References

Limited Liability Company Act, see section 21-2601.

Nebraska Nonprofit Corporation Act, see section 21-1901.

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

77-2711 Sales and use tax; Tax Commissioner; enforcement; records; retain; reports; wrongful disclosures; exceptions; information provided to municipality; penalty; waiver; streamlined sales and use tax agreement; confidentiality rights.

(1)(a) The Tax Commissioner shall enforce sections 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of such sections.

(b) The Tax Commissioner may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(2) The Tax Commissioner may employ accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of the Nebraska Revenue Act of 1967 and may delegate authority to his or her representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by such act.

(3)(a) Every seller, every retailer, and every person storing, using, or otherwise consuming in this state property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the Tax Commissioner may reasonably require.

(b) Every such seller, retailer, or person shall keep such records for not less than three years from the making of such records unless the Tax Commissioner in writing sooner authorized their destruction.

(4) The Tax Commissioner or any person authorized in writing by him or her may examine the books, papers, records, and equipment of any person selling property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made or, if no return is made by the person, to ascertain and determine the amount required to be paid. In the examination of any person selling property or of any person liable for the use tax, an inquiry shall be made as to the accuracy of the reporting of city sales and use taxes for which the person is liable under the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 and the accuracy of the allocation made between the various counties, cities, villages, and municipal counties of the tax due. The Tax Commissioner may make or cause to be made copies of resale or exemption certificates and may pay a reasonable amount to the person having custody of the records for providing such copies.

(5) The taxpayer shall have the right to keep or store his or her records at a point outside this state and shall make his or her records available to the Tax Commissioner at all times.

(6) In administration of the use tax, the Tax Commissioner may require the filing of reports by any person or class of persons having in his, her, or their possession or custody information relating to sales of property, the storage, use, or other consumption of which is subject to the tax. The report shall be filed when the Tax Commissioner requires and shall set forth the names and addresses of purchasers of the property, the sales price of the property, the date of sale, and such other information as the Tax Commissioner may require.

(7) It shall be a Class I misdemeanor for the Tax Commissioner or any official or employee of the Tax Commissioner, the State Treasurer, or the Department of Administrative Services to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and

activities of any retailer or any other person visited or examined in the discharge of official duty or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Tax Commissioner. Nothing in this section shall be construed to prohibit (a) the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) the inspection by the Attorney General, other legal representative of the state, or county attorney of the reports or returns of any taxpayer when either (i) information on the reports or returns is considered by the Attorney General to be relevant to any action or proceeding instituted by the taxpayer or against whom an action or proceeding is being considered or has been commenced by any state agency or the county or (ii) the taxpayer has instituted an action to review the tax based thereon or an action or proceeding against the taxpayer for collection of tax or failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a transaction of information and records concerning the transaction between the taxpayer and the other party, (g) the disclosure of information pursuant to section 77-27,195 or 77-5731, or (h) the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act.

(8) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect the reports or returns of any person filed pursuant to the Nebraska Revenue Act of 1967 when information on the reports or returns is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(9) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may permit other tax officials of this state to inspect the tax returns, reports, and applications filed under sections 77-2701.04 to 77-2713, but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

(10) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may, upon request, provide the county board of any county which has exercised the authority granted by section 81-1254 with a list of the names and addresses of the hotels located within the county for which lodging sales tax returns have been filed or for which lodging sales taxes have been remitted for the county's County Visitors Promotion Fund under the Nebraska Visitors Development Act.

The information provided by the Tax Commissioner shall indicate only the names and addresses of the hotels located within the requesting county for which lodging sales tax returns have been filed for a specified period and the fact that lodging sales taxes remitted by or on behalf of the hotel have constituted a portion of the total sum remitted by the state to the county for a specified period under the provisions of the Nebraska Visitors Development Act. No additional information shall be revealed.

(11)(a) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon written request by the Auditor of Public Accounts or the Legislative Performance Audit Committee, make tax returns and tax return information open to inspection by or disclosure to Auditor of Public Accounts or Legislative Performance Audit Section employees for the purpose of and to the extent necessary in making an audit of the Department of Revenue pursuant to section 50-1205 or 84-304. Confidential tax returns and tax return information shall be audited only upon the premises of the Department of Revenue. All audit workpapers pertaining to the audit of the Department of Revenue shall be stored in a secure place in the Department of Revenue.

(b) No employee of the Auditor of Public Accounts or Legislative Performance Audit Section shall disclose to any person, other than another Auditor of Public Accounts or Legislative Performance Audit Section employee whose official duties require such disclosure or as provided in subsections (2) and (3) of section 50-1213, any return or return information described in the Nebraska Revenue Act of 1967 in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(c) Any person who violates the provisions of this subsection shall be guilty of a Class I misdemeanor. For purposes of this subsection, employee includes a former Auditor of Public Accounts or Legislative Performance Audit Section employee.

(12) For purposes of this subsection and subsection (11) of this section:

(a) Disclosure means the making known to any person in any manner a tax return or return information;

(b) Return information means:

(i) A taxpayer's identification number and (A) the nature, source, or amount of his or her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing or (B) any other data received by, recorded by, prepared by, furnished to, or collected by the Tax Commissioner with respect to a return or the determination of the existence or possible existence of liability or the amount of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense; and

(ii) Any part of any written determination or any background file document relating to such written determination; and

(c) Tax return or return means any tax or information return or claim for refund required by, provided for, or permitted under sections 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf of, or with respect to any person and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return.

(13) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon request, provide any municipality which has adopted the local option sales tax under the Local Option Revenue Act with a list of the names and addresses of the retailers which have collected the local option sales tax for the municipality. The request may be made annually and shall be submitted to the Tax Commissioner on or before June 30 of each year. The information provided by the Tax Commissioner shall indicate only the names and addresses of the retailers. The Tax Commissioner may provide additional information to a municipality so long as the information does not include any data detailing the specific revenue, expenses, or operations of any particular business.

(14) In all proceedings under the Nebraska Revenue Act of 1967, the Tax Commissioner may act for and on behalf of the people of the State of Nebraska. The Tax Commissioner in his or her discretion may waive all or part of any penalties provided by the provisions of such act or interest on delinquent taxes specified in section 45-104.02, as such rate may from time to time be adjusted.

(15)(a) The purpose of this subsection is to set forth the state's policy for the protection of the confidentiality rights of all participants in the system operated pursuant to the streamlined sales and use tax agreement and of the privacy interests of consumers who deal with model 1 sellers.

(b) For purposes of this subsection:

(i) Anonymous data means information that does not identify a person;

(ii) Confidential taxpayer information means all information that is protected under a member state's laws, regulations, and privileges; and

(iii) Personally identifiable information means information that identifies a person.

(c) The state agrees that a fundamental precept for model 1 sellers is to preserve the privacy of consumers by protecting their anonymity. With very limited exceptions, a certified service provider shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers.

(d) The governing board of the member states in the streamlined sales and use tax agreement may certify a certified service provider only if that certified service provider certifies that:

(i) Its system has been designed and tested to ensure that the fundamental precept of anonymity is respected;

(ii) Personally identifiable information is only used and retained to the extent necessary for the administration of model 1 with respect to exempt purchasers;

(iii) It provides consumers clear and conspicuous notice of its information practices, including what information it collects, how it collects the information, how it uses the information, how long, if at all, it retains the information, and whether it discloses the information to member states. Such notice shall be satisfied by a written privacy policy statement accessible by the public on the web site of the certified service provider;

(iv) Its collection, use, and retention of personally identifiable information is limited to that required by the member states to ensure the validity of exemptions from taxation that are claimed by reason of a consumer's status or the intended use of the goods or services purchased; and

(v) It provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.

(e) The state shall provide public notification to consumers, including exempt purchasers, of the state's practices relating to the collection, use, and retention of personally identifiable information.

(f) When any personally identifiable information that has been collected and retained is no longer required for the purposes set forth in subdivision (15)(d)(iv) of this section, such information shall no longer be retained by the member states.

(g) When personally identifiable information regarding an individual is retained by or on behalf of the state, it shall provide reasonable access by such individual to his or her own information in the state's possession and a right to correct any inaccurately recorded information.

(h) If anyone other than a member state, or a person authorized by that state's law or the agreement, seeks to discover personally identifiable information, the state from whom the information is sought should make a reasonable and timely effort to notify the individual of such request.

(i) This privacy policy is subject to enforcement by the Attorney General.

(j) All other laws and regulations regarding the collection, use, and maintenance of confidential taxpayer information remain fully applicable and binding. Without limitation, this subsection does not enlarge or limit the state's authority to:

(i) Conduct audits or other reviews as provided under the agreement and state law;

(ii) Provide records pursuant to the federal Freedom of Information Act, disclosure laws with governmental agencies, or other regulations;

(iii) Prevent, consistent with state law, disclosure of confidential taxpayer information;

(iv) Prevent, consistent with federal law, disclosure or misuse of federal return information obtained under a disclosure agreement with the Internal Revenue Service; and

(v) Collect, disclose, disseminate, or otherwise use anonymous data for governmental purposes.

Source: Laws 1967, c. 487, § 11, p. 1566; Laws 1969, c. 683, § 7, p. 2641; Laws 1977, LB 39, § 239; Laws 1981, LB 170, § 6; Laws 1982, LB 705, § 2; Laws 1984, LB 962, § 12; Laws 1985, LB 344, § 4; Laws 1987, LB 523, § 17; Laws 1991, LB 773, § 10; Laws 1992, LB 871, § 61; Laws 1992, Fourth Spec. Sess., LB 1, § 31; Laws 1993, LB 345, § 60; Laws 1994, LB 1175, § 1; Laws 1995, LB 134, § 3; Laws 1996, LB 1177, § 18; Laws 2001, LB 142, § 56; Laws 2003, LB 282, § 73; Laws 2005, LB 216, § 9; Laws 2005, LB 312, § 11; Laws 2006, LB 588, § 8; Laws 2007, LB94, § 1; Laws 2007, LB223, § 9; Laws 2008, LB914, § 8; Laws 2009, LB165, § 10; Laws 2010, LB563, § 14; Laws 2010, LB879, § 9.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB563, section 14, with LB879, section 9, to reflect all amendments.

Note: Changes made by LB563 became effective July 15, 2010. Changes made by LB879 became operative July 15, 2010.

Cross References

Contractor Registration Act, see section 48-2101.

Employee Classification Act, see section 48-2901.

Employment Security Law, see section 48-601.

Local Option Revenue Act, see section 77-27,148.

Nebraska Visitors Development Act, see section 81-1263.

77-2712.03 Streamlined sales and use tax agreement; ratified; governing board; members.

(1) The streamlined sales and use tax agreement, as adopted by the streamlined sales tax implementing states on November 12, 2002, including amendments through December 31, 2009, is hereby ratified by the Legislature. The Governor shall enter into the agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the agreement, the Department of Revenue is authorized to act jointly with other states that are members under Articles VII or VIII of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multi-state sellers. The department is further authorized to take other actions permissible under law reasonably required to implement the provisions set forth in the agreement. Other actions authorized by this section include, but are not limited to, the adoption and promulgation of rules and regulations and the joint procurement, with other member states, of goods and services in furtherance of the agreement.

(2) The Tax Commissioner or his or her designee and two representatives of the Legislature appointed by the Executive Board of the Legislative Council are authorized to represent Nebraska before the other member states under the agreement. The state also agrees to participate in and comply with the procedures of and decisions made by the governing board of the member states. These provisions of the agreement include the creation of the organization as provided in Article VII of the agreement, the requirements for state entry and withdrawal as provided in Article VIII of the agreement, amendments to the agreement as provided in Article IX of the agreement, and a dispute resolution process as provided in Article X of the agreement.

Source: Laws 2001, LB 172, § 4; Laws 2003, LB 282, § 75; Laws 2007, LB223, § 10; Laws 2010, LB879, § 10.
Operative date October 1, 2010.

Cross References

Executive Board of the Legislative Council, see section 50-401.01.

(c) INCOME TAX

77-2716 Income tax; adjustments.

(1) The following adjustments to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be made for interest or dividends received:

(a) There shall be subtracted interest or dividends received by the owner of obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States;

(b) There shall be subtracted that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (a) of this subsection as reported to the recipient by the regulated investment company;

(c) There shall be added interest or dividends received by the owner of obligations of the District of Columbia, other states of the United States, or their political subdivisions, authorities, commissions, or instrumentalities to the extent excluded in the computation of gross income for federal income tax purposes except that such interest or dividends shall not be added if received by a corporation which is a regulated investment company;

(d) There shall be added that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (c) of this subsection and excluded for federal income tax purposes as reported to the recipient by the regulated investment company; and

(e)(i) Any amount subtracted under this subsection shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this subsection or the investment in the regulated investment company and by any expenses incurred in the production of interest or dividend income described in this subsection to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(ii) Any amount added under this subsection shall be reduced by any expenses incurred in the production of such income to the extent disallowed in the computation of federal taxable income.

(2) There shall be allowed a net operating loss derived from or connected with Nebraska sources computed under rules and regulations adopted and promulgated by the Tax Commissioner consistent, to the extent possible under the Nebraska Revenue Act of 1967, with the laws of the United States. For a resident individual, estate, or trust, the net operating loss computed on the federal income tax return shall be adjusted by the modifications contained in this section. For a nonresident individual, estate, or trust or for a partial-year resident individual, the net operating loss computed on the federal return shall be adjusted by the modifications contained in this section and any carryovers or carrybacks shall be limited to the portion of the loss derived from or connected with Nebraska sources.

(3) There shall be subtracted from federal adjusted gross income for all taxable years beginning on or after January 1, 1987, the amount of any state income tax refund to the extent such refund was deducted under the Internal Revenue Code, was not allowed in the computation of the tax due under the Nebraska Revenue Act of 1967, and is included in federal adjusted gross income.

(4) Federal adjusted gross income, or, for a fiduciary, federal taxable income shall be modified to exclude the portion of the income or loss received from a small business corporation with an election in effect under subchapter S of the Internal Revenue Code or from a limited liability company organized pursuant to the Limited Liability Company Act or the Nebraska Uniform Limited Liability Company Act that is not derived from or connected with Nebraska sources as determined in section 77-2734.01.

(5) There shall be subtracted from federal adjusted gross income or, for corporations and fiduciaries, federal taxable income dividends received or deemed to be received from corporations which are not subject to the Internal Revenue Code.

(6) There shall be subtracted from federal taxable income a portion of the income earned by a corporation subject to the Internal Revenue Code of 1986 that is actually taxed by a foreign country or one of its political subdivisions at a rate in excess of the maximum federal tax rate for corporations. The taxpayer may make the computation for each foreign country or for groups of foreign countries. The portion of the taxes that may be deducted shall be computed in the following manner:

(a) The amount of federal taxable income from operations within a foreign taxing jurisdiction shall be reduced by the amount of taxes actually paid to the foreign jurisdiction that are not deductible solely because the foreign tax credit was elected on the federal income tax return;

(b) The amount of after-tax income shall be divided by one minus the maximum tax rate for corporations in the Internal Revenue Code; and

(c) The result of the calculation in subdivision (b) of this subsection shall be subtracted from the amount of federal taxable income used in subdivision (a) of this subsection. The result of such calculation, if greater than zero, shall be subtracted from federal taxable income.

(7) Federal adjusted gross income shall be modified to exclude any amount repaid by the taxpayer for which a reduction in federal tax is allowed under section 1341(a)(5) of the Internal Revenue Code.

(8)(a) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced, to the extent included, by income from interest, earnings, and state contributions received from the Nebraska educational savings plan trust created in sections 85-1801 to 85-1814.

(b) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced by any contributions as a participant in the Nebraska educational savings plan trust, to the extent not deducted for federal income tax purposes, but not to exceed two thousand five hundred dollars per married filing separate return or five thousand dollars for any other return.

(c) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by the amount resulting from the cancellation of a participation agreement refunded to the taxpayer as a participant in the Nebraska educational savings plan trust to the extent previously deducted as a contribution to the trust.

(9)(a) For income tax returns filed after September 10, 2001, for taxable years beginning or deemed to begin before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by eighty-five percent of any amount of any federal bonus depreciation received under the federal Job Creation and Worker Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003, under section 168(k) or section 1400L of the Internal Revenue Code of 1986, as amended, for assets placed in service after September 10, 2001, and before December 31, 2005.

(b) For a partnership, limited liability company, cooperative, including any cooperative exempt from income taxes under section 521 of the Internal

Revenue Code of 1986, as amended, limited cooperative association, subchapter S corporation, or joint venture, the increase shall be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities.

(c) For a corporation with a unitary business having activity both inside and outside the state, the increase shall be apportioned to Nebraska in the same manner as income is apportioned to the state by section 77-2734.05.

(d) The amount of bonus depreciation added to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income by this subsection shall be subtracted in a later taxable year. Twenty percent of the total amount of bonus depreciation added back by this subsection for tax years beginning or deemed to begin before January 1, 2003, under the Internal Revenue Code of 1986, as amended, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years. Twenty percent of the total amount of bonus depreciation added back by this subsection for tax years beginning or deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years.

(10) For taxable years beginning or deemed to begin on or after January 1, 2003, and before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by the amount of any capital investment that is expensed under section 179 of the Internal Revenue Code of 1986, as amended, that is in excess of twenty-five thousand dollars that is allowed under the federal Jobs and Growth Tax Act of 2003. Twenty percent of the total amount of expensing added back by this subsection for tax years beginning or deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following tax years.

(11)(a) Federal adjusted gross income shall be reduced by contributions, up to two thousand dollars per married filing jointly return or one thousand dollars for any other return, and any investment earnings made as a participant in the Nebraska long-term care savings plan under the Long-Term Care Savings Plan Act, to the extent not deducted for federal income tax purposes.

(b) Federal adjusted gross income shall be increased by the withdrawals made as a participant in the Nebraska long-term care savings plan under the act by a person who is not a qualified individual or for any reason other than transfer of funds to a spouse, long-term care expenses, long-term care insurance premiums, or death of the participant, including withdrawals made by reason of cancellation of the participation agreement or termination of the plan, to the extent previously deducted as a contribution or as investment earnings.

(12) There shall be added to federal adjusted gross income for individuals, estates, and trusts any amount taken as a credit for franchise tax paid by a

financial institution under sections 77-3801 to 77-3807 as allowed by subsection (5) of section 77-2715.07.

Source: Laws 1967, c. 487, § 16, p. 1579; Laws 1983, LB 619, § 1; Laws 1984, LB 962, § 15; Laws 1984, LB 1124, § 3; Laws 1985, LB 273, § 50; Laws 1986, LB 774, § 9; Laws 1987, LB 773, § 9; Laws 1987, LB 523, § 20; Laws 1989, LB 458, § 2; Laws 1989, LB 459, § 3; Laws 1991, LB 773, § 13; Laws 1993, LB 121, § 504; Laws 1994, LB 977, § 13; Laws 1997, LB 401, § 2; Laws 1998, LB 1028, § 3; Laws 2000, LB 1003, § 15; Laws 2002, LB 1085, § 18; Laws 2003, LB 596, § 1; Laws 2005, LB 216, § 10; Laws 2006, LB 965, § 6; Laws 2006, LB 968, § 9; Laws 2007, LB338, § 1; Laws 2007, LB368, § 135; Laws 2007, LB456, § 2; Laws 2010, LB197, § 1; Laws 2010, LB888, § 104.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB197, section 1, with LB888, section 104, to reflect all amendments.

Note: Changes made by LB197 became operative July 1, 2010. Changes made by LB888 became operative January 1, 2011.

Cross References

Limited Liability Company Act, see section 21-2601.

Long-Term Care Savings Plan Act, see section 77-6101.

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

77-2734.01 Small business corporation shareholders; limited liability company members; determination of income; credit; Tax Commissioner; powers; return; when required.

(1) Residents of Nebraska who are shareholders of a small business corporation having an election in effect under subchapter S of the Internal Revenue Code or who are members of a limited liability company organized pursuant to the Limited Liability Company Act or the Nebraska Uniform Limited Liability Company Act shall include in their Nebraska taxable income, to the extent includable in federal gross income, their proportionate share of such corporation's or limited liability company's federal income adjusted pursuant to this section. Income or loss from such corporation or limited liability company conducting a business, trade, profession, or occupation shall be included in the Nebraska taxable income of a shareholder or member who is a resident of this state to the extent of such shareholder's or member's proportionate share of the net income or loss from the conduct of such business, trade, profession, or occupation within this state, determined under subsection (2) of this section. A resident of Nebraska shall include in Nebraska taxable income fair compensation for services rendered to such corporation or limited liability company. Compensation actually paid shall be presumed to be fair unless it is apparent to the Tax Commissioner that such compensation is materially different from fair value for the services rendered or has been manipulated for tax avoidance purposes.

(2) The income of any small business corporation having an election in effect under subchapter S of the Internal Revenue Code or limited liability company organized pursuant to the Limited Liability Company Act or the Nebraska Uniform Limited Liability Company Act that is derived from or connected with Nebraska sources shall be determined in the following manner:

(a) If the small business corporation is a member of a unitary group, the small business corporation shall be deemed to be doing business within this state if any part of its income is derived from transactions with other members of the unitary group doing business within this state, and such corporation shall

apportion its income by using the apportionment factor determined for the entire unitary group, including the small business corporation, under sections 77-2734.05 to 77-2734.15;

(b) If the small business corporation or limited liability company is not a member of a unitary group and is subject to tax in another state, it shall apportion its income under sections 77-2734.05 to 77-2734.15; and

(c) If the small business corporation or limited liability company is not subject to tax in another state, all of its income is derived from or connected with Nebraska sources.

(3) Nonresidents of Nebraska who are shareholders of such corporations or members of such limited liability companies shall file a Nebraska income tax return and shall include in Nebraska adjusted gross income their proportionate share of the corporation's or limited liability company's Nebraska income as determined under subsection (2) of this section.

(4) The nonresident shareholder or member shall execute and forward to the corporation or limited liability company before the filing of the corporation's or limited liability company's return an agreement which states he or she will file a Nebraska income tax return and pay the tax on the income derived from or connected with sources in this state, and such agreement shall be attached to the corporation's or limited liability company's Nebraska return for such taxable year.

(5) In the absence of the nonresident shareholder's or member's executed agreement being attached to the Nebraska return, the corporation or limited liability company shall remit with the return an amount equal to the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident shareholder's or member's share of the corporation's or limited liability company's income which was derived from or attributable to this state. The amount remitted shall be allowed as a credit against the Nebraska income tax liability of the shareholder or member.

(6) The Tax Commissioner may allow a nonresident individual shareholder or member to not file a Nebraska income tax return if the nonresident individual shareholder's or member's only source of Nebraska income was his or her share of the small business corporation's or limited liability company's income which was derived from or attributable to sources within this state, the nonresident did not file an agreement to file a Nebraska income tax return, and the small business corporation or limited liability company has remitted the amount required by subsection (5) of this section on behalf of such nonresident individual shareholder or member. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident individual shareholder or member.

(7) A small business corporation or limited liability company return shall be filed only if one or more of the shareholders of the corporation or members of the limited liability company are not residents of the State of Nebraska or if such corporation or limited liability company has income derived from sources outside this state.

(8) For purposes of this section, any shareholder or member of the corporation or limited liability company that is a grantor trust of a nonresident shall be

disregarded and this section shall apply as though the nonresident grantor was the shareholder or member.

Source: Laws 1984, LB 1124, § 4; Laws 1985, LB 273, § 54; Laws 1987, LB 773, § 18; Laws 1987, LB 523, § 23; Laws 1991, LB 773, § 16; Laws 1993, LB 121, § 508; Laws 2005, LB 216, § 12; Laws 2008, LB915, § 3; Laws 2010, LB888, § 105.
Operative date January 1, 2011.

Cross References

Limited Liability Company Act, see section 21-2601.

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

77-2756 Income tax; employer or payor; withholding for tax.

(1) Except as provided in subsection (2) of this section, every employer or payor required to deduct and withhold income tax under the Nebraska Revenue Act of 1967 shall, for each calendar quarter, on or before the last day of the month following the close of such calendar quarter, file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner or to a depository designated by the Tax Commissioner the taxes so required to be deducted and withheld in such form and content as the Tax Commissioner may prescribe and containing such information as the Tax Commissioner deems necessary for the proper administration of the Nebraska Revenue Act of 1967. When the aggregate amount required to be deducted and withheld by any employer or payor for either the first or second month of a calendar quarter exceeds five hundred dollars, the employer or payor shall, by the fifteenth day of the succeeding month, pay over such aggregate amount to the Tax Commissioner or to a depository designated by the Tax Commissioner. The amount so paid shall be allowed as a credit against the liability shown on the employer's or payor's quarterly withholding return required by this section. The Tax Commissioner may, by rule and regulation, provide for the filing of returns and the payment of the tax deducted and withheld on other than a quarterly basis.

(2) When the aggregate amount required to be deducted and withheld by any employer or payor for the entire calendar year is less than five hundred dollars or the employer or payor is allowed to file federal withholding returns annually, the employer or payor shall, for each calendar year, on or before the last day of the month following the close of such calendar year, file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner or to a depository designated by the Tax Commissioner the taxes so required to be deducted and withheld in such form and content as the Tax Commissioner may prescribe and containing such information as the Tax Commissioner deems necessary for the proper administration of the Nebraska Revenue Act of 1967. The employer or payor may elect or the Tax Commissioner may require the filing of returns and the payment of taxes on a quarterly basis.

(3) Whenever any employer or payor fails to collect, truthfully account for, pay over, or make returns of the income tax as required by this section, the Tax Commissioner may serve a notice requiring such employer or payor to collect the taxes which become collectible after service of such notice, to deposit such taxes in a bank approved by the Tax Commissioner in a separate account in trust for and payable to the Tax Commissioner, and to keep the amount of such tax in such account until paid over to the Tax Commissioner. Such notice shall

remain in effect until a notice of cancellation is served by the Tax Commissioner.

(4) Any employer or payor may appoint an agent in accordance with section 3504 of the Internal Revenue Code of 1986, as amended, for the purpose of withholding, reporting, or making payment of amounts withheld on behalf of the employer or payor. The agent shall be considered an employer or payor for purposes of the Nebraska Revenue Act of 1967 and, with the actual employer or payor, shall be jointly and severally liable for any amount required to be withheld and paid over to the Tax Commissioner and any additions to tax, penalties, and interest with respect thereto.

(5) The employer or payor shall also file on or before February 1 of the succeeding year a copy of each statement furnished by such employer or payor to each employee or payee with respect to taxes withheld on wages or payments subject to withholding. Any employer, payor, or agent who furnished more than fifty statements for a year shall file the required copies electronically in a manner approved by the Tax Commissioner that is compatible with federal electronic filing requirements or methods.

Source: Laws 1967, c. 487, § 56, p. 1596; Laws 1984, LB 962, § 21; Laws 1988, LB 1064, § 2; Laws 1997, LB 62, § 2; Laws 2005, LB 216, § 14; Laws 2007, LB223, § 13; Laws 2010, LB879, § 11.
Operative date January 1, 2011.

77-2769.02 Repealed. Laws 2010, LB 879, § 29.

Operative date January 1, 2011.

77-2789 Income tax; failure to file return; penalty.

(1) In case of failure to file any income tax return required under the provisions of the Nebraska Revenue Act of 1967 on the date prescribed therefor, determined with regard to any extension of time for filing, unless it is shown that such failure is the result of reasonable cause and not the result of willful neglect, the Tax Commissioner may add to the amount required to be shown as tax on such return, five percent of the amount of such tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate. For purposes of this section, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

(2) In case of each failure to file a statement of payment to another person, including the duplicate statement of tax withheld on wages, on the date prescribed therefor, determined with regard to any extension of time for filing, unless it is shown that such failure is the result of reasonable cause and not willful neglect, the Tax Commissioner may assess a penalty against the person so failing to file the statement, in the amount of two dollars for each statement not so filed but the total amount imposed on the delinquent person for all such failure during any calendar year shall not exceed two thousand dollars.

(3) In case of failure to file any return for income tax withheld on the date prescribed therefor, determined with regard to any extension of time to file, the

Tax Commissioner may add to the amount required to be shown as tax on such return twenty-five dollars or the amount determined under subsection (1) of this section, whichever is greater.

(4) All determinations made by the Tax Commissioner under subsection (3) of this section are due and payable at the time they become final. If they are not paid when final, a penalty of ten percent of the total amount due, exclusive of interest and other penalties, shall be added to the total amount due.

Source: Laws 1967, c. 487, § 89, p. 1610; Laws 1993, LB 345, § 68; Laws 2010, LB879, § 12.

Operative date January 1, 2011.

77-2790 Income tax; deficiency; interest; failure to report or file; prohibited acts; penalties.

(1)(a) If any part of a deficiency is the result of negligence or intentional disregard of rules and regulations but without intent to defraud, the Tax Commissioner may add to the tax an amount equal to five percent of the deficiency.

(b) If any part of a requested refund is overstated as a result of negligence, material misstatement, or intentional disregard of rules and regulations but without intent to defraud, the Tax Commissioner may add to the tax an amount equal to five percent of the overstatement of the refund.

(2)(a) If any part of a deficiency is the result of fraud, the Tax Commissioner may add to the tax an amount equal to fifty percent of the deficiency. This amount shall be in lieu of any amount determined under subsection (1) of this section.

(b) If any part of a requested refund is overstated as a result of fraud, the Tax Commissioner may add to the tax an amount equal to fifty percent of the overstatement of the refund. This amount shall be in lieu of any amount determined under subsection (1) of this section.

(3) If any taxpayer fails to pay all or any part of an installment of any tax due, he or she shall be deemed to have made an underpayment of estimated tax. The Tax Commissioner shall determine the amount of underpayment of estimated tax in accordance with the laws of the United States.

(4) If any taxpayer, with intent to evade or defeat any income tax imposed by the Nebraska Revenue Act of 1967 or the payment thereof, claims an excessive number of exemptions or in any other manner overstates the amount of withholding, he or she shall be guilty of a Class II misdemeanor. If any employer or payor, without intent to evade or defeat any income tax imposed by the Nebraska Revenue Act of 1967 or the payment thereof, fails to make a return and pay a tax withheld by him or her at the time required by or under the act, such employer or payor shall be liable for such taxes and shall pay the same together with interest thereon and any addition to tax assessed pursuant to subsection (1) of this section. Such interest and addition to tax shall not be charged to or collected from the employee or payee by the employer or payor. The Tax Commissioner shall have the same rights and powers for the collection of such tax, interest, and addition to tax against such employer or payor as are now prescribed by the act for the collection of income tax against a taxpayer.

(5) If any person required to collect, withhold, truthfully account for, and pay over the income tax imposed by the Nebraska Revenue Act of 1967 willfully

fails to collect or withhold such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof, the Tax Commissioner may, in addition to other penalties provided by law, impose, assess, and collect a penalty equal to the total amount of the tax evaded, not collected, not withheld, or not accounted for and paid over. No addition to tax under subsection (1) or (2) of this section shall be imposed for any offense to which this subsection applies.

(6) If any person with fraudulent intent fails to pay, or to deduct or withhold and pay, any income tax, to make, render, sign, or certify any return of estimated tax, or to supply any information within the time required, the Tax Commissioner may impose, assess, and collect a penalty of not more than one thousand dollars, in addition to any other amounts required under the income tax provisions of the Nebraska Revenue Act of 1967.

(7) If any person for frivolous or groundless reasons or with the intent to delay or impede the administration of the Nebraska Revenue Act of 1967 (a) fails to pay over any tax due and owing under such act, (b) fails to file any return required under such act, or (c) files what purports to be a return but which does not contain sufficient information from which to determine the correctness of the self-assessment of tax or which contains information that indicates that the self-assessment of tax is substantially incorrect, such person shall pay a penalty of five hundred dollars for each occurrence. The penalty provided by this subsection shall be in addition to any other penalties provided by law.

(8) Any person who aids, procures, advises, or assists in the preparation of any return, affidavit, refund claim, or other document with the knowledge that its use will result in the material understatement of the tax liability of another person or the material overstatement of the amount of a refund of another person shall, in addition to other penalties provided by law, pay a penalty of one thousand dollars with respect to each separate return or other document.

(a) For the purposes of this subsection, a person furnishing typing, reproducing, or other mechanical assistance shall not be treated as having aided or assisted in the preparation of such document.

(b) A determination of a material deficiency shall not be sufficient to show that a person has aided or assisted in a material understatement of the tax liability of another person.

(c) The penalty in this subsection shall not be imposed more than once on any person for having aided or assisted in the preparation of documents for the same taxpayer, the same tax, and the same tax period regardless of the number of documents involved.

(d) Such penalty shall apply whether or not the understatement is with the consent of the person authorized to present the return, affidavit, refund claim, or other document.

(9) The additions to the income tax and penalties relating thereto provided by the Nebraska Revenue Act of 1967 shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes, and any reference in such act to income tax or the tax imposed by the act shall be deemed also to refer to additions to the tax and penalties provided by this section. For purposes of the deficiency procedures provided in section 77-2776, this subsection shall not apply to:

(a) Any addition to tax under subsection (1) or (4) of section 77-2789 except as to that portion attributable to a deficiency;

(b) Any addition to tax for underpayment of estimated tax as provided in subsection (3) of this section; or

(c) Any additional penalty under subsection (6), (7), or (8) of this section.

(10) For purposes of subsections (1) and (2) of this section relating to deficiencies resulting from negligence or fraud, the amount shown as the tax by the taxpayer upon his or her return shall be taken into account in determining the amount of the deficiency only if such return was filed on or before the last day prescribed for the filing of such return determined with regard to any extension of time for such filing.

(11) For purposes of subsections (5) and (6) of this section, the term person shall include an individual, corporation, partnership, or limited liability company, or an officer or employee of any corporation, including a dissolved corporation, or a member or employee of any partnership or limited liability company, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(12) If any person fails to comply with the reporting or filing requirements of sections 77-2772, 77-2775, and 77-2786 or the rules and regulations adopted and promulgated thereunder, the Tax Commissioner may impose, assess, and collect a penalty against such person for each instance of noncompliance of twenty-five percent of the tax due. Such amount shall be in addition to any other penalty, tax, or interest otherwise imposed by law for such noncompliance.

(13) If any nonresident individual provides false information or statements to an employer or payor regarding the portion of his or her wages or payments that are subject to withholding for this state which if used would result in the amount withheld being less than seventy-five percent of his or her income tax liability on such wages or payments or if any employer or payor uses such information when the employer or payor knows such information is false or maintains records which show such information is false, the Tax Commissioner may, in addition to other penalties provided by law, impose, assess, and collect from such individual, payor, or employer the penalties provided in subsections (5) and (6) of this section.

(14) If any employer or payor employing twenty-five or more employees who is required to withhold and pay over income tax imposed by the Nebraska Revenue Act of 1967 fails to either (a) withhold at least one and one-half percent of the wages of any employee or (b) obtain satisfactory evidence from the employee justifying a lower withholding amount as required by subdivision (1)(b) of section 77-2753, the Tax Commissioner may impose, assess, and collect a penalty of not more than one thousand dollars per violation.

Source: Laws 1967, c. 487, § 90, p. 1611; Laws 1984, LB 962, § 29; Laws 1985, LB 273, § 65; Laws 1988, LB 1064, § 3; Laws 1993, LB 121, § 511; Laws 1993, LB 345, § 69; Laws 2007, LB223, § 14; Laws 2008, LB1004, § 2; Laws 2010, LB879, § 13.
Operative date January 1, 2011.

77-2794 Income tax; overpayment; interest.

(1) Under regulations prescribed by the Tax Commissioner interest shall be allowed and paid at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, upon any overpayment in respect to the income tax imposed by the Nebraska Revenue Act of 1967.

(2) For purposes of this section:

(a) The date of overpayment shall be the last day prescribed for filing the original return of such tax;

(b) Any return filed before the last day prescribed for the filing thereof, determined without regard to any extension of time to file the return, shall be considered as filed on such last day;

(c) Any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year, and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid on the last day prescribed for filing the return for the taxable year to which such amount constitutes a credit or payment, determined without regard to any extension of time granted the taxpayer;

(d) If at the time an overpayment is to be refunded, the taxpayer also has a reported underpayment of the same tax in another year: (i) If the overpayment is for a taxable year ending before the year of underpayment, the overpayment shall be applied to reduce such underpayment as of the last day prescribed for filing the original return of such tax for the year of underpayment; (ii) if the overpayment is for a taxable year ending after the year of underpayment, the overpayment shall be applied to reduce such underpayment as of the last day prescribed for filing the original return of such tax for the year of overpayment; or (iii) if the overpayment is one for which interest is not allowed under this section, the overpayment shall be applied as of the date of the filing of the claim for refund; and interest shall be allowed for any remaining overpayment as provided in subdivision (a) of this subsection;

(e) The period of overpayment during which interest shall be allowed shall not include any period during which the overpayment continued due to the unreasonable delay by the taxpayer in filing the claim for refund. For this purpose, the burden of proof shall be on the taxpayer to show that a delay of more than ninety days after all of the facts required to prepare a correct claim for refund are available is not unreasonable; and

(f) The period of overpayment during which interest shall be allowed shall not include any period during which an agreement between the taxpayer and the Internal Revenue Service was not filed as required by subsection (6) of section 77-2786 and the first ninety days after such agreement is filed.

(3)(a) Except as provided in subdivision (b) of this subsection, if any overpayment of income tax imposed by the Nebraska Revenue Act of 1967 is refunded within ninety days after the last date prescribed, or permitted by extension of time, for filing the return of such tax or within ninety days after any original return, and any amended return filed to carry back a loss, was filed, whichever is later, no interest shall be allowed under this section on overpayment.

(b) If the Tax Commissioner approves and implements an electronic form or method for filing the return and the return is not filed electronically, no interest shall be allowed under this section on overpayment.

(c) In the case of amended returns filed for any reason other than to carry back a loss, interest shall be allowed as provided in subsection (1) of this section.

Source: Laws 1967, c. 487, § 94, p. 1616; Laws 1981, LB 167, § 54; Laws 1991, LB 240, § 3; Laws 1992, Fourth Spec. Sess., LB 1, § 38; Laws 1993, LB 345, § 71; Laws 1996, LB 1041, § 8; Laws 2004, LB 955, § 2; Laws 2008, LB915, § 5; Laws 2010, LB879, § 14.
Operative date January 1, 2011.

77-2796 Income tax; Tax Commissioner; claim for refund; denial; notice.

If the Tax Commissioner disallows a claim for refund, he or she shall notify the taxpayer accordingly. The action of the Tax Commissioner denying a claim for refund is final upon the expiration of thirty days after the date when he or she mails notice of his or her action to the taxpayer unless within this period the taxpayer seeks review of the Tax Commissioner's determination as hereinafter provided.

Source: Laws 1967, c. 487, § 96, p. 1617; Laws 2008, LB914, § 15; Laws 2010, LB879, § 15.
Operative date October 1, 2010.

77-27,100 Income tax; claim for refund; limitation.

The action authorized in section 77-2798 shall be filed within three years from the last date prescribed for filing the return or within one year from the date the tax was paid, or within thirty days after the denial of a claim for refund by the Tax Commissioner.

Source: Laws 1967, c. 487, § 100, p. 1617; Laws 2008, LB914, § 16; Laws 2010, LB879, § 16.
Operative date October 1, 2010.

77-27,119 Income tax; Tax Commissioner; administer and enforce sections; prescribe forms; content; examination of return or report; uniform school district numbering system; audit by Auditor of Public Accounts or Legislative Auditor; wrongful disclosure; exception; penalty.

(1) The Tax Commissioner shall administer and enforce the income tax imposed by sections 77-2714 to 77-27,135, and he or she is authorized to conduct hearings, to adopt and promulgate such rules and regulations, and to require such facts and information to be reported as he or she may deem necessary to enforce the income tax provisions of such sections, except that such rules, regulations, and reports shall not be inconsistent with the laws of this state or the laws of the United States. The Tax Commissioner may for enforcement and administrative purposes divide the state into a reasonable number of districts in which branch offices may be maintained.

(2)(a) The Tax Commissioner may prescribe the form and contents of any return or other document required to be filed under the income tax provisions. Such return or other document shall be compatible as to form and content with the return or document required by the laws of the United States. The form shall have a place where the taxpayer shall designate the high school district in which he or she lives and the county in which the high school district is headquartered. The Tax Commissioner shall adopt and promulgate such rules

and regulations as may be necessary to insure compliance with this requirement.

(b) The State Department of Education, with the assistance and cooperation of the Department of Revenue, shall develop a uniform system for numbering all school districts in the state. Such system shall be consistent with the data processing needs of the Department of Revenue and shall be used for the school district identification required by subdivision (a) of this subsection.

(c) The proper filing of an income tax return shall consist of the submission of such form as prescribed by the Tax Commissioner or an exact facsimile thereof with sufficient information provided by the taxpayer on the face of the form from which to compute the actual tax liability. Each taxpayer shall include such taxpayer's correct social security number or state identification number and the school district identification number of the school district in which the taxpayer resides on the face of the form. A filing is deemed to occur when the required information is provided.

(3) The Tax Commissioner, for the purpose of ascertaining the correctness of any return or other document required to be filed under the income tax provisions, for the purpose of determining corporate income, individual income, and withholding tax due, or for the purpose of making an estimate of taxable income of any person, shall have the power to examine or to cause to have examined, by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda bearing upon such matters and may by summons require the attendance of the person responsible for rendering such return or other document or remitting any tax, or any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take testimony and require proof material for his or her information, with power to administer oaths or affirmations to such person or persons.

(4) The time and place of examination pursuant to this section shall be such time and place as may be fixed by the Tax Commissioner and as are reasonable under the circumstances. In the case of a summons, the date fixed for appearance before the Tax Commissioner shall not be less than twenty days from the time of service of the summons.

(5) No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations.

(6) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Tax Commissioner, any officer or employee of the Tax Commissioner, any person engaged or retained by the Tax Commissioner on an independent contract basis, any person who pursuant to this section is permitted to inspect any report or return or to whom a copy, an abstract, or a portion of any report or return is furnished, any employee of the State Treasurer or the Department of Administrative Services, or any other person to divulge, make known, or use in any manner the amount of income or any particulars set forth or disclosed in any report or return required except for the purpose of enforcing sections 77-2714 to 77-27,135. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Tax Commissioner in an action or proceeding under the provisions of the tax law to which he or she is a party or on behalf of any party to any action or proceeding under such sections when

the reports or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing in this section shall be construed (a) to prohibit the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) to prohibit the inspection by the Attorney General, other legal representatives of the state, or a county attorney of the report or return of any taxpayer who brings an action to review the tax based thereon, against whom an action or proceeding for collection of tax has been instituted, or against whom an action, proceeding, or prosecution for failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) to prohibit furnishing to the Nebraska Workers' Compensation Court the names, addresses, and identification numbers of employers, and such information shall be furnished on request of the court, (e) to prohibit the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of information pursuant to section 77-27,195, 77-4110, or 77-5731, (g) to prohibit the disclosure to the Public Employees Retirement Board of the addresses of individuals who are members of the retirement systems administered by the board, and such information shall be furnished to the board solely for purposes of its administration of the retirement systems upon written request, which request shall include the name and social security number of each individual for whom an address is requested, (h) to prohibit the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act, (i) to prohibit the disclosure to the Department of Motor Vehicles of tax return information pertaining to individuals, corporations, and businesses determined by the Department of Motor Vehicles to be delinquent in the payment of amounts due under agreements pursuant to the International Fuel Tax Agreement Act, and such disclosure shall be strictly limited to information necessary for the administration of the act, or (j) to prohibit the disclosure under section 42-358.08, 43-512.06, or 43-3327 to any court-appointed individuals, the county attorney, any authorized attorney, or the Department of Health and Human Services of an absent parent's address, social security number, amount of income, health insurance information, and employer's name and address for the exclusive purpose of establishing and collecting child, spousal, or medical support. Information so obtained shall be used for no other purpose. Any person who violates this subsection shall be guilty of a felony and shall upon conviction thereof be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned not more than five years, or be both so fined and imprisoned, in the discretion of the court and shall be assessed the costs of prosecution. If the offender is an officer or employee of the state, he or she shall be dismissed from office and be ineligible to hold any public office in this state for a period of two years thereafter.

(7) Reports and returns required to be filed under income tax provisions of sections 77-2714 to 77-27,135 shall be preserved until the Tax Commissioner orders them to be destroyed.

(8) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Secretary of the Treasury of the United States or his or her delegates or the proper officer of any state imposing an income tax, or the authorized representative of either such officer, to inspect the income tax returns of any taxpayer or may furnish to such officer or his or her authorized representative an abstract of the return of income of any taxpayer or supply him or her with information concerning an item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any taxpayer, but such permission shall be granted only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the Tax Commissioner of this state as the officer charged with the administration of the income tax imposed by sections 77-2714 to 77-27,135.

(9) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect the reports or returns of any person filed pursuant to the Nebraska Revenue Act of 1967 when information on the reports or returns is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(10)(a) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner shall, upon written request by the Auditor of Public Accounts or the Legislative Performance Audit Committee, make tax returns and tax return information open to inspection by or disclosure to officers and employees of the Auditor of Public Accounts or Legislative Performance Audit Section employees for the purpose of and to the extent necessary in making an audit of the Department of Revenue pursuant to section 50-1205 or 84-304. The Auditor of Public Accounts or Legislative Performance Audit Section shall statistically and randomly select the tax returns and tax return information to be audited based upon a computer tape provided by the Department of Revenue which contains only total population documents without specific identification of taxpayers. The Tax Commissioner shall have the authority to approve the statistical sampling method used by the Auditor of Public Accounts or Legislative Performance Audit Section. Confidential tax returns and tax return information shall be audited only upon the premises of the Department of Revenue. All audit workpapers pertaining to the audit of the Department of Revenue shall be stored in a secure place in the Department of Revenue.

(b) No officer or employee of the Auditor of Public Accounts or Legislative Performance Audit Section employee shall disclose to any person, other than another officer or employee of the Auditor of Public Accounts or Legislative Performance Audit Section employee whose official duties require such disclosure or as provided in subsections (2) and (3) of section 50-1213, any return or return information described in the Nebraska Revenue Act of 1967 in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(c) Any person who violates the provisions of this subsection shall be guilty of a Class IV felony and, in the discretion of the court, may be assessed the costs of prosecution. The guilty officer or employee shall be dismissed from employment and be ineligible to hold any position of employment with the State of

Nebraska for a period of two years thereafter. For purposes of this subsection, officer or employee shall include a former officer or employee of the Auditor of Public Accounts or former Legislative Performance Audit Section employee.

(11) For purposes of subsections (10) through (13) of this section:

(a) Tax returns shall mean any tax or information return or claim for refund required by, provided for, or permitted under sections 77-2714 to 77-27,135 which is filed with the Tax Commissioner by, on behalf of, or with respect to any person and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return;

(b) Return information shall mean:

(i) A taxpayer's identification number and (A) the nature, source, or amount of his or her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing or (B) any other data received by, recorded by, prepared by, furnished to, or collected by the Tax Commissioner with respect to a return or the determination of the existence or possible existence of liability or the amount of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense; and

(ii) Any part of any written determination or any background file document relating to such written determination; and

(c) Disclosures shall mean the making known to any person in any manner a return or return information.

(12) The Auditor of Public Accounts or the Legislative Auditor of the Legislative Performance Audit Section shall (a) notify the Tax Commissioner in writing thirty days prior to the beginning of an audit of his or her intent to conduct an audit, (b) provide an audit plan, and (c) provide a list of the tax returns and tax return information identified for inspection during the audit.

(13) The Auditor of Public Accounts or the Legislative Performance Audit Section shall, as a condition for receiving tax returns and tax return information: (a) Subject employees involved in the audit to the same confidential information safeguards and disclosure procedures as required of Department of Revenue employees; (b) establish and maintain a permanent system of standardized records with respect to any request for tax returns or tax return information, the reason for such request, and the date of such request and any disclosure of the tax return or tax return information; (c) establish and maintain a secure area or place in the Department of Revenue in which the tax returns, tax return information, or audit workpapers shall be stored; (d) restrict access to the tax returns or tax return information only to persons whose duties or responsibilities require access; (e) provide such other safeguards as the Tax Commissioner determines to be necessary or appropriate to protect the confidentiality of the tax returns or tax return information; (f) provide a report to the Tax Commissioner which describes the procedures established and utilized by the Auditor of Public Accounts or Legislative Performance Audit Section for insuring the confidentiality of tax returns, tax return information, and audit workpapers; and (g) upon completion of use of such returns or tax return information, return to the Tax Commissioner such returns or tax return information, along with any copies.

(14) The Tax Commissioner may permit other tax officials of this state to inspect the tax returns and reports filed under sections 77-2714 to 77-27,135, but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

(15) The Tax Commissioner shall compile the school district information required by subsection (2) of this section. Insofar as it is possible, such compilation shall include, but not be limited to, the total adjusted gross income of each school district in the state. The Tax Commissioner shall adopt and promulgate such rules and regulations as may be necessary to insure that such compilation does not violate the confidentiality of any individual income tax return nor conflict with any other provisions of state or federal law.

Source: Laws 1967, c. 487, § 119, p. 1628; Laws 1969, c. 694, § 1, p. 2689; Laws 1971, LB 527, § 1; Laws 1971, LB 571, § 1; Laws 1973, LB 526, § 6; Laws 1979, LB 302, § 1; Laws 1981, LB 170, § 7; Laws 1984, LB 962, § 32; Laws 1985, LB 273, § 68; Laws 1985, LB 344, § 8; Laws 1985, LB 345, § 1; Laws 1989, LB 611, § 3; Laws 1990, LB 431, § 1; Laws 1991, LB 549, § 22; Laws 1993, LB 46, § 17; Laws 1993, LB 345, § 72; Laws 1997, LB 129, § 2; Laws 1997, LB 720, § 23; Laws 1997, LB 806, § 3; Laws 2002, LB 989, § 19; Laws 2005, LB 216, § 18; Laws 2005, LB 312, § 15; Laws 2006, LB 588, § 9; Laws 2006, LB 956, § 11; Laws 2008, LB915, § 6; Laws 2010, LB563, § 15; Laws 2010, LB879, § 17.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB563, section 15, with LB879, section 17, to reflect all amendments.

Note: Changes made by LB563 became effective July 15, 2010. Changes made by LB879 became operative July 15, 2010.

Cross References

Contractor Registration Act, see section 48-2101.

Employee Classification Act, see section 48-2901.

Employment Security Law, see section 48-601.

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

(e) GOVERNMENTAL SUBDIVISION AID

77-27,137.02 Aid to natural resources districts; distribution; manner.

The appropriation made pursuant to the authority in section 77-27,136 for aid to natural resources districts shall be distributed to the various natural resources districts of the state on the basis of the ratio of the total amount of property taxes levied by the particular natural resources district to the total amount of property taxes levied by all natural resources districts within the state based on amounts stated in the most recent certificate of taxes levied statement and schedules submitted by each county pursuant to section 77-1613.01. For purposes of calculating the ratio in this section, in determining the total amount of property taxes levied by natural resources districts, the total shall exclude those property taxes levied for the payment of principal or interest on bonds. The Tax Commissioner shall determine the amount to be distributed to the various natural resources districts and certify such amounts by voucher to the Director of Administrative Services. Each amount shall be distributed in seven as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning December 1, 1982, and each December thereafter. The State Treasurer shall, between the fifth and twentieth day of

each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative Services shall, upon receipt of such notification and vouchers, draw warrants against funds appropriated. The proceeds of the payments received by the various natural resources districts shall be credited to the general fund of the district.

Source: Laws 1982, LB 816, § 6; Laws 1985, LB 268, § 29; Laws 1994, LB 480, § 30; Laws 1996, LB 108, § 77; Laws 2004, LB 962, § 109; Laws 2009, LB218, § 6; Laws 2010, LB210, § 1.
Operative date July 1, 2010.

(j) SETOFF FOR CHILD, SPOUSAL, AND MEDICAL SUPPORT DEBTS

77-27,165 Notice of claim to debtor; contents.

The Department of Health and Human Services shall send notification to the debtor of the assertion of the department's rights, or of the rights of an individual not eligible as a public assistance recipient, to all or a portion of the debtor's income tax refund. The notice shall contain the procedures available to the debtor for protesting the offset, the debtor's opportunity to give written notice of intent to contest the validity of the claim before the department within thirty days of the date of mailing the notice, and the defenses the debtor may raise. The debt shall be certified by the department through a preoffset review.

Source: Laws 1984, LB 845, § 11; Laws 1996, LB 1044, § 802; Laws 1997, LB 307, § 203; Laws 2010, LB849, § 29.
Operative date April 14, 2010.

ARTICLE 34

POLITICAL SUBDIVISIONS, BUDGET LIMITATIONS

(d) LIMITATION ON PROPERTY TAXES

Section

77-3442. Property tax levies; maximum levy; exceptions.

(e) BASE LIMITATION

77-3446. Base limitation, defined.

(d) LIMITATION ON PROPERTY TAXES

77-3442 Property tax levies; maximum levy; exceptions.

(1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivision (2)(e) of this section, school districts and multiple-district school systems, except learning communities and school districts that are members of learning communities, may levy a maximum levy of one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) For each fiscal year, learning communities may levy a maximum levy for the general fund budgets of member school districts of ninety-five cents per one hundred dollars of taxable valuation of property subject to the levy. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.

(c) Except as provided in subdivision (2)(e) of this section, for each fiscal year, school districts that are members of learning communities may levy for purposes of such districts' general fund budget and special building funds a maximum combined levy of the difference of one dollar and five cents on each one hundred dollars of taxable property subject to the levy minus the learning community levies pursuant to subdivisions (2)(b) and (2)(g) of this section for such learning community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c) of this section are amounts levied to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment and amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(e) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) or (2)(c) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(f) For school fiscal year 2002-03 through school fiscal year 2007-08, school districts and multiple-district school systems may, upon a three-fourths majority vote of the school board of the school district, the board of the unified system, or the school board of the high school district of the multiple-district school system that is not a unified system, exceed the maximum levy prescribed by subdivision (2)(a) of this section in an amount equal to the net difference between the amount of state aid that would have been provided under the Tax Equity and Educational Opportunities Support Act without the temporary aid adjustment factor as defined in section 79-1003 for the ensuing school fiscal year for the school district or multiple-district school system and the amount provided with the temporary aid adjustment factor. The State Department of Education shall certify to the school districts and multiple-district school systems the amount by which the maximum levy may be exceeded for the next school fiscal year pursuant to this subdivision (f) of this subsection on or before February 15 for school fiscal years 2004-05 through 2007-08.

(g) For each fiscal year, learning communities may levy a maximum levy of two cents on each one hundred dollars of taxable property subject to the levy for special building funds for member school districts. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.01.

(h) For each fiscal year, learning communities may levy a maximum levy of two cents on each one hundred dollars of taxable property subject to the levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to section 79-2111.

(i) For each fiscal year, learning communities may levy a maximum levy of one cent on each one hundred dollars of taxable property subject to the levy for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects, except that no more than ten percent of such levy may be used for elementary learning center employees.

(3)(a) For fiscal years prior to fiscal year 2010-11, community colleges may levy a maximum levy calculated pursuant to the Community College Foundation and Equalization Aid Act on each one hundred dollars of taxable property subject to the levy.

(b) For fiscal year 2010-11 and each fiscal year thereafter, in lieu of the calculation of a maximum levy for operating expenditures pursuant to the Community College Foundation and Equalization Aid Act, community colleges may levy a maximum of ten and one-quarter cents per one hundred dollars of taxable valuation of property subject to the levy for operating expenditures and may also levy the additional levies provided in subsection (2) of section 85-1517.

(4)(a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition, natural resources districts located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2011-12.

(5) Any educational service unit authorized to levy a property tax pursuant to section 79-1225 may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6)(a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint

Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated. Property tax levies for costs of reassumption of the assessment function pursuant to section 77-1340 or 77-1340.04 are not included in the levy limits established in this subsection for fiscal years 2010-11 through 2013-14.

(9) Municipal counties may levy or authorize a maximum levy of one dollar per one hundred dollars of taxable valuation of property subject to the levy. The municipal county may allocate levy authority to any political subdivision or entity subject to allocation under section 77-3443.

(10) Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property except as provided in section 44-4317 for bonded indebtedness issued by educational service units and school districts, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

(11) The limitations on tax levies provided in this section are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this section are those provided by or authorized by sections 77-3442 to 77-3444.

(12) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

(13) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

(14) For school districts that file a binding resolution on or before May 9, 2008, with the county assessors, county clerks, and county treasurers for all counties in which the school district has territory pursuant to subsection (7) of section 79-458, if the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, are in excess of the greater of (a) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) the maximum levy authorized by a vote pursuant to section 77-3444, all school district levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, shall be considered unauthorized levies under section 77-1606.

Source: Laws 1996, LB 1114, § 1; Laws 1997, LB 269, § 56; Laws 1998, LB 306, § 36; Laws 1998, LB 1104, § 17; Laws 1999, LB 87, § 87; Laws 1999, LB 141, § 11; Laws 1999, LB 437, § 26; Laws 2001, LB 142, § 57; Laws 2002, LB 568, § 9; Laws 2002, LB 898, § 1; Laws 2002, LB 1085, § 19; Laws 2003, LB 540, § 2; Laws 2004, LB 962, § 110; Laws 2004, LB 1093, § 1; Laws 2005, LB 38, § 2; Laws 2006, LB 968, § 12; Laws 2006, LB 1024, § 14; Laws 2006, LB 1226, § 30; Laws 2007, LB342, § 31; Laws 2007, LB641, § 4; Laws 2007, LB701, § 33; Laws 2008, LB988, § 2; Laws 2008, LB1154, § 5; Laws 2009, LB121, § 11; Laws 2010, LB1070, § 4; Laws 2010, LB1072, § 3.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1070, section 4, with LB1072, section 3, to reflect all amendments.

Note: Changes made by LB1070 became effective April 6, 2010. Changes made by LB1072 became effective April 15, 2010.

Cross References

Community College Foundation and Equalization Aid Act, see section 85-2201.

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Nebraska Ground Water Management and Protection Act, see section 46-701.

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

(e) BASE LIMITATION

77-3446 Base limitation, defined.

Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal years 2009-10, 2011-12, and 2012-13 is one and one-half percent and the base limitation for school districts for school fiscal year 2010-11 is twenty-five hundredths of one percent. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

Source: Laws 1998, LB 989, § 15; Laws 2001, LB 365, § 1; Laws 2003, LB 540, § 3; Laws 2009, LB545, § 2; Laws 2009, First Spec. Sess., LB5, § 1.
Effective date November 21, 2009.

ARTICLE 35**HOMESTEAD EXEMPTION**

Section

77-3517. Homestead; application for exemption; county assessor; Tax Commissioner; duties; refunds; liens.

77-3517 Homestead; application for exemption; county assessor; Tax Commissioner; duties; refunds; liens.

(1) On or before August 1 of each year, the county assessor shall forward the approved applications for homestead exemptions and a copy of the certification of disability status that have been examined pursuant to section 77-3516 to the Tax Commissioner. The Tax Commissioner shall determine if the applicant meets the income requirements and may also review any other application information he or she deems necessary in order to determine whether the application should be approved. The Tax Commissioner shall, on or before November 1, certify his or her determinations to the county assessor. If the application is approved, the county assessor shall make the proper deduction on the assessment rolls. If the application is denied or approved in part, the Tax Commissioner shall notify the applicant of the denial or partial approval by mailing written notice to the applicant at the address shown on the application. The applicant may appeal the Tax Commissioner's denial or partial approval pursuant to section 77-3520. Late applications authorized by the county board shall be processed in a similar manner after approval by the county assessor.

(2)(a) Upon his or her own action or upon a request by an applicant, a spouse, or an owner-occupant, the Tax Commissioner may review any information necessary to determine whether an application is in compliance with sections 77-3501 to 77-3529. Any action taken by the Tax Commissioner pursuant to this subsection shall be taken within three years after December 31 of the year in which the exemption was claimed.

(b) If after completion of the review the Tax Commissioner determines that an exemption should have been approved or increased, the Tax Commissioner

shall notify the applicant, spouse, or owner-occupant and the county treasurer and assessor of his or her determination. The applicant, spouse, or owner-occupant shall receive a refund of the tax, if any, that was paid as a result of the exemption being denied, in whole or in part. The county treasurer shall make the refund and shall amend the county's claim for reimbursement from the state.

(c) If after completion of the review the Tax Commissioner determines that an exemption should have been denied or reduced, the Tax Commissioner shall notify the applicant, spouse, or owner-occupant of such denial or reduction. The applicant, the spouse, and any owner-occupant may appeal the Tax Commissioner's denial or reduction pursuant to section 77-3520. Upon the expiration of the appeal period in section 77-3520, the Tax Commissioner shall notify the county assessor of the denial or reduction and the county assessor shall remove or reduce the exemption from the tax rolls of the county. Upon notification by the Tax Commissioner to the county assessor, the amount of tax due as a result of the action of the Tax Commissioner shall become a lien on the homestead until paid. Upon attachment of the lien, the county treasurer shall refund to the Tax Commissioner the amount of tax equal to the denied or reduced exemption for deposit into the General Fund. No lien shall be created if a change in ownership of the homestead or death of the applicant, the spouse, and all other owner-occupants has occurred prior to the Tax Commissioner's notice to the county assessor.

Source: Laws 1979, LB 65, § 17; Laws 1980, LB 647, § 10; Laws 1986, LB 1258, § 8; Laws 1987, LB 376A, § 13; Laws 1989, LB 84, § 14; Laws 1991, LB 9, § 7; Laws 1991, LB 773, § 25; Laws 1995, LB 133, § 5; Laws 1995, LB 499, § 2; Laws 1996, LB 1039, § 9; Laws 1997, LB 397, § 31; Laws 2010, LB877, § 6.
Effective date April 14, 2010.

ARTICLE 43

MARIJUANA AND CONTROLLED SUBSTANCES TAX

Section

77-4310.03. Marijuana and Controlled Substances Tax Administration Cash Fund; created; use; investment.

77-4310.03 Marijuana and Controlled Substances Tax Administration Cash Fund; created; use; investment.

There is hereby created the Marijuana and Controlled Substances Tax Administration Cash Fund. Money in the fund shall be used by the Tax Commissioner for the purposes of administering, collecting, and enforcing the tax imposed by section 77-4303, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Marijuana and Controlled Substances Tax Administration Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1991, LB 773, § 32; Laws 1994, LB 1066, § 87; Laws 2009, First Spec. Sess., LB3, § 56.
Effective date November 21, 2009.

Cross References

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

ARTICLE 50

TAX EQUALIZATION AND REVIEW COMMISSION ACT

Section

- 77-5004. Commissioner; qualifications; conflict of interests; continuing education; expenses.
- 77-5007. Commission; powers and duties.
- 77-5013. Commission; jurisdiction; time for filing; filing fee.
- 77-5016. Hearing or proceeding; commission; powers and duties; false statement; penalty; costs.
- 77-5018. Appeals; decisions and orders; requirements; publication on web site; correction of errors.
- 77-5019. Appeals; judicial review; procedure.
- 77-5031. Tax Equalization and Review Commission Cash Fund; created; use; investment.

77-5004 Commissioner; qualifications; conflict of interests; continuing education; expenses.

(1) Each commissioner shall be a qualified voter and resident of the state and, for each commissioner representing a congressional district, a domiciliary of the district he or she represents.

(2) Each commissioner shall devote his or her full time and efforts to the discharge of his or her duties and shall not hold any other office under the laws of this state, any city or county in this state, or the United States Government while serving on the commission. Each commissioner shall possess:

(a) Appropriate knowledge of terms commonly used in or related to real property appraisal and of the writing of appraisal reports;

(b) Adequate knowledge of depreciation theories, cost estimating, methods of capitalization, and real property appraisal mathematics;

(c) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and evaluating of data involved in the valuation of real property, including complex industrial properties and mass appraisal techniques;

(d) Knowledge of the law relating to taxation, civil and administrative procedure, due process, and evidence in Nebraska;

(e) At least thirty hours of successfully completed class hours in courses of study, approved by the Real Property Appraiser Board, which relate to appraisal and which include the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. If a commissioner has not received such training prior to his or her appointment, such training shall be completed within one year after appointment; and

(f) Such other qualifications and skills as reasonably may be requisite for the effective and reliable performance of the commission's duties.

(3) One commissioner shall possess any certification or training required to become a licensed residential real property appraiser as set forth in section 76-2230.

(4) Prior to January 1, 2002, the chairperson, and on and after January 1, 2002, at least two commissioners, shall have been engaged in the practice of law in the State of Nebraska for at least five years, which may include prior service as a judge, and shall be currently admitted to practice before the Nebraska Supreme Court.

(5) No commissioner or employee of the commission shall hold any position of profit or engage in any occupation or business interfering with or inconsistent with his or her duties as a commissioner or employee. A person is not eligible for appointment and may not hold the office of commissioner or be appointed by the commission to or hold any office or position under the commission if he or she holds any official office or position.

(6)(a) Each commissioner who meets the requirements of subsection (4) of this section on or after January 1, 2002, shall annually attend a seminar or class of at least two days' duration that is:

(i) Sponsored by a recognized assessment or appraisal organization, in each of these areas: Utility and railroad appraisal; appraisal of complex industrial properties; appraisal of other hard to assess properties; and mass appraisal, residential or agricultural appraisal, or assessment administration; or

(ii) Pertaining to management, law, civil or administrative procedure, or other knowledge or skill necessary for performing the duties of the office.

(b) Each commissioner who does not meet the requirements of subsection (4) of this section on or after January 1, 2002, shall within two years after his or her appointment attend at least thirty hours of instruction that constitutes training for judges or administrative law judges.

(7) The commissioners shall be considered employees of the state for purposes of sections 81-1320 to 81-1328 and 84-1601 to 84-1615.

(8) The commissioners shall be reimbursed as prescribed in sections 81-1174 to 81-1177 for their actual and necessary expenses in the performance of their official duties pursuant to the Tax Equalization and Review Commission Act.

Source: Laws 1995, LB 490, § 4; Laws 1996, LB 1038, § 2; Laws 1999, LB 32, § 1; Laws 2001, LB 170, § 19; Laws 2001, LB 465, § 4; Laws 2002, LB 994, § 28; Laws 2003, LB 292, § 15; Laws 2004, LB 973, § 47; Laws 2006, LB 778, § 73; Laws 2007, LB186, § 25; Laws 2008, LB965, § 20; Laws 2010, LB931, § 25.

Effective date April 15, 2010.

77-5007 Commission; powers and duties.

The commission has the power and duty to hear and determine appeals of:

(1) Decisions of any county board of equalization equalizing the value of individual tracts, lots, or parcels of real property so that all real property is assessed uniformly and proportionately;

(2) Decisions of any county board of equalization granting or denying tax-exempt status for real or personal property or an exemption from motor vehicle taxes and fees;

(3) Decisions of the Tax Commissioner, and decisions of the Property Tax Administrator made before July 1, 2007, determining the taxable property of a railroad company, car company, public service entity, or air carrier within the state;

(4) Decisions of the Tax Commissioner, and decisions of the Property Tax Administrator made before July 1, 2007, determining adjusted valuation pursuant to section 79-1016;

(5) Decisions of any county board of equalization on the valuation of personal property or any penalties imposed under sections 77-1233.04 and 77-1233.06;

(6) Decisions of any county board of equalization on claims that a levy is or is not for an unlawful or unnecessary purpose or in excess of the requirements of the county;

(7) Decisions of any county board of equalization granting or rejecting an application for a homestead exemption;

(8) Decisions of the Department of Motor Vehicles determining the taxable value of motor vehicles pursuant to section 60-3,188;

(9) Decisions of the Tax Commissioner, and decisions of the Property Tax Administrator made before July 1, 2007, made under section 77-1330;

(10) Any other decision of any county board of equalization;

(11) Any other decision of the Property Tax Administrator made before July 1, 2007, and decisions made by the Tax Commissioner regarding property valuation, exemption, or taxation made on or after July 1, 2007;

(12) Decisions of the Tax Commissioner pursuant to section 77-3520;

(13) Final decisions of a county board of equalization appealed by the Tax Commissioner or Property Tax Administrator pursuant to section 77-701; and

(14) Any other decision, determination, action, or order from which an appeal to the commission is authorized.

The commission has the power and duty to hear and grant or deny relief on petitions.

Source: Laws 1995, LB 490, § 7; Laws 1996, LB 1038, § 3; Laws 1997, LB 270, § 102; Laws 1997, LB 397, § 35; Laws 1998, LB 306, § 40; Laws 1999, LB 140, § 2; Laws 1999, LB 194, § 33; Laws 2001, LB 170, § 20; Laws 2004, LB 973, § 48; Laws 2005, LB 15, § 8; Laws 2005, LB 261, § 8; Laws 2005, LB 274, § 280; Laws 2007, LB334, § 96; Laws 2010, LB877, § 7.
Effective date April 14, 2010.

77-5013 Commission; jurisdiction; time for filing; filing fee.

(1) The commission obtains exclusive jurisdiction over an appeal or petition when:

(a) The commission has the power or authority to hear the appeal or petition;

(b) An appeal or petition is timely filed;

(c) The filing fee, if applicable, is timely received and thereafter paid; and

(d) In the case of an appeal, a copy of the decision, order, determination, or action appealed from, or other information that documents the decision, order, determination, or action appealed from, is timely filed.

Only the requirements of this subsection shall be deemed jurisdictional.

(2) A petition, an appeal, or the information required by subdivision (1)(d) of this section is timely filed and the filing fee, if applicable, is timely received if placed in the United States mail, postage prepaid, with a legible postmark for delivery to the commission, or received by the commission, on or before the date specified by law for filing the appeal or petition. If no date is otherwise provided by law, then an appeal shall be filed within thirty days after the decision, order, determination, or action appealed from is made.

(3) The filing fee for each appeal or petition filed with the commission is twenty-five dollars, except that no filing fee shall be required for an appeal by a

county assessor, the Tax Commissioner, or the Property Tax Administrator acting in his or her official capacity or a county board of equalization acting in its official capacity.

(4) The form and requirements for execution of an appeal or petition may be specified by the commission in its rules and regulations.

Source: Laws 1995, LB 490, § 13; Laws 1998, LB 1104, § 28; Laws 2001, LB 170, § 21; Laws 2004, LB 973, § 49; Laws 2010, LB877, § 8. Effective date April 14, 2010.

77-5016 Hearing or proceeding; commission; powers and duties; false statement; penalty; costs.

Any hearing or proceeding of the commission shall be conducted as an informal hearing unless a formal hearing is granted as determined by the commission according to its rules and regulations. In any hearing or proceeding heard by the commission or a panel of commissioners:

(1) The commission may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs excluding incompetent, irrelevant, immaterial, and unduly repetitious evidence and shall give effect to the privilege rules of evidence in sections 27-501 to 27-513 but shall not otherwise be bound by the usual common-law or statutory rules of evidence except during a formal hearing. Any party to an appeal filed under section 77-5007 may request a formal hearing by delivering a written request to the commission not more than thirty days after the appeal is filed. The requesting party shall be liable for the payment of fees and costs of a court reporter pending a final decision. The commission shall be bound by the rules of evidence applicable in district court in any formal hearing held by the commission. Fees and costs of a court reporter shall be paid by the party or parties against whom a final decision is rendered, and all other costs shall be allocated as the commission may determine;

(2) The commission may administer oaths, issue subpoenas, and compel the attendance of witnesses and the production of any papers, books, accounts, documents, statistical analysis, and testimony. The commission may adopt and promulgate necessary rules for discovery which are consistent with the rules adopted by the Supreme Court pursuant to section 25-1273.01;

(3) The commission may consider and utilize the provisions of the Constitution of the United States, the Constitution of Nebraska, the laws of the United States, the laws of Nebraska, the Code of Federal Regulations, the Nebraska Administrative Code, any decision of the several courts of the United States or the State of Nebraska, and the legislative history of any law, rule, or regulation, without making the document a part of the record. The commission may without inclusion in the record consider and utilize published treatises, periodicals, and reference works pertaining to the valuation or assessment of real or personal property or the meaning of words and phrases if the document is identified in the commission's rules and regulations. All other evidence, including records and documents in the possession of the commission of which it desires to avail itself, shall be offered and made a part of the record in the case. No other factual information or evidence other than that set forth in this section shall be considered in the determination of the case. Documentary

evidence may be received in the form of copies or excerpts or by incorporation by reference;

(4) Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence;

(5) The commission may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within its specialized knowledge or statistical information regarding general levels of assessment within a county or a class or subclass of real property within a county and measures of central tendency within such county or classes or subclasses within such county which have been made known to the commission. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material so noticed. They shall be afforded an opportunity to contest the facts so noticed. The commission may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it;

(6) Any person testifying under oath at a hearing who knowingly and intentionally makes a false statement to the commission or its designee is guilty of perjury. For the purpose of this section, perjury is a Class I misdemeanor;

(7) The commission may determine any question raised in the proceeding upon which an order, decision, determination, or action appealed from is based. The commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal;

(8) In all appeals, excepting those arising under section 77-1606, if the appellant presents no evidence to show that the order, decision, determination, or action appealed from is incorrect, the commission shall deny the appeal. If the appellant presents any evidence to show that the order, decision, determination, or action appealed from is incorrect, such order, decision, determination, or action shall be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary;

(9) If the appeal concerns a decision by the county board of equalization that property is, in whole or in part, exempt from taxation, the decision to be rendered by the commission shall only determine the exemption status of the property. The decision shall not determine the taxable value of the property unless stipulated by the parties according to subsection (2) of section 77-5017;

(10) If the appeal concerns a decision by the county board of equalization that property owned by the state or a political subdivision is or is not exempt and there has been no final determination of the value of the property, the decision to be rendered by the commission shall only determine the exemption status of the property. The decision shall not determine the taxable value of the property unless stipulated by the parties according to subsection (2) of section 77-5017;

(11) The costs of any appeal, including the costs of witnesses, may be taxed by the commission as it deems just, except costs payable by the appellant pursuant to section 77-1510.01, unless (a) the appellant is the county assessor or county clerk in which case the costs shall be paid by the county or (b) the appellant is the Tax Commissioner or Property Tax Administrator in which case the costs shall be paid by the state; and

(12) The commission shall deny relief to the appellant or petitioner in any hearing or proceeding unless a majority of the commissioners present determine that the relief should be granted.

Source: Laws 1995, LB 490, § 16; Laws 1997, LB 397, § 38; Laws 1999, LB 140, § 4; Laws 2000, LB 968, § 75; Laws 2001, LB 170, § 22; Laws 2001, LB 419, § 1; Laws 2001, LB 465, § 7; Laws 2002, LB 994, § 29; Laws 2003, LB 291, § 9; Laws 2004, LB 973, § 51; Laws 2005, LB 15, § 9; Laws 2007, LB167, § 6; Laws 2010, LB877, § 9.
Effective date April 14, 2010.

77-5018 Appeals; decisions and orders; requirements; publication on web site; correction of errors.

(1) The commission may issue decisions and orders which are supported by the evidence and appropriate for resolving the matters in dispute. Every final decision and order adverse to a party to the proceeding, rendered by the commission in a case appealed to the commission, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order shall be delivered or mailed to each party or his or her attorney of record. Within seven days of issuing a decision and order, the commission shall electronically publish such decision and order on a web site maintained by the commission that is accessible to the general public. The full text of final decisions and orders entered after a hearing by the commission or a panel of commissioners shall be published on the web site. Final decisions and orders that are entered (a) on a dismissal by the appellant or petitioner, (b) on a default order when the appellant or petitioner failed to appear, or (c) by agreement of the parties may be published on the web site in a summary manner identifying the parties, the case number, and the basis for the final decision and order. Any decision rendered by the commission shall be certified to the county treasurer and to the officer charged with the duty of preparing the tax list, and if and when such decision becomes final, such officers shall correct their records accordingly and the tax list pursuant to section 77-1613.02.

(2) The commission may, on its own motion, modify or change its findings or orders, at any time before an appeal and within ten days after the date of such findings or orders, for the purpose of correcting any ambiguity, clerical error, or patent or obvious error. The time for appeal shall not be lengthened because of the correction unless the correction substantially changes the findings or order.

(3) The Tax Commissioner or the Property Tax Administrator shall have thirty days after a final decision of the commission to appeal the commission's decision.

Source: Laws 1995, LB 490, § 18; Laws 1997, LB 397, § 39; Laws 2001, LB 465, § 8; Laws 2005, LB 15, § 10; Laws 2007, LB166, § 11; Laws 2010, LB877, § 10.
Effective date April 14, 2010.

77-5019 Appeals; judicial review; procedure.

(1) Any party aggrieved by a final decision in a case appealed to the commission, any party aggrieved by a final decision of the commission on a petition, any party aggrieved by an order of the commission issued pursuant to section 77-5020 or sections 77-5023 to 77-5028, or any party aggrieved by a final decision of the commission appealed by the Tax Commissioner or the Property Tax Administrator pursuant to section 77-701 shall be entitled to judicial review in the Court of Appeals. Upon request of the county, the Attorney General may appear and represent the county or political subdivision in cases in which the commission is not a party. Nothing in this section shall be deemed to prevent resort to other means of review, redress, or relief provided by law.

(2)(a) Proceedings for review shall be instituted by filing a petition and the appropriate docket fees in the Court of Appeals within thirty days after the date on which a final appealable order is entered by the commission. All parties of record shall be made parties to the proceedings for review. The commission shall only be made a party of record if the action complained of is an order issued by the commission pursuant to section 77-1504.01 or 77-5020 or sections 77-5023 to 77-5028. Summons shall be served on all parties within thirty days after the filing of the petition in the manner provided for service of a summons in section 25-510.02. The court, in its discretion, may permit other interested persons to intervene. No bond or undertaking is required for an appeal to the Court of Appeals.

(b) A petition for review shall set forth: (i) The name and mailing address of the petitioner; (ii) the name and mailing address of the county whose action is at issue or the commission; (iii) identification of the final decision at issue together with a duplicate copy of the final decision; (iv) the identification of the parties in the case that led to the final decision; (v) the facts to demonstrate proper venue; (vi) the petitioner's reasons for believing that relief should be granted; and (vii) a request for relief, specifying the type and extent of the relief requested.

(3) The filing of the petition or the service of summons upon the commission shall not stay enforcement of a decision. The commission may order a stay. The court may order a stay after notice of the application for the stay to the commission and to all parties of record. The court may require the party requesting the stay to give bond in such amount and conditioned as the court directs.

(4) Upon receipt of a petition the date for submission of the official record shall be determined by the court. The commission shall prepare a certified copy of the official record of the proceedings had before the commission in the case. The official record shall include: (a) Notice of all proceedings; (b) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the commission pertaining to the case; (c) the transcribed record of the hearing before the commission, including all exhibits and evidence introduced during the hearing, a statement of matters officially noticed by the commission during the proceeding, and all proffers of proof and objections and rulings thereon; and (d) the final order appealed from. The official record in an appeal of a commission decision issued pursuant to sections 77-5023 to 77-5028 may be limited by the request of a petitioner to those parts of the record pertaining to a specific county. The commission shall charge the petitioner with the reasonable direct cost or require the petitioner to pay the cost for preparing the official record for transmittal to the court in all

cases except when the petitioner is not required to pay a filing fee. If payment is required, payment of the cost, as estimated by the commission, for preparation of the official record shall be paid to the commission prior to preparation of the official record and the commission shall not transmit the official record to the court until payment of the actual costs of its preparation is received.

(5) The review shall be conducted by the court for error on the record of the commission. If the court determines that the interest of justice would be served by the resolution of any other issue not raised before the commission, the court may remand the case to the commission for further proceedings. The court may affirm, reverse, or modify the decision of the commission or remand the case for further proceedings.

(6) Appeals under this section shall be given precedence over all civil cases.

Source: Laws 1995, LB 490, § 19; Laws 1997, LB 165, § 4; Laws 1999, LB 140, § 5; Laws 2000, LB 968, § 76; Laws 2001, LB 465, § 9; Laws 2005, LB 15, § 11; Laws 2006, LB 808, § 42; Laws 2008, LB965, § 21; Laws 2010, LB877, § 11.
Effective date April 14, 2010.

77-5031 Tax Equalization and Review Commission Cash Fund; created; use; investment.

The Tax Equalization and Review Commission Cash Fund is hereby created. All money received by the commission for appeals and services performed and billed to other agencies or persons shall be credited to the fund. The commission shall only bill for the actual amount expended in performing services. The fund shall be used to carry out the provisions of the Tax Equalization and Review Commission Act, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Expenditures from the Tax Equalization and Review Commission Cash Fund shall be made only when such funds are available. Any unexpended balance in the fund at the end of each fiscal year shall not lapse to the General Fund. Any money in the Tax Equalization and Review Commission 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 1997, LB 270, § 101; Laws 2009, First Spec. Sess., LB3, § 57.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 56

TAX AMNESTY PROGRAM

Section

77-5601. Tax amnesty program; application; department; powers and duties; Department of Revenue Enforcement Fund; Department of Revenue Enforcement Technology Fund; created; investment.

77-5601 Tax amnesty program; application; department; powers and duties; Department of Revenue Enforcement Fund; Department of Revenue Enforcement Technology Fund; created; investment.

(1) From August 1, 2004, through October 31, 2004, there shall be conducted a tax amnesty program with regard to taxes due and owing that have not been reported to the Department of Revenue. Any person applying for tax amnesty shall pay all unreported taxes that were due on or before April 1, 2004. Any person that applies for tax amnesty and is accepted by the Tax Commissioner shall have any penalties and interest waived on unreported and delinquent taxes notwithstanding any other provisions of law to the contrary.

(2) To be eligible for the tax amnesty provided by this section, the person shall apply for amnesty within the amnesty period, file a return for each taxable period for which the amnesty is requested by December 31, 2004, if no return has been filed, and pay in full all taxes for which amnesty is sought with the return or within thirty days after the application if a return was filed prior to the amnesty period. Tax amnesty shall not be available for any person that is under civil or criminal audit, investigation, or prosecution for unreported or delinquent taxes by this state or the United States Government on or before April 16, 2004.

(3) The department shall not seek civil or criminal prosecution against any person for any taxable period for which amnesty has been granted. The Tax Commissioner shall develop forms for applying for the tax amnesty program, develop procedures for qualification for tax amnesty, and conduct a public awareness campaign publicizing the program.

(4) If a person elects to participate in the amnesty program, the election shall constitute an express and irrevocable relinquishment of all administrative and judicial rights to challenge the imposition of the tax or its amount. Nothing in this section shall prohibit the department from adjusting a return as a result of any state or federal audit.

(5)(a) Except for any local option sales tax collected and returned to the appropriate municipality and any motor vehicle fuel, diesel fuel, and compressed fuel taxes, which shall be deposited in the Highway Trust Fund or Highway Allocation Fund as provided by law, no less than eighty percent of all revenue received pursuant to the tax amnesty program shall be deposited in the General Fund; ten percent, not to exceed five hundred thousand dollars, shall be deposited in the Department of Revenue Enforcement Fund; and ten percent, not to exceed five hundred thousand dollars, shall be deposited in the Department of Revenue Enforcement Technology Fund. Any amount that would otherwise be deposited in the Department of Revenue Enforcement Fund or the Department of Revenue Enforcement Technology Fund that is in excess of the five-hundred-thousand-dollar limitation shall be deposited in the General Fund.

(b) For fiscal year 2005-06, all proceeds in the Department of Revenue Enforcement Fund shall be appropriated to the department for purposes of employing investigators, agents, and auditors and otherwise increasing personnel for enforcement of the Nebraska Revenue Act of 1967. For fiscal year 2005-06, all proceeds in the Department of Revenue Enforcement Technology Fund shall be appropriated to the department for the purposes of acquiring lists, software, programming, computer equipment, and other technological methods for enforcing the act.

(c) For fiscal years after fiscal year 2005-06, twenty percent of all proceeds received during the previous calendar year due to the efforts of auditors and investigators hired pursuant to subdivision (5)(b) of this section, not to exceed seven hundred fifty thousand dollars, shall be deposited in the Department of

Revenue Enforcement Fund for purposes of employing investigators and auditors or continuing such employment for purposes of increasing enforcement of the act.

(6)(a) The department shall prepare a report by April 1, 2005, and by February 1 of each year thereafter detailing the results of the tax amnesty program and the subsequent enforcement efforts. For the report due April 1, 2005, the report shall include (i) the amount of revenue obtained as a result of the tax amnesty program broken down by tax program, (ii) the amount obtained from in-state taxpayers and from out-of-state taxpayers, and (iii) the amount obtained from individual taxpayers and from business enterprises.

(b) For reports due in subsequent years, the report shall include (i) the number of personnel hired for purposes of subdivision (5)(b) of this section and their duties, (ii) a description of lists, software, programming, computer equipment, and other technological methods acquired pursuant to such subdivision and the purposes of each, and (iii) the amount of new revenue obtained as a result of the new personnel and acquisitions during the prior calendar year, broken down into the same categories as described in subdivision (6)(a) of this section.

(7) The Department of Revenue Enforcement Fund and the Department of Revenue Enforcement Technology Fund are created. Transfers may be made from the Department of Revenue Enforcement Fund to the General Fund at the direction of the Legislature. The Department of Revenue Enforcement Fund may receive transfers from the Local Civic, Cultural, and Convention Center Financing Fund at the direction of the Legislature for the purpose of administering the Sports Arena Facility Financing Assistance Act. Any money in the Department of Revenue Enforcement Fund and the Department of Revenue Enforcement Technology 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 Department of Revenue Enforcement Technology Fund shall terminate on July 1, 2006. Any unobligated money in the fund at that time shall be deposited in the General Fund.

(8) For purposes of this section, taxes mean any taxes collected by the department, including, but not limited to state and local sales and use taxes, individual and corporate income taxes, financial institutions deposit taxes, motor vehicle fuel, diesel fuel, and compressed fuel taxes, cigarette taxes, transfer taxes, and charitable gaming taxes.

Source: Laws 2004, LB 1017, § 23; Laws 2009, First Spec. Sess., LB3, § 58; Laws 2010, LB779, § 18.
Operative date July 1, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska Revenue Act of 1967, see section 77-2701.

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

Sports Arena Facility Financing Assistance Act, see section 13-3101.

ARTICLE 57

NEBRASKA ADVANTAGE ACT

Section

77-5707. Compensation, defined.

77-5715. Qualified business, defined.

§ 77-5707

REVENUE AND TAXATION

Section

- 77-5719. Taxpayer, defined.
- 77-5725. Tiers; requirements; incentives; enumerated.
- 77-5726. Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.
- 77-5735. Changes to sections; when effective; applicability.

77-5707 Compensation, defined.

Compensation means the wages and other payments subject to the federal medicare tax.

Source: Laws 2005, LB 312, § 29; Laws 2010, LB918, § 1.
Effective date July 15, 2010.

77-5715 Qualified business, defined.

(1) For a tier 2, tier 3, tier 4, or tier 5 project, qualified business means any business engaged in:

(a) The conducting of research, development, or testing for scientific, agricultural, animal husbandry, food product, or industrial purposes;

(b) The performance of data processing, telecommunication, insurance, or financial services. For purposes of this subdivision, financial services includes only financial services provided by any financial institution subject to tax under Chapter 77, article 38, or any person or entity licensed by the Department of Banking and Finance or the federal Securities and Exchange Commission and telecommunication services includes community antenna television service, Internet access, satellite ground station, data center, call center, or telemarketing;

(c) The assembly, fabrication, manufacture, or processing of tangible personal property;

(d) The administrative management of the taxpayer's activities, including headquarter facilities relating to such activities or the administrative management of any of the activities of any business entity or entities in which the taxpayer or a group of its shareholders holds any direct or indirect ownership interest of at least ten percent, including headquarter facilities relating to such activities;

(e) The storage, warehousing, distribution, transportation, or sale of tangible personal property;

(f) The sale of tangible personal property if the taxpayer derives at least seventy-five percent or more of the sales or revenue attributable to such activities relating to the project from sales to consumers who are not related persons and are located outside the state;

(g) The sale of software development services, computer systems design, product testing services, or guidance or surveillance systems design services or the licensing of technology if the taxpayer derives at least seventy-five percent of the sales or revenue attributable to such activities relating to the project from sales or licensing either to customers who are not related persons and located outside the state or to the United States Government, including sales of such services, systems, or products delivered by providing the customer with software or access to software over the Internet or by other electronic means, regardless of whether the software or data accessed by customers is stored on a

computer owned by the applicant, the customer, or a third party and regardless of whether the computer storing the software or data is located at the project;

(h) The research, development, and maintenance of an Internet web portal. For purposes of this subdivision, Internet web portal means an Internet site that allows users to access, search, and navigate the Internet;

(i) The research, development, and maintenance of a data center. For purposes of this subdivision, data center means a group of computers, supporting equipment, and other organized assembly of hardware or software in one or more interrelated physical locations that is designed to centralize the storage, management, or dissemination of data and information; or

(j) Any combination of the activities listed in this subsection.

(2) For a tier 1 project, qualified business means any business engaged in:

(a) The conducting of research, development, or testing for scientific, agricultural, animal husbandry, food product, or industrial purposes;

(b) The assembly, fabrication, manufacture, or processing of tangible personal property;

(c) The sale of software development services, computer systems design, product testing services, or guidance or surveillance systems design services or the licensing of technology if the taxpayer derives at least seventy-five percent of the sales or revenue attributable to such activities relating to the project from sales or licensing either to customers who are not related persons and are located outside the state or to the United States Government, including sales of such services, systems, or products delivered by providing the customer with software or access to software over the Internet or by other electronic means, regardless of whether the software or data accessed by customers is stored on a computer owned by the applicant, the customer, or a third party and regardless of whether the computer storing the software or data is located at the project; or

(d) Any combination of activities listed in this subsection.

(3) For a tier 6 project, qualified business means any business except a business excluded by subsection (4) of this section.

(4) Except for business activity described in subdivision (1)(f) of this section, qualified business does not include any business activity in which eighty percent or more of the total sales are sales to the ultimate consumer of (a) food prepared for immediate consumption or (b) tangible personal property which is not assembled, fabricated, manufactured, or processed by the taxpayer or used by the purchaser in any of the activities listed in subsection (1) or (2) of this section.

Source: Laws 2005, LB 312, § 37; Laws 2007, LB223, § 29; Laws 2008, LB895, § 12; Laws 2009, LB164, § 4; Laws 2010, LB918, § 2. Effective date July 15, 2010.

77-5719 Taxpayer, defined.

Taxpayer means any person subject to sales and use taxes under the Nebraska Revenue Act of 1967 and subject to withholding under section 77-2753 and any corporation, partnership, limited liability company, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture that is or would

otherwise be a member of the same unitary group, if incorporated, that is subject to such sales and use taxes or such withholding. Taxpayer does not include a political subdivision or an organization that is exempt from income taxes under section 501(a) of the Internal Revenue Code of 1986, as amended, or any partnership, limited liability company, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture in which political subdivisions or organizations described in section 501(c) or (d) of the code hold an ownership interest of twenty percent or more.

Source: Laws 2005, LB 312, § 41; Laws 2006, LB 1003, § 12; Laws 2007, LB368, § 139; Laws 2010, LB918, § 3.
Effective date July 15, 2010.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-5725 Tiers; requirements; incentives; enumerated.

(1) Applicants may qualify for benefits under the Nebraska Advantage Act in one of six tiers:

(a) Tier 1, investment in qualified property of at least one million dollars and the hiring of at least ten new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2015, without further authorization of the Legislature. All complete project applications filed on or before December 31, 2015, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2015. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(b) Tier 2, investment in qualified property of at least three million dollars and the hiring of at least thirty new employees;

(c) Tier 3, the hiring of at least thirty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2015, without further authorization of the Legislature. All complete project applications filed on or before December 31, 2015, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2015. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(d) Tier 4, investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees;

(e) Tier 5, investment in qualified property of at least thirty million dollars. Failure to maintain an average number of equivalent employees as defined in section 77-5727 greater than or equal to the number of equivalent employees in the base year shall result in a partial recapture of benefits; and

(f) Tier 6, investment in qualified property of at least ten million dollars and the hiring of at least seventy-five new employees or the investment in qualified property of at least one hundred million dollars and the hiring of at least fifty new employees. Agreements may be executed with regard to completed project applications filed before January 1, 2016. All project agreements pending,

approved, or entered into before such date shall continue in full force and effect.

(2) When the taxpayer has met the required levels of employment and investment contained in the agreement for a tier 1, tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be entitled to the following incentives:

(a) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate when such property is incorporated into real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax;

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on the cost of materials subject to the sales and use tax that were annexed to real estate; and

(v) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is both (A) incorporated into real estate as a part of a project and (B) annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such taxes paid during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment.

(3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier 4 project shall be entitled to a credit equal to three percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least sixty percent of the Nebraska average annual wage for the year of application. The credit shall equal four percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least seventy-five percent of the Nebraska average annual wage for the year of application. The credit shall equal five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one

hundred percent of the Nebraska average annual wage for the year of application. The credit shall equal six percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred twenty-five percent of the Nebraska average annual wage for the year of application. For computation of such credit:

(a) Average annual wage means the total compensation paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year, divided by the number of equivalent employees making up such total compensation;

(b) Average wage of new employees means the average annual wage paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year; and

(c) Nebraska average annual wage means the Nebraska average weekly wage times fifty-two.

(4) Any taxpayer who qualifies for a tier 6 project shall be entitled to a credit equal to ten percent times the total compensation paid to all employees, other than base-year employees, excluding any compensation in excess of one million dollars paid to any one employee during the year, employed at the project.

(5) Any taxpayer who has met the required levels of employment and investment for a tier 2 or tier 4 project shall receive a credit equal to ten percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 1 project shall receive a credit equal to three percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 6 project shall receive a credit equal to fifteen percent of the investment made in qualified property at the project.

(6) The credits prescribed in subsections (3), (4), and (5) of this section shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

(7) The credit prescribed in subsection (5) of this section shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment were met.

(8)(a) A taxpayer who has met the required levels of employment and investment for a tier 4 or tier 6 project shall receive the incentive provided in this subsection. A taxpayer who has a project for an Internet web portal or a data center and who has met the required levels of employment and investment for a tier 2 project or the required level of investment for a tier 5 project shall receive the incentive provided in this subsection for property in subdivision (8)(b)(ii) of this section. Such investment and hiring of new employees shall be considered a required level of investment and employment for this subsection and for the recapture of benefits under this subsection only.

(b) The following property used in connection with such project or projects and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed shall constitute separate classes of personal property:

(i) Turbine-powered aircraft, including turboprop, turbojet, and turboprop aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;

(ii) Computer systems, made up of equipment that is interconnected in order to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware, used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user. A computer system includes peripheral components which require environmental controls of temperature and power connected to such computer systems. Peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, data switches, and communication controllers;

(iii) Depreciable personal property used for a distribution facility, including, but not limited to, storage racks, conveyor mechanisms, forklifts, and other property used to store or move products;

(iv) Personal property which is business equipment located in a single project if the business equipment is involved directly in the manufacture or processing of agricultural products; and

(v) For a tier 6 project, any other personal property located at the project.

(c) Such property shall be eligible for exemption from the tax on personal property from the first January 1 following the date of acquisition for property in subdivision (8)(b)(i) of this section, or from the first January 1 following the end of the year during which the required levels were exceeded for property in subdivisions (8)(b)(ii), (iii), (iv), and (v) of this section, through the ninth December 31 after the first year any property included in subdivisions (8)(b)(ii), (iii), (iv), and (v) of this section qualifies for the exemption. In order to receive the property tax exemptions allowed by subdivision (8)(b) of this section, the taxpayer shall annually file a claim for exemption with the Tax Commissioner on or before May 1. The form and supporting schedules shall be prescribed by the Tax Commissioner and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each project and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Tax Commissioner shall determine the eligibility of each item listed for exemption and, on or before August 1, certify such to the taxpayer and to the affected county assessor. In determining the eligibility of items of personal property for exemption, the Tax Commissioner is limited to the question of whether the property claimed as exempt by the taxpayer falls within the classes of property described in subdivision (8)(b) of this section. The determination of whether a taxpayer is eligible to obtain exemption for personal property based on meeting the required levels of investment and employment is the responsibility of the Tax Commissioner.

(9)(a) The investment thresholds in this section for a particular year of application shall be adjusted by the method provided in this subsection.

(b) For tier 1, tier 2, tier 4, and tier 5, beginning October 1, 2006, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2006 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2006.

(c) For tier 6, beginning October 1, 2008, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2008 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2008.

(d) If the resulting amount is not a multiple of one million dollars, the amount shall be rounded to the next lowest one million dollars.

(e) The investment thresholds established by this subsection apply for purposes of project qualifications for all applications filed on or after January 1 of the following year for all years of the project. Adjustments do not apply to projects after the year of application.

Source: Laws 2005, LB 312, § 47; Laws 2006, LB 1003, § 14; Laws 2007, LB223, § 30; Laws 2007, LB334, § 98; Laws 2008, LB895, § 16; Laws 2008, LB965, § 22; Laws 2009, LB164, § 6; Laws 2010, LB879, § 18; Laws 2010, LB918, § 4.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB879, section 18, with LB918, section 4, to reflect all amendments.

Note: Changes made by LB918 became effective July 15, 2010. Changes made by LB879 became operative July 15, 2010.

Cross References

Local Option Revenue Act, see section 77-27,148.

Nebraska Revenue Act of 1967, see section 77-2701.

77-5726 Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.

(1)(a) The credits prescribed in section 77-5725 shall be established by filing the forms required by the Tax Commissioner with the income tax return for the year. The credits may be used and shall be applied in the order in which they were first allowed. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(b) The taxpayer may use the credit provided in subsection (3) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to the number of new employees at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year. The taxpayer may use the credit provided in subsection (4) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year. To the extent of the credit used, such

withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the taxpayer of the credit shall not change the amount that otherwise would be reported by the taxpayer to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755.

For a tier 1, tier 2, tier 3, or tier 4 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to new employees employed at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year.

For a tier 6 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year.

If the amount of credit used by the taxpayer against income tax withholding exceeds this amount, the excess withholding shall be returned to the Department of Revenue in the manner provided in section 77-2756, such excess amount returned shall be considered unused, and the amount of unused credits may be used as otherwise permitted in this section or shall carry over to the extent authorized in subdivision (1)(e) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not otherwise refundable that are paid on purchases, including rentals, for use at the project for a tier 1, tier 2, tier 3, or tier 4 project or for use within this state for a tier 6 project.

(d) The credits earned for a tier 6 project may be used to obtain a payment from the state equal to the real property taxes due after the year the required levels of employment and investment were met and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. The payment from the state shall be made only after payment of the real property taxes have been made to the county as required by law. Payments shall not be allowed for any taxes paid on real property for which the taxes are divided under section 18-2147 or 58-507.

(e) Credits may be carried over until fully utilized, except that such credits may not be carried over more than nine years after the year of application for a tier 1 or tier 3 project, fourteen years after the year of application for a tier 2 or tier 4 project, or more than one year past the end of the entitlement period for a tier 6 project.

(2)(a) No refund claims shall be filed until after the required levels of employment and investment have been met.

(b) Refund claims shall be filed no more than once each quarter for refunds under the Nebraska Advantage Act, except that any claim for a refund in excess of twenty-five thousand dollars may be filed at any time.

(c) Refund claims for materials purchased by a purchasing agent shall include:

- (i) A copy of the purchasing agent appointment;
- (ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of section 77-5725, a certification by the contractor or repairperson of the percentage of the materials incorporated into or annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 77-5725, a certification by the contractor or repairperson of the percentage of the contract price that represents the cost of materials annexed to the project and the percentage of the materials annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

(d) All refund claims shall be filed, processed, and allowed as any other claim under section 77-2708, except that the amounts allowed to be refunded under the Nebraska Advantage Act shall be deemed to be overpayments and shall be refunded notwithstanding any limitation in subdivision (2)(a) of section 77-2708. The refund may be allowed if the claim is filed within three calendar years from the end of the year the required levels of employment and investment are met or within the period set forth in section 77-2708.

(e) If a claim for a refund of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is filed by June 15 of a given year, the refund shall be made on or after November 15 of the same year. If such a claim is filed on or after June 16 of a given year, the refund shall not be made until on or after November 15 of the following year. The Tax Commissioner shall notify the affected city, village, county, or municipal county of the amount of refund claims of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 that are in excess of twenty-five thousand dollars on or before July 1 of the year before the claims will be paid under this section.

(f) Interest shall not be allowed on any taxes refunded under the Nebraska Advantage Act.

(3) The appointment of purchasing agents shall be recognized for the purpose of changing the status of a contractor or repairperson as the ultimate consumer of tangible personal property purchased after the date of the appointment which is physically incorporated into or annexed to the project and becomes the property of the owner of the improvement to real estate or the taxpayer. The purchasing agent shall be jointly liable for the payment of the sales and use tax on the purchases with the owner of the property.

(4) A determination that a taxpayer is not engaged in a qualified business or has failed to meet or maintain the required levels of employment or investment for incentives, exemptions, or recapture may be protested within sixty days after the mailing of the written notice of the proposed determination. If the notice of proposed determination is not protested within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the Tax Commissioner shall issue a written order resolving such protests. The written order of the Tax Commissioner resolving a protest may be appealed to the district court of Lancaster County within thirty days after the issuance of the order.

Source: Laws 2005, LB 312, § 48; Laws 2008, LB895, § 17; Laws 2008, LB914, § 23; Laws 2009, LB164, § 7; Laws 2010, LB879, § 19.
Operative date July 15, 2010.

Cross References

Local Option Revenue Act, see section 77-27,148.
Nebraska Revenue Act of 1967, see section 77-2701.

77-5735 Changes to sections; when effective; applicability.

(1) The changes made in sections 77-5703, 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726, 77-5727, and 77-5731 by Laws 2008, LB 895, and sections 77-5707.01, 77-5719.01, and 77-5719.02 apply to all applications filed on and after April 18, 2008. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(2) The changes made in sections 77-5725 and 77-5726 by Laws 2010, LB879, apply to all applications filed on or after July 15, 2010. For all applications filed prior to such date, the taxpayer may make a one-time election, within the time period prescribed by the Tax Commissioner, to have the changes made in sections 77-5725 and 77-5726 by Laws 2010, LB879, apply to such taxpayer's application, or in the absence of such an election, the provisions of the Nebraska Advantage Act as they existed immediately prior to July 15, 2010, apply to such application.

(3) The changes made in sections 77-5707, 77-5715, 77-5719, and 77-5725 by Laws 2010, LB918, apply to all applications filed on or after July 15, 2010. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

Source: Laws 2008, LB895, § 20; Laws 2010, LB879, § 20; Laws 2010, LB918, § 5.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB879, section 20, with LB918, section 5, to reflect all amendments.

Note: Changes made by LB918 became effective July 15, 2010. Changes made by LB879 became operative July 15, 2010.

ARTICLE 62**NAMEPLATE CAPACITY TAX**

Section

- 77-6201. Legislative findings and declarations.
77-6202. Terms, defined.
77-6203. Nameplate capacity tax; annual payment; exemptions; Department of Revenue; duties; owner; file report; interest; penalties.
77-6204. County treasurer; distribute revenue; calculation.

77-6201 Legislative findings and declarations.

The Legislature finds and declares:

(1) The purpose of the nameplate capacity tax levied under section 77-6203 is to replace property taxes currently imposed on wind infrastructure and depreciated over a short period of time in a way that causes local budgeting challenges and increases upfront costs for wind developers;

(2) The nameplate capacity tax should be competitive with taxes imposed directly and indirectly on wind generation and development in other states;

(3) The nameplate capacity tax should be fair and nondiscriminatory when compared with other taxes imposed on other industries in the state; and

(4) The nameplate capacity tax should not be singled out as a source of General Fund revenue during times of economic hardship.

Source: Laws 2010, LB1048, § 12.
Effective date July 15, 2010.

77-6202 Terms, defined.

For purposes of sections 77-6201 to 77-6204:

- (1) Commissioned means the wind turbine of a wind generation facility has been in commercial operation for at least twenty-four hours. A wind turbine is not in commercial operation unless the wind energy generation facility is connected to the electrical grid;
- (2) Nameplate capacity means the capacity of a wind turbine to generate electricity as measured in megawatts, including fractions of a megawatt; and
- (3) Wind energy generation facility means a facility that generates electricity using wind as the fuel source.

Source: Laws 2010, LB1048, § 13.

Effective date July 15, 2010.

77-6203 Nameplate capacity tax; annual payment; exemptions; Department of Revenue; duties; owner; file report; interest; penalties.

(1) The owner of a wind energy generation facility annually shall pay a nameplate capacity tax equal to the total nameplate capacity of the commissioned wind turbine of the wind energy generation facility multiplied by a tax rate of three thousand five hundred eighteen dollars per megawatt.

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

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

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

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

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

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

(b) The tax shall be imposed beginning the first calendar year the wind turbine is commissioned. A wind energy generation facility commissioned prior to July 15, 2010, shall be subject to the tax levied pursuant to sections 77-6201 to 77-6204 on and after January 1, 2010. The amount of property tax previously paid on a wind energy generation facility commissioned prior to July 15, 2010, which is greater than the amount that would have been paid pursuant to sections 77-6201 to 77-6204 from the date of commissioning until January 1, 2010, shall be credited against any tax due under Chapter 77, and any amount so credited that is unused in any tax year shall be carried over to subsequent tax years until fully utilized.

(c)(i) The tax for the first calendar year shall be prorated based upon the number of days remaining in the calendar year after the wind turbine is commissioned.

(ii) In the first year in which a wind energy generation facility is taxed or in any year in which additional commissioned nameplate capacity is added to a

wind energy generation facility, the taxes on the initial or additional nameplate capacity shall be prorated for the number of days remaining in the calendar year.

(iii) When a wind turbine is decommissioned or made nonoperational by a change in law or decertification from its status as a certified renewable export facility during a tax year, the taxes shall be prorated for the number of days during which the wind turbine was not decommissioned or was operational.

(iv) When the capacity of a wind turbine to produce electricity is reduced but the wind turbine is not decommissioned, the nameplate capacity of the wind turbine is deemed to be unchanged.

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

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

(7) Failure to file a report required by subsection (6) of this section, filing such report late, failure to pay taxes due, or underpayment of such taxes shall result in a penalty of five percent of the amount due being imposed for each quarter the report is overdue or the payment is delinquent, except that the penalty shall not exceed ten thousand dollars.

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

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

Source: Laws 2010, LB1048, § 14.
Effective date July 15, 2010.

77-6204 County treasurer; distribute revenue; calculation.

(1) The county treasurer shall distribute all revenue received from the Department of Revenue pursuant to section 77-6203 to local taxing entities which, but for such personal property tax exemption, would have received distribution of personal property tax revenue from depreciable personal property used directly in the generation of electricity using wind as the fuel source.

(2) A local taxing entity's status as eligible for distribution under subsection (1) of this section shall not be affected when and if the net book value of personal property used directly in the generation of electricity using wind as the fuel source becomes zero. A local taxing entity's status as eligible for distribution under such subsection shall be affected by the disposal of all of the exempt depreciable personal property used directly in the generation of electricity using wind as the fuel source.

(3) The distribution to each eligible local taxing entity shall be calculated by determining the amount of taxes that the eligible local taxing entity levied during the taxable year and dividing this amount by the total tax levied by all of the eligible local taxing entities during the year. Each eligible entity's resulting fraction shall then be multiplied by the revenue distributed to the county treasurer by the department to determine the portion of such revenue due each local taxing entity.

(4) The Department of Revenue shall not retain any revenue collected pursuant to sections 77-6201 to 77-6204 for distribution, use, transfer, pledge, or allocation to or from the General Fund.

Source: Laws 2010, LB1048, § 15.
Effective date July 15, 2010.

SCHOOLS

CHAPTER 79 SCHOOLS

Article.

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ARTICLE 1

DEFINITIONS AND CLASSIFICATIONS

Section

79-101. Terms, defined.

79-101 Terms, defined.

For purposes of Chapter 79:

(1) School district means the territory under the jurisdiction of a single school board authorized by Chapter 79;

(2) School means a school under the jurisdiction of a school board authorized by Chapter 79;

(3) Legal voter means a registered voter as defined in section 32-115 who is domiciled in a precinct or ward in which he or she is registered to vote and which precinct or ward lies in whole or in part within the boundaries of a school district for which the registered voter chooses to exercise his or her right to vote at a school district election or at an annual or special meeting of a Class I school district;

(4) Prekindergarten programs means all early childhood programs provided for children who have not reached the age of five by the date provided in section 79-214 for kindergarten entrance;

(5) Elementary grades means grades kindergarten through eight, inclusive;

(6) High school grades means all grades above the eighth grade;

(7) School year means (a) for elementary grades other than kindergarten, the time equivalent to at least one thousand thirty-two instructional hours and (b) for high school grades, the time equivalent to at least one thousand eighty instructional hours;

(8) Instructional hour means a period of time, at least sixty minutes, which is actually used for the instruction of students;

(9) Teacher means any certified employee who is regularly employed for the instruction of pupils in the public schools;

(10) Administrator means any certified employee such as superintendent, assistant superintendent, principal, assistant principal, school nurse, or other supervisory or administrative personnel who do not have as a primary duty the instruction of pupils in the public schools;

(11) School board means the governing body of any school district. Board of education has the same meaning as school board;

(12) Teach means and includes, but is not limited to, the following responsibilities: (a) The organization and management of the classroom or the physical area in which the learning experiences of pupils take place; (b) the assessment and diagnosis of the individual educational needs of the pupils; (c) the planning, selecting, organizing, prescribing, and directing of the learning experiences of pupils; (d) the planning of teaching strategies and the selection of available materials and equipment to be used; and (e) the evaluation and reporting of student progress;

(13) Permanent school fund means the fund described in section 79-1035.01;

(14) Temporary school fund means the fund described in section 79-1035.02; and

(15) School lands means the lands described in section 79-1035.03. Educational lands has the same meaning as school lands.

The State Board of Education may adopt and promulgate rules and regulations to define school day and other appropriate units of the school calendar.

Source: Laws 1881, c. 78, subdivision I, § 1, p. 331; R.S.1913, § 6700; C.S.1922, § 6238; C.S.1929, § 79-101; R.S.1943, § 79-101; Laws 1949, c. 256, § 1, p. 690; Laws 1971, LB 802, § 1; Laws 1984, LB 994, § 3; Laws 1988, LB 1197, § 1; Laws 1993, LB 348, § 5; R.S.1943, (1994), § 79-101; Laws 1996, LB 900, § 1; Laws 1997, LB 345, § 5; Laws 1999, LB 813, § 5; Laws 2003, LB 67, § 2; Laws 2010, LB1006, § 1.

Effective date July 15, 2010.

ARTICLE 2

PROVISIONS RELATING TO STUDENTS

(a) COMPULSORY EDUCATION

Section

79-201. Compulsory education; attendance required; exceptions; reports required.
79-209. Compulsory attendance; nonattendance; school district; duties; remedial services; enforcement.

(c) ADMISSION REQUIREMENTS

79-214. Admission of children; kindergarten; age; evidence of physical examination; visual evaluation; when; exception.
79-215. Students; admission; tuition; persons exempt; department; duties.
79-217. School board and governing authority; student; immunization against certain contagious diseases; exception.

(e) ENROLLMENT OPTION PROGRAM

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(g) STUDENT DISCIPLINE

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(i) STUDENT FILES

79-2,104. Access to school files or records; limitation; fees; disciplinary material; removed and destroyed; when.
79-2,105. School files or records; provided upon student's transfer.

(n) PART-TIME ENROLLMENT

79-2,136. Part-time enrollment; school board; duties; section, how construed.

Section

(p) LINDSAY ANN BURKE ACT AND DATING VIOLENCE

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(a) COMPULSORY EDUCATION

79-201 Compulsory education; attendance required; exceptions; reports required.

(1) For purposes of this section, a child is of mandatory attendance age if the child (a) will reach six years of age prior to January 1 of the then-current school year and (b) has not reached eighteen years of age.

(2) Except as provided in subsection (3) of this section, every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child who is of mandatory attendance age or is enrolled in a public school shall cause such child to enroll in, if such child is not enrolled, and attend regularly a public, private, denominational, or parochial day school which meets the requirements for legal operation prescribed in Chapter 79, or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, each day that such school is open and in session, except when excused by school authorities or when illness or severe weather conditions make attendance impossible or impracticable.

(3) Subsection (2) of this section does not apply in the case of any child who:

(a) Has obtained a high school diploma by meeting the graduation requirements established in section 79-729;

(b) Has completed the program of instruction offered by a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements;

(c) Has reached the age of sixteen years and such child's parent or guardian has signed a notarized release discontinuing the enrollment of the child on a form provided by the school;

(d)(i) Will reach six years of age prior to January 1 of the then-current school year, but will not reach seven years of age prior to January 1 of such school year, (ii) such child's parent or guardian has signed an affidavit stating that the child is participating in an education program that the parent or guardian believes will prepare the child to enter grade one for the following school year, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides;

(e)(i) Will reach six years of age prior to January 1 of the then-current school year but has not reached seven years of age, (ii) such child's parent or guardian has signed an affidavit stating that the parent or guardian intends for the child to participate in a school which has elected or will elect pursuant to section 79-1601 not to meet accreditation or approval requirements and the parent or guardian intends to provide the Commissioner of Education with a statement pursuant to subsection (3) of section 79-1601 on or before the child's seventh birthday, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides; or

(f) Will not reach six years of age prior to January 1 of the then-current school year and such child was enrolled in a public school and has discontinued the enrollment according to the policy of the school board adopted pursuant to subsection (4) of this section.

(4) The board shall adopt policies allowing discontinuation of the enrollment of students who will not reach six years of age prior to January 1 of the then-current school year and specifying the procedures therefor.

(5) Each school district that is a member of a learning community shall report to the learning community coordinating council on or before September 1 of each year for the immediately preceding school year the following information:

(a) All reports of violations of this section made to the attendance officer of any school in the district pursuant to section 79-209;

(b) The results of all investigations conducted pursuant to section 79-209, including the attendance record that is the subject of the investigation and a list of services rendered in the case;

(c) The district's policy on excessive absenteeism; and

(d) Records of all notices served and reports filed pursuant to section 79-209 and the district's policy on habitual truancy.

Source: Laws 1901, c. 70, § 1, p. 454; Laws 1903, c. 95, § 1, p. 549; Laws 1905, c. 140, § 1, p. 575; Laws 1907, c. 131, § 1, p. 430; R.S.1913, § 6924; Laws 1919, c. 155, § 1, p. 346; Laws 1921, c. 53, § 1(a), p. 227; C.S.1922, § 6508a; Laws 1929, c. 87, § 1, p. 340; C.S.1929, § 79-1901; R.S.1943, § 79-1901; Laws 1949, c. 256, § 7, p. 692; Laws 1953, c. 291, § 1, p. 988; Laws 1959, c. 380, § 1, p. 1322; Laws 1971, LB 211, § 1; Laws 1971, LB 582, § 1; Laws 1984, LB 928, § 1; Laws 1984, LB 994, § 4; R.S.1943, (1994), § 79-201; Laws 1996, LB 900, § 5; Laws 1999, LB 152, § 1; Laws 2004, LB 868, § 1; Laws 2008, LB1154, § 6; Laws 2010, LB1071, § 2.

Operative date July 15, 2010.

79-209 Compulsory attendance; nonattendance; school district; duties; remedial services; enforcement.

In all school districts in this state, any superintendent, principal, teacher, or member of the school board who knows of any violation of section 79-201 on the part of any child of school age, his or her parent, the person in actual or legal control of such child, or any other person shall within three days report such violation to the attendance officer of the school, who shall investigate the case. When of his or her personal knowledge, by report or complaint from any resident of the district, or by report or complaint as provided in this section, the attendance officer believes that any child is unlawfully absent from school, the attendance officer shall immediately investigate.

All school districts shall have a written policy on excessive absenteeism developed in collaboration with the county attorney of the county in which the principal office of the school district is located. The policy shall state the number of absences or the hourly equivalent upon the occurrence of which the school shall render all services in its power to compel such child to attend some public, private, denominational, or parochial school, which the person having

control of the child shall designate, in an attempt to address the problem of excessive absenteeism. The number of absences in the policy shall not exceed five days per quarter or the hourly equivalent. School districts may use excused and unexcused absences for purposes of the policy. Such services shall include, but need not be limited to:

(1) One or more meetings between a school attendance officer, school social worker or the school principal or a member of the school administrative staff designated by the school administration if such school does not have a school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the problem of excessive absenteeism;

(2) Educational counseling to determine whether curriculum changes, including, but not limited to, enrolling the child in an alternative education program that meets the specific educational and behavioral needs of the child, would help solve the problem of excessive absenteeism;

(3) Educational evaluation, which may include a psychological evaluation, to assist in determining the specific condition, if any, contributing to the problem of excessive absenteeism, supplemented by specific efforts by the school to help remedy any condition diagnosed; and

(4) Investigation of the problem of excessive absenteeism by the school social worker, or if such school does not have a school social worker, by the school principal or a member of the school administrative staff designated by the school administration, to identify conditions which may be contributing to the problem. If services for the child and his or her family are determined to be needed, the school social worker or the school principal or a member of the school administrative staff performing the investigation shall meet with the parent or guardian and the child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the problem of excessive absenteeism.

If the child is absent more than twenty days per year or the hourly equivalent, the attendance officer shall file a report with the county attorney of the county in which such person resides. The county attorney may file a complaint against a person violating section 79-201 before the judge of the county court of the county in which such person resides charging such person with violation of section 79-201 or may file a petition under the Nebraska Juvenile Code alleging the person violating section 79-201 is a juvenile described in subdivision (3)(a) or (3)(b) of section 43-247. Nothing in this section shall preclude a county attorney from being involved at any stage in the process to address excessive absenteeism.

Source: Laws 1901, c. 70, § 2, p. 456; Laws 1903, c. 95, § 2, p. 552; Laws 1905, c. 141, § 1, p. 578; Laws 1909, c. 130, § 1, p. 474; R.S.1913, § 6925; Laws 1919, c. 155, § 9, p. 350; Laws 1921, c. 53, § 2, p. 231; C.S.1922, § 6509; C.S.1929, § 79-1914; R.S.1943, § 79-1922; Laws 1949, c. 256, § 17, p. 696; Laws 1986, LB 528, § 8; Laws 1994, LB 1250, § 5; R.S.1943, (1994), § 79-211; Laws 1996, LB 900, § 13; Laws 1998, Spec. Sess., LB 1, § 6; Laws 1999, LB 272, § 28; Laws 2010, LB800, § 35.
Effective date July 15, 2010.

Cross References

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

(c) ADMISSION REQUIREMENTS

79-214 Admission of children; kindergarten; age; evidence of physical examination; visual evaluation; when; exception.

(1) For school years before school year 2012-13:

(a) Except as provided in subdivision (1)(b) of this section, the school board of any school district shall not admit any child into the kindergarten of any school of such school district unless such child has reached the age of five years or will reach such age on or before October 15 of the current year; and

(b) The board may admit a child who will reach the age of five between October 16 and February 1 of the current school year if the parent or guardian requests such entrance and provides an affidavit stating that (i) the child attended kindergarten in another jurisdiction in the current school year, (ii) the family anticipates relocation to another jurisdiction that would allow admission within the current year, or (iii) the child has demonstrated through recognized assessment procedures approved by the board that he or she is capable of carrying the work of kindergarten.

(2) For school year 2012-13 and each school year thereafter:

(a) Except as provided in subdivision (2)(b) of this section, the school board of any school district shall not admit any child into the kindergarten of any school of such school district unless such child has reached the age of five years on or before July 31 of the calendar year in which the school year for which the child is seeking admission begins; and

(b) The board may admit a child who will reach the age of five years on or after August 1 and on or before October 15 of such school year if the parent or guardian requests such entrance and provides an affidavit stating that (i) the child attended kindergarten in another jurisdiction in the current school year, (ii) the family anticipates relocation to another jurisdiction that would allow admission within the current year, or (iii) the child has demonstrated through a recognized assessment procedure approved by the board that he or she is capable of carrying the work of kindergarten. On or before January 1, 2012, each school board shall, for purposes of this subdivision, approve and make available a recognized assessment procedure for determining if a child is capable of carrying the work of kindergarten. The school board shall update approved procedures as the board deems appropriate.

(3) The board shall comply with the requirements of subsection (2) of section 43-2007 and shall require evidence of: (a) A physical examination by a physician, a physician assistant, or an advanced practice registered nurse, practicing under and in accordance with his or her respective certification act, within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school; and (b) for school year 2006-07 and each school year thereafter, a visual evaluation by a physician, a physician assistant, an advanced practice registered nurse, or an optometrist within six months prior to the entrance of a child into the beginner grade or, in the case of a transfer from out of state, to any other grade of the local school, which consists of testing for amblyopia, strabismus, and internal and external eye health, with testing sufficient to

determine visual acuity, except that no such physical examination or visual evaluation shall be required of any child whose parent or guardian objects in writing. The cost of such physical examination and visual evaluation shall be borne by the parent or guardian of each child who is examined.

Source: Laws 1931, c. 139, § 1, p. 385; C.S.Supp.,1941, § 79-412; R.S. 1943, § 79-414; Laws 1949, c. 258, § 1, p. 869; Laws 1949, c. 256, § 83, p. 720; Laws 1965, c. 519, § 1, p. 1644; Laws 1967, c. 532, § 1, p. 1766; Laws 1973, LB 403, § 20; Laws 1979, LB 59, § 1; Laws 1986, LB 68, § 2; Laws 1987, LB 367, § 66; Laws 1988, LB 1013, § 4; Laws 1991, LB 836, § 33; Laws 1993, LB 348, § 18; Laws 1995, LB 214, § 1; Laws 1995, LB 401, § 42; R.S.Supp.,1995, § 79-444; Laws 1996, LB 900, § 18; Laws 1998, LB 1229, § 2; Laws 2000, LB 1115, § 87; Laws 2001, LB 797, § 4; Laws 2005, LB 114, § 1; Laws 2005, LB 256, § 96; Laws 2010, LB1006, § 2.
Effective date July 15, 2010.

79-215 Students; admission; tuition; persons exempt; department; duties.

(1) Except as otherwise provided in this section, a student is a resident of the school district where he or she resides and shall be admitted to any such school district upon request without charge.

(2) A school board shall admit a student upon request without charge if at least one of the student's parents resides in the school district.

(3) A school board shall admit any homeless student upon request without charge.

(4) A school board may allow a student whose residency in the district ceases during a school year to continue attending school in such district for the remainder of that school year.

(5) A school board may admit nonresident students to the school district pursuant to a contract with the district where the student is a resident and shall collect tuition pursuant to the contract.

(6) A school board may admit nonresident students to the school district pursuant to the enrollment option program as authorized by sections 79-232 to 79-246, and such admission shall be without charge.

(7) A school board of any school district that is a member of a learning community shall admit nonresident students to the school district pursuant to the open enrollment provisions of a diversity plan in a learning community as authorized by section 79-2110, and such admission shall be without charge.

(8) A school board may admit a student who is a resident of another state to the school district and collect tuition in advance at a rate determined by the school board.

(9) When a student as a ward of the state or as a ward of any court (a) has been placed in a school district other than the district in which he or she resided at the time he or she became a ward and such ward does not reside in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 or (b) has been placed in any institution which maintains a special education program which has been approved by the State Department of Education and such institution is not owned or operated by the district in

which he or she resided at the time he or she became a ward, the cost of his or her education and the required transportation costs associated with the student's education shall be paid by the state, but not in advance, to the receiving school district or approved institution under rules and regulations prescribed by the Department of Health and Human Services and the student shall remain a resident of the district in which he or she resided at the time he or she became a ward. Any student who is a ward of the state or a ward of any court who resides in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 shall be deemed a resident of the district in which he or she resided at the time he or she became a foster child, unless it is determined under section 43-1311 or 43-1312 that he or she will not attend such district in which case he or she shall be deemed a resident of the district in which the foster family home or foster home is located.

(10)(a) When a student is not a ward of the state or a ward of any court and is residing in a residential setting located in Nebraska for reasons other than to receive an education and the residential setting is operated by a service provider which is certified or licensed by the Department of Health and Human Services or is enrolled in the medical assistance program established pursuant to the Medical Assistance Act and Title XIX or XXI of the federal Social Security Act, as amended, the student shall remain a resident of the district in which he or she resided immediately prior to residing in such residential setting. The resident district for a student who is not a ward of the state or a ward of any court does not change when the student moves from one residential setting to another.

(b) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting does not maintain an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the resident school district shall contract with the district in which such residential setting is located for the provision of all educational services, including all special education services and support services as defined in section 79-1125.01, unless a parent or guardian and the resident school district agree that an appropriate education will be provided by the resident school district while the student is residing in such residential setting. If the resident school district is required to contract, the district in which such residential setting is located shall contract with the resident district and provide all educational services, including all special education services, to the student. If the two districts cannot agree on the amount of the contract, the State Department of Education shall determine the amount to be paid by the resident district to the district in which such residential setting is located based on the needs of the student, approved special education rates, the department's general experience with special education budgets, and the cost per student in the district in which such residential setting is located. Once the contract has been entered into, all legal responsibility for special education and related services shall be transferred to the school district in which the residential setting is located.

(c) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting maintains an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the department shall reimburse such residential setting for the provision of all educational services, including all special education services and support

services, with the amount of payment for all educational services determined pursuant to the average per pupil cost of the service agency as defined in section 79-1116. The resident school district shall retain responsibility for such student's individualized education plan, if any. The educational services may be provided through (i) such interim-program school or approved or accredited school, (ii) a contract between the residential setting and the school district in which such residential setting is located, (iii) a contract between the residential setting and another service agency as defined in section 79-1124, or (iv) a combination of such educational service providers.

(d) If a school district pays a school district in which a residential setting is located for educational services provided pursuant to subdivision (10)(b) of this section and it is later determined that a different school district was the resident school district for such student at the time such educational services were provided, the school district that was later determined to be the resident school district shall reimburse the school district that initially paid for the educational services one hundred ten percent of the amount paid.

(e) A student residing in a residential setting described in this subsection shall be defined as a student with a handicap pursuant to Article VII, section 11, of the Constitution of Nebraska, and as such the state and any political subdivision may contract with institutions not wholly owned or controlled by the state or any political subdivision to provide the educational services to the student if such educational services are nonsectarian in nature.

(11) In the case of any individual eighteen years of age or younger who is a ward of the state or any court and who is placed in a county detention home established under section 43-2,110, the cost of his or her education shall be paid by the state, regardless of the district in which he or she resided at the time he or she became a ward, to the agency or institution which: (a) Is selected by the county board with jurisdiction over such detention home; (b) has agreed or contracted with such county board to provide educational services; and (c) has been approved by the State Department of Education pursuant to rules and regulations prescribed by the State Board of Education.

(12) No tuition shall be charged for students who may be by law allowed to attend the school without charge.

(13) On a form prescribed by the State Department of Education, an adult with legal or actual charge or control of a student shall provide the name of the student, the name of the adult with legal or actual charge or control of the student, the address where the student is residing, and the telephone number and address where the adult may generally be reached during the school day. If the student is homeless or if the adult does not have a telephone number and address where he or she may generally be reached during the school day, those parts of the form may be left blank and a box may be marked acknowledging that these are the reasons these parts of the form were left blank. The adult with legal or actual charge or control of the student shall also sign the form.

(14) The department may adopt and promulgate rules and regulations to carry out the department's responsibilities under this section.

Source: Laws 1881, c. 78, subdivision V, § 4, p. 352; Laws 1883, c. 72, § 11, p. 293; Laws 1901, c. 63, § 10, p. 440; R.S.1913, § 6784; Laws 1921, c. 64, § 1, p. 250; C.S.1922, § 6325; Laws 1927, c. 88, § 1, p. 257; C.S.1929, § 79-504; R.S.1943, § 79-504; Laws 1947, c. 273, § 1, p. 877; Laws 1949, c. 256, § 84, p. 720; Laws

1972, LB 1219, § 1; Laws 1974, LB 43, § 1; Laws 1979, LB 128, § 1; Laws 1980, LB 770, § 1; Laws 1980, LB 839, § 1; Laws 1982, LB 642, § 1; Laws 1984, LB 286, § 1; Laws 1984, LB 768, § 1; Laws 1985, LB 592, § 1; Laws 1985, LB 725, § 1; Laws 1991, LB 511, § 29; Laws 1992, LB 245, § 34; Laws 1992, Third Spec. Sess., LB 3, § 1; Laws 1994, LB 858, § 5; R.S.1943, (1994), § 79-445; Laws 1996, LB 900, § 19; Laws 1996, LB 1044, § 814; Laws 1997, LB 307, § 212; Laws 2000, LB 1243, § 2; Laws 2001, LB 797, § 5; Laws 2002, LB 1105, § 503; Laws 2006, LB 1248, § 87; Laws 2008, LB1014, § 68; Laws 2010, LB1071, § 3; Laws 2010, LB1087, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1071, section 3, with LB1087, section 1, to reflect all amendments.

Note: Changes made by LB1071 became operative July 15, 2010. Changes made by LB1087 became operative August 1, 2010.

Cross References

Medical Assistance Act, see section 68-901.

79-217 School board and governing authority; student; immunization against certain contagious diseases; exception.

(1) Except as provided in sections 79-221 and 79-222, the school board or board of education of each school district and the governing authority of each private, denominational, or parochial school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization prior to enrollment. Any student who does not comply with this section shall not be permitted to continue in school until he or she so complies, except as provided by section 79-222. Each school district shall make diligent efforts to inform families prior to the date of school registration of the immunization requirements of this section.

(2) Except as provided in sections 79-221 and 79-222, on and after July 1, 2010, every student entering the seventh grade shall have a booster immunization containing diphtheria and tetanus toxoids and an acellular pertussis vaccine which meets the standards approved by the United States Public Health Service for such biological products, as such standards existed on January 1, 2009.

(3) Except as provided in the Childhood Vaccine Act, the cost of such immunizations shall be borne by the parent or guardian of each student who is immunized or by the Department of Health and Human Services for those students whose parent or guardian is financially unable to meet such cost.

Source: Laws 1973, LB 173, § 1; Laws 1973, LB 546, § 1; Laws 1979, LB 59, § 2; Laws 1992, LB 431, § 8; Laws 1993, LB 536, § 109; Laws 1994, LB 1223, § 128; R.S.1943, (1994), § 79-444.01; Laws 1996, LB 900, § 21; Laws 1996, LB 1044, § 811; Laws 2005, LB 301, § 63; Laws 2007, LB296, § 707; Laws 2009, LB464, § 1.

Cross References

Childhood Vaccine Act, see section 71-526.

(e) ENROLLMENT OPTION PROGRAM

79-233 Terms, defined.

For purposes of sections 79-232 to 79-246:

(1) Enrollment option program means the program established in section 79-234;

(2) Option school district means the public school district that an option student chooses to attend instead of his or her resident school district;

(3) Option student means a student that has chosen to attend an option school district, including a student who resides in a learning community and began attendance as an option student in an option school district in such learning community prior to the end of the first full school year for which the option school district will be a member of such learning community, but not including a student who resides in a learning community and who attends pursuant to section 79-2110 another school district in such learning community;

(4) Resident school district means the public school district in which a student resides or the school district in which the student is admitted as a resident of the school district pursuant to section 79-215; and

(5) Siblings means all children residing in the same household on a permanent basis who have the same mother or father or who are stepbrother or stepsister to each other.

Source: Laws 1989, LB 183, § 2; Laws 1990, LB 843, § 3; Laws 1992, LB 1001, § 36; R.S.1943, (1994), § 79-3402; Laws 1996, LB 900, § 37; Laws 1997, LB 347, § 4; Laws 2006, LB 1024, § 18; Laws 2008, LB988, § 3; Laws 2009, LB62, § 1; Laws 2009, LB549, § 4.

79-234 Enrollment option program; established; limitations.

(1) An enrollment option program is hereby established to enable any kindergarten through twelfth grade Nebraska student to attend a school in a Nebraska public school district in which the student does not reside subject to the limitations prescribed in section 79-238. The option shall be available only once to each student prior to graduation unless (a) the student relocates to a different resident school district, (b) the option school district merges with another district, (c) the option school district is a Class I district, (d) the option would allow the student to continue current enrollment in a school district, or (e) the option would allow the student to enroll in a school district in which the student was previously enrolled as a resident student. In the case of an event described in subdivision (1)(a) or (b) of this section, the student's parent or guardian shall submit an application to the new option school district within thirty days after the date of relocation or the effective date of the merger. This subsection does not relieve a parent or guardian from the compulsory attendance requirements in section 79-201 during the pendency of such application or approval.

(2) The program shall not apply to any student who resides in a district which has entered into an annexation agreement pursuant to section 79-473, except that such student may transfer to another district which accepts option students.

Source: Laws 1989, LB 183, § 3; Laws 1990, LB 843, § 4; Laws 1991, LB 207, § 3; Laws 1993, LB 348, § 64; R.S.1943, (1994), § 79-3403; Laws 1996, LB 900, § 38; Laws 2008, LB1154, § 7; Laws 2009, LB549, § 5.

79-237 Attendance; application; cancellation; forms.

(1) For a student to begin attendance as an option student in an option school district which is not in a learning community in which the student resides, the student's parent or legal guardian shall submit an application to the school board of the option school district between September 1 and March 15 for attendance during the following and subsequent school years. Applications submitted after March 15 shall contain a release approval from the resident school district on the application form prescribed and furnished by the State Department of Education pursuant to subsection (7) of this section. A district may not accept or approve any applications submitted after such date without such a release approval. The option school district shall provide the resident school district with the name of the applicant on or before April 1 or, in the case of an application submitted after March 15, within sixty days after submission. The option school district shall notify, in writing, the parent or legal guardian of the student, the resident school district, and the State Department of Education whether the application is accepted or rejected on or before April 1 or, in the case of an application submitted after March 15, within sixty days after submission.

(2) For a student who resides in a learning community to begin attendance in an option school district which is a member of such learning community, the student's parent or legal guardian shall submit an application to the school board of the option school district (a) for any learning community established prior to February 13, 2009, between February 13, 2009, and April 1, 2009, or (b) for any learning community established thereafter, between September 1 and March 15. Applications submitted after such deadlines shall be accompanied by a written release from the resident school district. Students who reside in a learning community shall only begin attendance in an option school district which is a member of such learning community prior to the end of the first full school year for which the option school district is a member of such learning community. The option school district shall provide the resident school district with the name of the applicant within five days after the applicable deadline. The option school district shall notify, in writing, the parent or legal guardian of the student, the resident school district, and the State Department of Education whether the application is accepted or rejected on or before April 10 for applications submitted for school year 2009-10 and on or before April 1 for applications submitted for any school year thereafter. A parent or guardian may provide information on the application regarding the applicant's potential qualification for free or reduced-price lunches. Any such information provided shall be subject to verification and shall only be used for the purposes of subsection (4) of section 79-238. Nothing in this subsection requires a parent or guardian to provide such information. Determinations about an applicant's qualification for free or reduced-price lunches for purposes of subsection (4) of section 79-238 shall be based on any verified information provided on the application. If no such information is provided, the student shall be presumed not to qualify for free or reduced-price lunches for the purposes of subsection (4) of section 79-238.

(3) Applications for students who do not actually attend the option school district may be withdrawn in good standing upon mutual agreement by both the resident and option school districts.

(4) No option student shall attend an option school district for less than one school year unless the student relocates to a different resident school district, completes requirements for graduation prior to the end of his or her senior year, transfers to a private or parochial school, or upon mutual agreement of the resident and option school districts cancels the enrollment option and returns to the resident school district.

(5) Except as provided in subsection (4) of this section, the option student shall attend the option school district until graduation unless the student relocates in a different resident school district, transfers to a private or parochial school, or chooses to return to the resident school district.

(6) In each case of cancellation pursuant to subsections (4) and (5) of this section, the student's parent or legal guardian shall provide written notification to the school board of the option school district, the resident school district, and the department on forms prescribed and furnished by the department under subsection (7) of this section in advance of such cancellation.

(7) The application and cancellation forms shall be prescribed and furnished by the State Department of Education.

(8) An option student who subsequently chooses to attend a private or parochial school shall be automatically accepted to return to either the resident school district or option school district upon the completion of the grade levels offered at the private or parochial school. If such student chooses to return to the option school district, the student's parent or legal guardian shall submit another application to the school board of the option school district which shall be automatically accepted, and the deadlines prescribed in this section shall be waived.

Source: Laws 1989, LB 183, § 6; Laws 1990, LB 843, § 7; Laws 1993, LB 348, § 66; Laws 1993, LB 838, § 1; R.S.1943, (1994), § 79-3406; Laws 1996, LB 900, § 41; Laws 2001, LB 797, § 6; Laws 2006, LB 1024, § 19; Laws 2009, LB62, § 2; Laws 2009, LB549, § 6.

79-238 Application acceptance and rejection; standards; request for release; standards and conditions.

(1) Except as provided in section 79-240, the school board of the option school district shall adopt by resolution specific standards for acceptance and rejection of applications. Standards may include the capacity of a program, class, grade level, or school building or the availability of appropriate special education programs operated by the option school district. Capacity shall be determined by setting a maximum number of option students that a district will accept in any program, class, grade level, or school building, based upon available staff, facilities, projected enrollment of resident students, projected number of students with which the option school district will contract based on existing contractual arrangements, and availability of appropriate special education programs. The school board of the option school district may by resolution declare a program, a class, or a school unavailable to option students due to lack of capacity. Standards shall not include previous academic achievement, athletic or other extracurricular ability, disabilities, proficiency in the English language, or previous disciplinary proceedings except as provided in section 79-266.01. False or substantively misleading information submitted by a parent or guardian on an application to an option school district may be cause

for the option school district to reject a previously accepted application if the rejection occurs prior to the student's attendance as an option student.

(2) The school board of every school district shall also adopt standards and conditions for acceptance or rejection of a request for release of a resident student submitting an application to an option school district after March 15 under subsection (1) of section 79-237.

(3) Any option school district shall give first priority for enrollment to siblings of option students, except that the option school district shall not be required to accept the sibling of an option student if the district is at capacity except as provided in subsection (1) of section 79-240.

(4) Any option school district that is in a learning community shall give second priority for enrollment to students who reside in the learning community and who contribute to the socioeconomic diversity of enrollment as defined in section 79-2110 at the school building to which the student will be assigned pursuant to section 79-235.

Source: Laws 1989, LB 183, § 7; Laws 1990, LB 843, § 8; Laws 1991, LB 207, § 5; Laws 1992, LB 1001, § 37; Laws 1994, LB 930, § 2; R.S.1943, (1994), § 79-3407; Laws 1996, LB 900, § 42; Laws 1997, LB 346, § 2; Laws 2001, LB 797, § 7; Laws 2006, LB 1024, § 20; Laws 2009, LB62, § 3; Laws 2009, LB549, § 7.

79-239 Application; request for release; rejection; notice; appeal.

If an application is rejected by the option school district or if the resident school district rejects a request for release under subsection (1) of section 79-237, the rejecting school district shall provide written notification to the parent or guardian stating the reasons for the rejection and the process for appealing such rejection to the State Board of Education. Such notification shall be sent by certified mail. The parent or legal guardian may appeal a rejection to the State Board of Education by filing a written request, together with a copy of the rejection notice, with the State Board of Education. Such request and copy of the notice must be received by the board within thirty days after the date the notification of the rejection was received by the parent or legal guardian. Such hearing shall be held in accordance with the Administrative Procedure Act and shall determine whether the procedures of sections 79-234 to 79-241 have been followed.

Source: Laws 1989, LB 183, § 8; Laws 1992, LB 1001, § 38; Laws 1993, LB 348, § 67; R.S.1943, (1994), § 79-3408; Laws 1996, LB 900, § 43; Laws 2009, LB549, § 8.

Cross References

Administrative Procedure Act, see section 84-920.

79-240 Relocation; automatic acceptance; deadlines waived.

(1) The application of a student who relocates in a different school district but wants to continue attending his or her original resident school district and who has been enrolled in his or her original resident school district for the immediately preceding two years shall be automatically accepted, and the deadlines prescribed in section 79-237 shall be waived.

(2) The application of an option student who relocates in a different school district but wants to continue attending the option school district shall be

automatically accepted, and the deadlines prescribed in section 79-237 shall be waived.

Source: Laws 1989, LB 183, § 9; Laws 1990, LB 843, § 9; Laws 1991, LB 207, § 6; Laws 1992, LB 1001, § 39; Laws 1993, LB 348, § 68; R.S.1943, (1994), § 79-3409; Laws 1996, LB 900, § 44; Laws 1996, LB 1050, § 9; Laws 2009, LB549, § 9.

(f) HEALTH INSPECTIONS

79-248 Pupils; health inspections; notice of defects; contagious or infectious disease; duty of school district.

Every school district shall cause children under its jurisdiction to be separately and carefully inspected, except as otherwise provided in this section, to ascertain if a child is suffering from (1) defective sight or hearing, (2) dental defects, or (3) other conditions as prescribed by the Department of Health and Human Services. Such inspections shall be conducted on a schedule prescribed by the department and shall be based on current medical and public health practice. If such inspection determines that any child has such condition, the school shall notify the parent of the child in writing of such condition and explain to such parent the necessity of professional attendance for such child. Whenever a child apparently shows symptoms of any contagious or infectious disease, such child shall be sent home immediately or as soon as safe and proper conveyance can be found and the proper school authority, school board, or board of education shall be at once notified. Such student may be excluded from school as provided in section 79-264. A child shall not be required to submit to an inspection required by this section if his or her parent or guardian provides school authorities with a statement signed by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her respective credentialing act or other qualified provider as identified by the department in rules and regulations adopted pursuant to section 79-249, stating that such child has undergone such required inspection within the past six months. A child shall submit to any required inspection for which such a statement is not received.

Source: Laws 1919, c. 241, § 1, p. 1004; C.S.1922, § 6536; Laws 1923, c. 55, § 1, p. 176; C.S.1929, § 79-2113; R.S.1943, § 79-2122; Laws 1949, c. 256, § 171, p. 748; Laws 1967, c. 538, § 1, p. 1778; R.S.1943, (1994), § 79-4,133; Laws 1996, LB 900, § 52; Laws 1996, LB 1044, § 815; Laws 2007, LB296, § 710; Laws 2010, LB713, § 1.
Effective date July 15, 2010.

Cross References

Immunization requirements, see sections 79-217 to 79-223.

79-249 Pupils; health inspections; rules; duties of Department of Health and Human Services; compliance with Medication Aide Act; when.

The Department of Health and Human Services shall adopt and promulgate rules and regulations for conducting school health inspections, the qualifications of the person or persons authorized to make such inspections, and the health conditions to be observed and remedied and shall furnish to school authorities the rules and regulations and other useful materials for carrying out

the purposes of sections 79-248 to 79-253. The department may make available to schools methods for the gathering, analysis, and sharing of school health data that do not violate any privacy laws.

On and after July 1, 1999, no staff member of any school shall administer medication unless the school complies with the applicable requirements of the Medication Aide Act. Notwithstanding any other provision, nothing in the act shall be construed to require any school to employ or use a school nurse or medication aide in order to be in compliance with the act.

Source: Laws 1919, c. 241, § 2, p. 1004; C.S.1922, § 6537; C.S.1929, § 79-2114; R.S.1943, § 79-2123; Laws 1949, c. 256, § 172, p. 749; Laws 1967, c. 538, § 2, p. 1778; R.S.1943, (1994), § 79-4,134; Laws 1996, LB 900, § 53; Laws 1996, LB 1044, § 816; Laws 1998, LB 1354, § 43; Laws 2007, LB296, § 711; Laws 2010, LB713, § 2.
Effective date July 15, 2010.

Cross References

Medication Aide Act, see section 71-6718.

79-250 Pupils; health inspections; when required.

During each school year the school district shall provide the inspections required by section 79-248 for the children then in attendance. As children enter school during the year, such inspections shall be confirmed upon their entrance.

Source: Laws 1919, c. 241, § 3, p. 1004; C.S.1922, § 6538; C.S.1929, § 79-2115; R.S.1943, § 79-2124; Laws 1949, c. 256, § 173, p. 749; Laws 1967, c. 538, § 3, p. 1778; R.S.1943, (1994), § 79-4,135; Laws 1996, LB 900, § 54; Laws 2010, LB713, § 3.
Effective date July 15, 2010.

79-252 Pupils; health inspections; employment of physicians authorized.

In lieu of conducting the inspections required by section 79-248, the board of education or school board of any school district may employ regularly licensed physicians to make such inspections.

Source: Laws 1919, c. 241, § 5, p. 1005; C.S.1922, § 6540; C.S.1929, § 79-2117; R.S.1943, § 79-2126; Laws 1949, c. 256, § 175, p. 749; Laws 1967, c. 538, § 4, p. 1779; R.S.1943, (1994), § 79-4,137; Laws 1996, LB 900, § 56; Laws 2010, LB713, § 4.
Effective date July 15, 2010.

(g) STUDENT DISCIPLINE

79-267 Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school

employee or by his or her designee, or at a school-sponsored activity or athletic event:

(1) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;

(2) Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property;

(3) Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;

(4) Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student;

(5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon;

(6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled substance, or alcoholic liquor as defined in section 53-103.02 or being under the influence of a controlled substance or alcoholic liquor;

(7) Public indecency as defined in section 28-806, except that this subdivision shall apply only to students at least twelve years of age but less than nineteen years of age;

(8) Engaging in bullying as defined in section 79-2,137;

(9) Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at a school function, activity, or event. For purposes of this subdivision, sexual assault means sexual assault in the first degree as defined in section 28-319, sexual assault in the second degree as defined in section 28-320, sexual assault of a child in the second or third degree as defined in section 28-320.01, or sexual assault of a child in the first degree as defined in section 28-319.01, as such sections now provide or may hereafter from time to time be amended;

(10) Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or

(11) A repeated violation of any rules and standards validly established pursuant to section 79-262 if such violations constitute a substantial interference with school purposes.

It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities.

Source: Laws 1976, LB 503, § 11; Laws 1983, LB 209, § 2; Laws 1988, LB 316, § 3; Laws 1994, LB 1250, § 17; Laws 1995, LB 658, § 3; R.S.Supp.,1995, § 79-4,180; Laws 1996, LB 900, § 71; Laws

1996, LB 1050, § 5; Laws 2006, LB 1199, § 83; Laws 2008, LB205, § 2; Laws 2010, LB861, § 83.
Effective date July 15, 2010.

Cross References

Anabolic steroids, prohibited acts, see section 79-296.

Membership in secret school organization, grounds for expulsion, see section 79-2,101 et seq.

(i) STUDENT FILES

79-2,104 Access to school files or records; limitation; fees; disciplinary material; removed and destroyed; when.

(1) Any student in any public school or his or her parents, guardians, teachers, counselors, or school administrators shall have access to the school's files or records maintained concerning such student, including the right to inspect, review, and obtain copies of such files or records. No other person shall have access to such files or records except (a) when a parent, guardian, or student of majority age provides written consent or (b) as provided in subsection (3) of this section. The contents of such files or records shall not be divulged in any manner to any unauthorized person. All such files or records shall be maintained so as to separate academic and disciplinary matters, and all disciplinary material shall be removed and destroyed after a student's continuous absence from the school for a period of three years.

(2) Each public school may establish a schedule of fees representing a reasonable cost of reproduction for copies of a student's files or records for the parents or guardians of such student, except that the imposition of a fee shall not prevent parents of students from exercising their right to inspect and review the students' files or records and no fee shall be charged to search for or retrieve any student's files or records.

(3)(a) This section does not preclude authorized representatives of (i) auditing officials of the United States, (ii) auditing officials of this state, or (iii) state educational authorities from having access to student or other records which are necessary in connection with the audit and evaluation of federally supported or state-supported education programs or in connection with the enforcement of legal requirements which relate to such programs, except that, when collection of personally identifiable data is specifically authorized by law, any data collected by such officials with respect to individual students shall be protected in a manner which shall not permit the personal identification of students and their parents by other than the officials listed in this subsection. Personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, or enforcement of legal requirements.

(b) This section does not preclude or prohibit the disclosure of student records to any other person or entity which may be allowed to have access pursuant to the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as such act existed on January 1, 2009, and regulations adopted thereunder.

Source: Laws 1973, LB 370, § 2; Laws 1979, LB 133, § 1; Laws 1986, LB 642, § 1; R.S.1943, (1994), § 79-4,157; Laws 1996, LB 900, § 108; Laws 2009, LB549, § 10.

79-2,105 School files or records; provided upon student's transfer.

A copy of a public or private school's files or records concerning a student, including academic material and any disciplinary material relating to any suspension or expulsion, shall be provided at no charge, upon request, to any public or private school to which the student transfers.

Source: Laws 1986, LB 642, § 2; R.S.1943, (1994), § 79-4,157.01; Laws 1996, LB 900, § 109; Laws 2009, LB549, § 11.

(n) PART-TIME ENROLLMENT

79-2,136 Part-time enrollment; school board; duties; section, how construed.

Each school board shall allow the part-time enrollment of students who are residents of the school district pursuant to subsections (1) and (2) of section 79-215 and who are also enrolled in a private, denominational, or parochial school or in a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements and shall establish policies and procedures for such part-time enrollment. Such policies and procedures may include provisions permitting the part-time enrollment of such students who are not residents of such school districts and may require part-time students to follow school policies that apply to other students at any time the part-time student is present on school grounds or at a school-sponsored activity or athletic event. Part-time enrollment shall not entitle a student to transportation or transportation reimbursements pursuant to section 79-611. Nothing in this section shall be construed to exempt any student from the compulsory attendance provisions of sections 79-201 to 79-207.

Source: Laws 2006, LB 821, § 1; Laws 2010, LB1071, § 4.
Operative date July 15, 2010.

(p) LINDSAY ANN BURKE ACT AND DATING VIOLENCE

79-2,138 Act, how cited.

Sections 79-2,138 to 79-2,142 shall be known and may be cited as the Lindsay Ann Burke Act.

Source: Laws 2009, LB63, § 43.

79-2,139 Legislative findings and intent.

The Legislature finds and declares that all students have a right to work and study in a safe, supportive environment that is free from harassment, intimidation, and violence. The Legislature further finds that when a student is a victim of dating violence, his or her academic life suffers and his or her safety at school is jeopardized. The Legislature therefor finds and declares that a policy to create a better understanding and awareness of dating violence shall be adopted by each school district. It is the intent of the Legislature to require each school district to establish a policy for educating staff and students about dating violence.

Source: Laws 2009, LB63, § 44.

79-2,140 Terms, defined.

For purposes of the Lindsay Ann Burke Act, unless the context otherwise requires:

(1) Dating partner means any person, regardless of gender, involved in an intimate relationship with another person primarily characterized by the expectation of affectionate involvement whether casual, serious, or long-term;

(2) Dating violence means a pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal, or emotional abuse, to control his or her dating partner;

(3) Department means the State Department of Education; and

(4) School district has the same meaning as in section 79-101.

Source: Laws 2009, LB63, § 45.

79-2,141 Model dating violence policy; department; school district; duties; publication; staff training; redress under other law.

(1) On or before March 1, 2010, the department shall develop and adopt a model dating violence policy to assist school districts in developing policies for dating violence.

(2) On or before July 1, 2010, each school district shall develop and adopt a specific policy to address incidents of dating violence involving students at school, which shall be made a part of the requirements for accreditation in accordance with section 79-703. Such policy shall include a statement that dating violence will not be tolerated.

(3) To ensure notice of a school district's dating violence policy, the policy shall be published in any school district handbook, manual, or similar publication that sets forth the comprehensive rules, procedures, and standards of conduct for students at school.

(4) Each school district shall provide dating violence training to staff deemed appropriate by a school district's administration. The dating violence training shall include, but not be limited to, basic awareness of dating violence, warning signs of dating violence, and the school district's dating violence policy. The dating violence training may be provided by any school district or combination of school districts, an educational service unit, or any combination of educational service units.

(5) Each school district shall inform the students' parents or legal guardians of the school district's dating violence policy. If requested, the school district shall provide the parents or legal guardians a copy of the school district's dating violence policy and relevant information.

(6) This section does not prevent a victim of dating violence from seeking redress under any other available law, either civil or criminal, and does not create or alter any existing tort liability.

Source: Laws 2009, LB63, § 46.

79-2,142 School district; incorporate dating violence education.

Each school district shall incorporate dating violence education that is age-appropriate into the school program. Dating violence education shall include, but not be limited to, defining dating violence, recognizing dating violence warning signs, and identifying characteristics of healthy dating relationships.

Source: Laws 2009, LB63, § 47.

ARTICLE 3

STATE DEPARTMENT OF EDUCATION

(b) COMMISSIONER OF EDUCATION

Section

- 79-304. Commissioner of Education; qualifications.
- 79-305. Commissioner of Education; office; powers; duties.
- 79-306. Commissioner of Education; State Department of Education; administrative head; duties.
- 79-309.01. Teacher performance pay; local collective-bargaining agreements; data; Commissioner of Education; duties; school district; use of funds; return of funds.

(c) STATE BOARD OF EDUCATION

- 79-310. State Board of Education; members; election.
- 79-313. State Board of Education; members; qualifications.
- 79-317. State Board of Education; meetings; open to public; exceptions; compensation and expenses.
- 79-318. State Board of Education; powers; duties.
- 79-319. State Board of Education; additional powers; enumerated.

(b) COMMISSIONER OF EDUCATION

79-304 Commissioner of Education; qualifications.

The Commissioner of Education shall (1)(a) be a person of superior educational attainments, (b) have had many years of experience, (c) have demonstrated personal and professional leadership in the administration of public education, and (d) be eligible to qualify for the highest grade of school administrator certificate currently issued in the state or (2) possess a combination of education, skills, administrative experiences in public education, and other such qualifications as determined by the State Board of Education.

Source: Laws 1953, c. 320, § 11, p. 1059; R.S.1943, (1994), § 79-331; Laws 1996, LB 900, § 132; Laws 2009, LB549, § 12.

79-305 Commissioner of Education; office; powers; duties.

The Commissioner of Education as the executive officer of the State Board of Education shall: (1) Have an office in the city of Lincoln in which shall be housed the records of the State Board of Education and the State Department of Education, which records shall be subject at all times to examination by the Governor, the Auditor of Public Accounts, and committees of the Legislature; (2) keep the board currently informed and advised on the operation and status of all aspects of the educational program of the state under its jurisdiction; (3) prepare a budget for financing the activities of the board and the department, including the internal operation and maintenance of the department, and upon approval by the board administer the same in accordance with appropriations by the Legislature; (4) voucher the expenses of the department according to the rules and regulations prescribed by the board; (5) be responsible for promoting the efficiency, welfare, and improvement in the school system in the state and for recommending to the board such policies, standards, rules, and regulations as may be necessary to attain these purposes; (6) promote educational improvement by (a) outlining and carrying out plans and conducting essential activities for the preparation of curriculum and other materials, (b) providing necessary supervisory and consultative services, (c) holding conferences of professional educators and other civic leaders, (d) conducting research, experimentation,

and evaluation of school programs and activities, and (e) in other ways assisting in the development of effective education in the state; (7) issue teachers' certificates according to the provisions of law and the rules and regulations prescribed by the board; and (8) attend or, in case of necessity, designate a representative to attend all meetings of the board except when the order of business of the board is the selection of a Commissioner of Education. None of the duties prescribed in this section or in section 79-306 prevent the commissioner from exercising such other duties as in his or her judgment and with the approval of the board are necessary to the proper and legal exercise of his or her obligations.

Source: Laws 1953, c. 320, § 12, p. 1059; Laws 1979, LB 289, § 1; R.S.1943, (1994), § 79-332; Laws 1996, LB 900, § 133; Laws 2009, LB549, § 13.

Cross References

Constitutional provisions:

Appointment, see Article VII, section 4, Constitution of Nebraska.

Board of Trustees of the Nebraska State Colleges, ex officio member, see Article VII, section 13, Constitution of Nebraska.

State Board of Vocational Education, executive officer, see section 79-740.

79-306 Commissioner of Education; State Department of Education; administrative head; duties.

The Commissioner of Education shall be the administrative head of the State Department of Education and as such shall (1) have the authority to delegate administrative and supervisory functions to the members of the staff of the department, (2) establish and maintain an appropriate system of personnel administration for the department, (3) prescribe such administrative rules and regulations as are necessary for the proper execution of duties and responsibilities placed upon him or her, (4) perform all duties prescribed by the Legislature in accordance with the policies adopted by the State Board of Education, and (5) faithfully execute the policies and directives of the State Board of Education.

Source: Laws 1953, c. 320, § 13, p. 1060; R.S.1943, (1994), § 79-333; Laws 1996, LB 900, § 134; Laws 2009, LB549, § 14.

79-309.01 Teacher performance pay; local collective-bargaining agreements; data; Commissioner of Education; duties; school district; use of funds; return of funds.

(1)(a) Beginning in 2016, the Commissioner of Education shall annually collect data from each school district prior to February 25 and determine whether at least seventy-five percent of the school districts have included a system for distributing apportionment funds attributable to income from solar or wind energy leases on school lands for teacher performance pay within such districts' local collective-bargaining agreements for the ensuing school fiscal year.

(b)(i) If the seventy-five percent requirement has been met for the year, the Commissioner of Education shall use the separate accounting provided by the State Treasurer under subdivision (1)(b) of section 79-1035 to determine the amount of the apportionment to each school district under section 79-1035 that is attributable to income from solar or wind energy leases on school lands. The commissioner shall notify each school district of such amount within five days after certification of the apportionment required pursuant to subsection (3) of

section 79-1035. Each school district shall use the amount of apportionment funds specified in the notice provided by the commissioner for the purpose of teacher performance pay. Such amount shall be used as a supplement to the salary schedule as provided in local collective-bargaining agreements. For purposes of distribution of such funds only, the Legislature finds that teacher performance pay measurements, criteria, and payout amounts are mandatory topics of collective bargaining. If a school district has not included a system for distributing apportionment funds attributable to income from solar or wind energy leases on school lands for teacher performance pay within its local collective-bargaining agreement, the amount of apportionment funds specified in the notice provided by the commissioner shall be returned to the State Treasurer within one month of receipt of such funds. The State Treasurer shall immediately credit any funds returned under this section to the temporary school fund. Any funds returned under this section shall be redistributed from the temporary school fund in the following year and shall no longer be designated as income attributable to solar or wind energy leases on school lands.

(ii) If the seventy-five percent requirement has not been met for the year, then subdivision (1)(b)(i) of this section shall not apply for that year.

(2) If the seventy-five percent requirement has not been met in 2016, 2017, or 2018, then this section shall not apply in 2019 or any year thereafter.

(3) For purposes of this section:

(a) Lease means any lease, easement, covenant, or other such contractual arrangement; and

(b) Teacher performance pay means a systematic process for measuring teachers' performance and linking the measurements to changes in teacher pay. Indicators of teacher performance may include improving professional skills and knowledge, classroom performance or instructional behavior, and instructional outcomes. Teacher performance pay may include predetermined bonus amounts and payout criteria.

Source: Laws 2010, LB1014, § 1.
Effective date July 15, 2010.

(c) STATE BOARD OF EDUCATION

79-310 State Board of Education; members; election.

The State Board of Education shall be composed of eight members who shall be elected as provided in section 32-511. The Commissioner of Education shall not be a member of the State Board of Education.

Source: Laws 1953, c. 320, § 2, p. 1054; Laws 1967, c. 527, § 1, p. 1750; Laws 1991, LB 619, § 1; Laws 1994, LB 76, § 589; R.S.1943, (1994), § 79-322; Laws 1996, LB 900, § 138; Laws 2009, LB549, § 15.

Cross References

Constitutional provisions:

Creation, Article VII, section 3, Constitution of Nebraska.

Membership, requirements, Article VII, section 3, Constitution of Nebraska.

Filing fees, see section 32-608.

Nomination, nonpolitical, see section 32-609.

79-313 State Board of Education; members; qualifications.

No person shall be eligible to membership on the State Board of Education (1) who is actively engaged in the teaching profession, (2) who is a holder of any state office or a member of a state board or commission unless the board or commission is limited to an advisory capacity, or (3) unless he or she is a citizen of the United States, a resident of the state for a period of at least six months, and a resident of the district from which he or she is elected for a period of at least six months immediately preceding his or her election.

Source: Laws 1953, c. 320, § 3, p. 1054; Laws 1994, LB 76, § 590; R.S.1943, (1994), § 79-323; Laws 1996, LB 900, § 141; Laws 2001, LB 797, § 8; Laws 2009, LB549, § 16.

79-317 State Board of Education; meetings; open to public; exceptions; compensation and expenses.

(1) The State Board of Education shall meet regularly and periodically in the office of the State Department of Education at least four times annually and at such other times and places as it may determine necessary for the proper and efficient conduct of its duties. All meetings shall be called in accordance with this section and the Open Meetings Act. Five members of the board shall constitute a quorum.

(2) The public shall be admitted to all meetings of the State Board of Education except to such closed sessions as the board may direct in accordance with the Open Meetings Act. The board shall cause to be kept a record of all public meetings and proceedings of the board. The commissioner, or his or her designated representative, shall be present at all meetings except when the order of business for the board is the selection of a Commissioner of Education.

(3) The members of the State Board of Education shall receive no compensation for their services but shall be reimbursed for actual and essential expenses incurred in attending meetings or incurred in the performance of duties as directed by the board as provided in sections 81-1174 to 81-1177.

Source: Laws 1953, c. 320, § 7, p. 1055; Laws 1971, LB 421, § 2; Laws 1975, LB 325, § 7; Laws 1981, LB 204, § 153; R.S.1943, (1994), § 79-327; Laws 1996, LB 900, § 145; Laws 2004, LB 821, § 24; Laws 2009, LB549, § 17.

Cross References

Open Meetings Act, see section 84-1407.

79-318 State Board of Education; powers; duties.

The State Board of Education shall:

- (1) Appoint and fix the compensation of the Commissioner of Education;
- (2) Remove the commissioner from office at any time for conviction of any crime involving moral turpitude or felonious act, for inefficiency, or for willful and continuous disregard of his or her duties as commissioner or of the directives of the board;
- (3) Upon recommendation of the commissioner, appoint and fix the compensation of a deputy commissioner and all professional employees of the board;
- (4) Organize the State Department of Education into such divisions, branches, or sections as may be necessary or desirable to perform all its proper

functions and to render maximum service to the board and to the state school system;

(5) Provide, through the commissioner and his or her professional staff, enlightened professional leadership, guidance, and supervision of the state school system, including educational service units. In order that the commissioner and his or her staff may carry out their duties, the board shall, through the commissioner: (a) Provide supervisory and consultation services to the schools of the state; (b) issue materials helpful in the development, maintenance, and improvement of educational facilities and programs; (c) establish rules and regulations which govern standards and procedures for the approval and legal operation of all schools in the state and for the accreditation of all schools requesting state accreditation. All public, private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in this section and section 79-703 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in subsections (2) through (6) of section 79-1601. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through (6) of section 79-1601, not to meet state accreditation or approval requirements shall be as described in such section; (d) institute a statewide system of testing to determine the degree of achievement and accomplishment of all the students within the state's school systems if it determines such testing would be advisable; (e) prescribe a uniform system of records and accounting for keeping adequate educational and financial records, for gathering and reporting necessary educational data, and for evaluating educational progress; (f) cause to be published laws, rules, and regulations governing the schools and the school lands and funds with explanatory notes for the guidance of those charged with the administration of the schools of the state; (g) approve teacher education programs conducted in Nebraska postsecondary educational institutions designed for the purpose of certifying teachers and administrators; (h) approve certificated-employee evaluation policies and procedures developed by school districts and educational service units; and (i) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned to the State Department of Education by the Legislature;

(6) Adopt and promulgate rules and regulations for the guidance, supervision, accreditation, and coordination of educational service units. Such rules and regulations for accreditation shall include, but not be limited to, (a) a requirement that programs and services offered to school districts by each educational service unit shall be evaluated on a regular basis, but not less than every seven years, to assure that educational service units remain responsive to school district needs and (b) guidelines for the use and management of funds generated from the property tax levy and from other sources of revenue as may be available to the educational service units, to assure that public funds are used to accomplish the purposes and goals assigned to the educational service units by section 79-1204. The State Board of Education shall establish procedures to

encourage the coordination of activities among educational service units and to encourage effective and efficient educational service delivery on a statewide basis;

(7) Submit a biennial report to the Governor and the Clerk of the Legislature covering the actions of the board, the operations of the State Department of Education, and the progress and needs of the schools and recommend such legislation as may be necessary to satisfy these needs;

(8) Prepare and distribute reports designed to acquaint school district officers, teachers, and patrons of the schools with the conditions and needs of the schools;

(9) Provide for consultation with professional educators and lay leaders for the purpose of securing advice deemed necessary in the formulation of policies and in the effectual discharge of its duties;

(10) Make studies, investigations, and reports and assemble information as necessary for the formulation of policies, for making plans, for evaluating the state school program, and for making essential and adequate reports;

(11) Submit to the Governor and the Legislature a budget necessary to finance the state school program under its jurisdiction, including the internal operation and maintenance of the State Department of Education;

(12) Interpret its own policies, standards, rules, and regulations and, upon reasonable request, hear complaints and disputes arising therefrom;

(13) With the advice of the Department of Motor Vehicles, adopt and promulgate rules and regulations containing reasonable standards, not inconsistent with existing statutes, governing: (a) The general design, equipment, color, operation, and maintenance of any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for the transportation of public, private, denominational, or parochial school students; and (b) the equipment, operation, and maintenance of any vehicle with a capacity of ten or less passengers used for the transportation of public, private, denominational, or parochial school students, when such vehicles are owned, operated, or owned and operated by any public, private, denominational, or parochial school or privately owned or operated under contract with any such school in this state, except for vehicles owned by individuals operating a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements. Similar rules and regulations shall be adopted and promulgated for operators of such vehicles as provided in section 79-607;

(14) Accept, on behalf of the Nebraska Center for the Education of Children who are Blind or Visually Impaired, devises of real property or donations or bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of the center or the students receiving services from the center, or both, and irrigate or otherwise improve any such real estate when in the board's judgment it would be advisable to do so; and

(15) Upon acceptance of any devise, donation, or bequest as provided in this section, administer and carry out such devise, donation, or bequest in accordance with the terms and conditions thereof. If not prohibited by the terms and conditions of any such devise, donation, or bequest, the board may sell, convey, exchange, or lease property so devised, donated, or bequeathed upon such terms and conditions as it deems best and remit all money derived from any

such sale or lease to the State Treasurer for credit to the State Department of Education Trust Fund.

Each member of the Legislature shall receive a copy of the report required by subdivision (7) of this section by making a request for it to the commissioner.

None of the duties prescribed in this section shall prevent the board from exercising such other duties as in its judgment may be necessary for the proper and legal exercise of its obligations.

Source: Laws 1953, c. 320, § 8, p. 1056; Laws 1955, c. 306, § 1, p. 947; Laws 1959, c. 383, § 1, p. 1328; Laws 1967, c. 528, § 2, p. 1753; Laws 1969, c. 707, § 2, p. 2712; Laws 1969, c. 708, § 1, p. 2716; Laws 1971, LB 292, § 5; Laws 1974, LB 863, § 8; Laws 1977, LB 205, § 1; Laws 1979, LB 322, § 37; Laws 1981, LB 316, § 1; Laws 1981, LB 545, § 27; Laws 1984, LB 928, § 2; Laws 1984, LB 994, § 6; Laws 1986, LB 1177, § 36; Laws 1987, LB 688, § 11; Laws 1989, LB 15, § 1; Laws 1989, LB 285, § 141; Laws 1990, LB 980, § 34; Laws 1994, LB 858, § 3; R.S.1943, (1994), § 79-328; Laws 1996, LB 900, § 146; Laws 1999, LB 813, § 6; Laws 2009, LB549, § 18; Laws 2010, LB1071, § 5.
Operative date April 15, 2010.

Cross References

Gifts, devises, and bequests, loans to needy students, see section 79-2,106.

Private, denominational, or parochial schools, election not to meet approval or accreditation requirements, see section 79-1601.

79-319 State Board of Education; additional powers; enumerated.

The State Board of Education has the authority to (1) provide for the education of and approve special educational facilities and programs provided in the public schools for children with disabilities, (2) act as the state's authority for the approval of all types of veterans educational programs and have jurisdiction over the administration and supervision of on-the-job and apprenticeship training, on-the-farm training, and flight training programs for veterans which are financially supported in whole or in part by the federal government, (3) supervise and administer any educational or training program established within the state by the federal government, except postsecondary education in approved colleges, (4) coordinate educational activities in the state that pertain to elementary and secondary education and such other educational programs as are placed by statute under the jurisdiction of the board, (5) receive and distribute according to law any money, commodities, goods, or services made available to the board from the state or federal government or from any other source and distribute money in accordance with the terms of any grant received, including the distribution of money from grants by the federal government to schools, preschools, day care centers, day care homes, nonprofit agencies, and political subdivisions of the state or institutions of learning not owned or exclusively controlled by the state or a political subdivision thereof, so long as no public funds of the state, any political subdivision, or any public corporation are added to such federal grants, (6) publish, from time to time, directories of schools and educators, pamphlets, curriculum guides, rules and regulations, handbooks on school constitution and other matters of interest to educators, and similar publications. Such publications may be distributed without charge to schools and school officials within this state or may be sold at a price not less than the actual cost of printing. The proceeds of

such sale shall be remitted to the State Treasurer for credit to the State Department of Education Cash Fund which may be used by the State Department of Education for the purpose of printing and distributing further such publications on a nonprofit basis. The board shall furnish eight copies of such publications to the Nebraska Publications Clearinghouse, and (7) when necessary for the proper administration of the functions of the department and with the approval of the Governor and the Department of Administrative Services, rent or lease space outside the State Capitol.

Source: Laws 1953, c. 320, § 9, p. 1058; Laws 1959, c. 384, § 1, p. 1332; Laws 1961, c. 395, § 1, p. 1202; Laws 1963, c. 469, § 5, p. 1504; Laws 1972, LB 1284, § 20; Laws 1974, LB 863, § 9; Laws 1975, LB 359, § 2; Laws 1976, LB 733, § 1; Laws 1985, LB 417, § 1; Laws 1986, LB 997, § 7; R.S.1943, (1994), § 79-329; Laws 1996, LB 900, § 147; Laws 2009, LB549, § 19.

ARTICLE 4

SCHOOL ORGANIZATION AND REORGANIZATION

(l) UNIFIED SYSTEM

Section

79-4,108. Unified system; interlocal agreement; contents; application; procedure; effect.

(l) UNIFIED SYSTEM

79-4,108 Unified system; interlocal agreement; contents; application; procedure; effect.

(1) Unified system means two or more Class II or III school districts participating in an interlocal agreement under the Interlocal Cooperation Act with approval from the State Committee for the Reorganization of School Districts. The interlocal agreement may include Class I districts if the entire valuation is included in the unified system. The interlocal agreement shall provide:

(a) For a minimum term of three school years;

(b) That all property tax and state aid resources shall be shared by the unified system;

(c) That a board composed of school board members, with at least one school board member from each district, shall determine the general fund levy, within the limitations placed on school districts and multiple-district school systems pursuant to section 77-3442, to be applied in all participating districts and shall determine the distribution of property tax and state aid resources within the unified system. For purposes of section 77-3442, the multiple-district school system shall include all of the Class I, II, and III districts participating in the unified system and the Class I districts or portions thereof affiliated with any of the participating Class II and III districts;

(d) That certificated staff will be employees of the unified system. For any certificated staff employed by the unified system, tenure and seniority as of the effective date of the interlocal agreement shall be transferred to the unified system and tenure and seniority provisions shall continue in the unified system except as provided in sections 79-850 to 79-858. If a district withdraws from the unified system or if the interlocal agreement expires and is not renewed,

certificated staff employed by a participating district immediately prior to the unification shall be reemployed by the original district and tenure and seniority as of the effective date of the withdrawal or expiration shall be transferred to the original district. The certificated staff hired by the unified system but not employed by a participating district immediately prior to the unification shall be subject to the reduction-in-force policy of the unified system;

(e) That the participating districts shall pay obligations of the unified system pursuant to sections 79-850 to 79-858 on a pro rata basis based on the adjusted valuations if a district withdraws from the unified system or if the interlocal agreement expires and is not renewed; and

(f) The permissible method or methods for accomplishing the partial or complete termination of the interlocal agreement and for disposing of assets and liabilities upon such partial or complete termination.

Additional provisions in the interlocal agreement shall be determined by the participating districts and shall encourage cooperation within the unified system.

(2) Application for unification shall be made to the state committee. The application shall contain a copy of the interlocal agreement signed by the president of each participating school board. The state committee shall approve or disapprove applications for unification within forty days after receipt of the application. If the interlocal agreement complies with subsection (1) of this section and all school boards of the participating districts have approved the interlocal agreement, the state committee shall approve the application. Unification agreements shall be effective on June 1 following approval from the state committee for status as a unified system or on the date specified in the interlocal agreement, except that the date shall be on or after June 1 and on or before September 1 for a specified year. The board established in the interlocal agreement may begin meeting any time after the application has been approved by the state committee.

(3) Upon granting the application for unification, the State Department of Education shall recognize the unified system as a single Class II or III district for state aid, budgeting, accreditation, enrollment of students, state programs, and reporting. Except as otherwise required by the department, the unified system shall submit a single report document for each of the reports required of school districts pursuant to Chapter 79 and shall submit a single budget document pursuant to the Nebraska Budget Act and sections 13-518 to 13-522. The class of district shall be the same as the majority of participating districts, excluding Class I districts. If there are an equal number of Class II and Class III districts in the unified system, the unified system shall be recognized by the department as a Class III district.

(4) The school districts participating in a unified system shall retain their separate identities for all purposes except those specified in this section, and participation in a unified system shall not be considered a reorganization.

Source: Laws 1998, LB 1219, § 9; Laws 1999, LB 813, § 10; Laws 2001, LB 797, § 12; Laws 2005, LB 126, § 38; Referendum 2006, No. 422; Laws 2008, LB988, § 5; Laws 2010, LB711, § 1; Laws 2010, LB1071, § 6.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB711, section 1, with LB1071, section 6, to reflect all amendments.

Note: Changes made by LB711 became effective February 26, 2010. Changes made by LB1071 became operative July 15, 2010.

Cross References

Interlocal Cooperation Act, see section 13-801.
 Nebraska Budget Act, see section 13-501.

ARTICLE 5
 SCHOOL BOARDS

(b) SCHOOL BOARD DUTIES

- Section
 79-527. Dropouts; long-term suspension, expulsion, or excessive absenteeism; contact with law enforcement officials; report to Commissioner of Education; required; copy to learning community coordinating council.
 79-527.01. Truancy Intervention Task Force; created; members; duties; report.
 79-528. Reports; filing requirements; contents.

(c) SCHOOL BOARD ELECTIONS AND MEMBERSHIP

- 79-544. School board members; contract to teach prohibited.

(e) SCHOOL BOARD OFFICERS

- 79-569. Class I, II, III, IV, or VI school district; president; powers and duties.
 79-575. Secretary; disbursements; how made.
 79-592. Class V school district; treasurer; bond or insurance; duties.

(f) PROVIDING EDUCATION OUTSIDE THE DISTRICT

- 79-598. Pupils; instruction in another district; contracts authorized; contents; cost per pupil; determination; transportation; attendance reports; noncompliance penalties; dissolution of district.

(b) SCHOOL BOARD DUTIES

79-527 Dropouts; long-term suspension, expulsion, or excessive absenteeism; contact with law enforcement officials; report to Commissioner of Education; required; copy to learning community coordinating council.

(1) The superintendent or head administrator of a public school district or a nonpublic school system shall annually report to the Commissioner of Education in such detail and on such date as required by the commissioner the number of students who have dropped out of school. School districts that are members of learning communities shall also provide the learning community coordinating council with a copy of such report on or before the date the report is due to the commissioner.

(2) The superintendent or head administrator of a public school district or a nonpublic school system shall report on a monthly basis to the Commissioner of Education as directed by the commissioner regarding the number of and reason for any long-term suspension, expulsion, or excessive absenteeism of a student; referral of a student to the office of the county attorney for excessive absenteeism; or contacting of law enforcement officials, other than law enforcement officials employed by or contracted with the school district as school resource officers, by the district or system relative to a student enrolled in the district or system. A school district that is a member of a learning community shall also provide the learning community coordinating council with a copy of such report on or before the date the report is due to the commissioner.

Source: Laws 1965, c. 520, § 2, p. 1646; Laws 1989, LB 487, § 2; Laws 1991, LB 511, § 34; Laws 1992, LB 245, § 39; R.S.1943, (1994),

§ 79-449.01; Laws 1996, LB 900, § 280; Laws 2003, LB 67, § 5; Laws 2006, LB 1024, § 51; Laws 2010, LB800, § 36; Laws 2010, LB1070, § 5.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB800, section 36, with LB1070, section 5, to reflect all amendments.

Note: Changes made by LB1070 became effective April 6, 2010. Changes made by LB800 became effective July 15, 2010.

79-527.01 Truancy Intervention Task Force; created; members; duties; report.

(1) The Truancy Intervention Task Force is created. The task force shall consist of:

- (a) The probation administrator or his or her designee;
- (b) The Commissioner of Education or his or her designee; and
- (c) The chief executive officer of the Department of Health and Human Services or his or her designee.

(2) The task force shall study and evaluate the data contained in the reports required by subsection (2) of section 79-527 and shall develop recommendations to reduce incidents of excessive absenteeism. The task force may contact a school district or a county attorney for additional information. The task force shall report to the Legislature on or before July 1, 2011, and each July 1 thereafter.

Source: Laws 2010, LB800, § 37.
Effective date July 15, 2010.

79-528 Reports; filing requirements; contents.

(1)(a) On or before July 20 in all school districts, the superintendent shall file with the State Department of Education a report showing the number of children from five through eighteen years of age belonging to the school district according to the census taken as provided in sections 79-524 and 79-578. On or before August 31, the department shall issue to each learning community coordinating council a report showing the number of children from five through eighteen years of age belonging to the learning community based on the member school districts according to the school district reports filed with the department.

(b) Each Class I school district which is part of a Class VI school district offering instruction (i) in grades kindergarten through five shall report children from five through ten years of age, (ii) in grades kindergarten through six shall report children from five through eleven years of age, and (iii) in grades kindergarten through eight shall report children from five through thirteen years of age.

(c) Each Class VI school district offering instruction (i) in grades six through twelve shall report children who are eleven through eighteen years of age, (ii) in grades seven through twelve shall report children who are twelve through eighteen years of age, and (iii) in grades nine through twelve children who are fourteen through eighteen years of age.

(d) Each Class I district which has affiliated in whole or in part shall report children from five through thirteen years of age.

(e) Each Class II, III, IV, or V district shall report children who are fourteen through eighteen years of age residing in Class I districts or portions thereof which have affiliated with such district.

(f) The board of any district neglecting to take and report the enumeration shall be liable to the school district for all school money which such district may lose by such neglect.

(2) On or before June 30 the superintendent of each school district shall file with the Commissioner of Education a report described as an end-of-the-school-year annual statistical summary showing (a) the number of children attending school during the year under five years of age, (b) the length of time the school has been taught during the year by a qualified teacher, (c) the length of time taught by each substitute teacher, and (d) such other information as the Commissioner of Education directs. On or before July 31, the commissioner shall issue to each learning community coordinating council an end-of-the-school-year annual statistical summary for the learning community based on the member school districts according to the school district reports filed with the commissioner.

(3)(a) On or before November 1 the superintendent of each school district shall submit to the Commissioner of Education a report described as the annual financial report showing (i) the amount of money received from all sources during the year and the amount of money expended by the school district during the year, (ii) the amount of bonded indebtedness, (iii) such other information as shall be necessary to fulfill the requirements of the Tax Equity and Educational Opportunities Support Act and section 79-1114, and (iv) such other information as the Commissioner of Education directs.

(b) On or before December 15, the commissioner shall issue to each learning community coordinating council an annual financial report for the learning community based on the member school districts according to the annual financial reports filed with the commissioner, showing (i) the aggregate amount of money received from all sources during the year for all member school districts and the aggregate amount of money expended by member school districts during the year, (ii) the aggregate amount of bonded indebtedness for all member school districts, (iii) such other aggregate information as shall be necessary to fulfill the requirements of the Tax Equity and Educational Opportunities Support Act and section 79-1114 for all member school districts, and (iv) such other aggregate information as the Commissioner of Education directs for all member school districts.

(4)(a) On or before October 15 of each year, the superintendent of each school district shall file with the commissioner the fall school district membership report, which report shall include the number of children from birth through twenty years of age enrolled in the district on the last Friday in September of a given school year. The report shall enumerate (i) students by grade level, (ii) school district levies and total assessed valuation for the current fiscal year, and (iii) such other information as the Commissioner of Education directs.

(b) On or before October 15 of each year, each learning community coordinating council shall issue to the department a report which enumerates the learning community levies pursuant to subdivisions (2)(b) and (g) of section 77-3442 and total assessed valuation for the current fiscal year.

(c) On or before November 15 of each year, the department shall issue to each learning community coordinating council the fall learning community membership report, which report shall include the aggregate number of children from birth through twenty years of age enrolled in the member school districts on the last Friday in September of a given school year for all member school districts. The report shall enumerate (i) the aggregate students by grade level for all member school districts, (ii) school district levies and total assessed valuation for the current fiscal year, and (iii) such other information as the Commissioner of Education directs for all member school districts.

(d) When any school district fails to submit its fall membership report by November 1, the commissioner shall, after notice to the district and an opportunity to be heard, direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the report is received by the department. In addition, the commissioner shall direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county treasurer of receipt of such report. The county treasurer shall withhold such money.

Source: Laws 1881, c. 78, subdivision IV, § 16, p. 350; Laws 1885, c. 79, § 1, p. 323; Laws 1889, c. 78, § 12, p. 547; R.S.1913, § 6779; C.S.1922, § 6320; C.S.1929, § 79-417; R.S.1943, § 79-419; Laws 1949, c. 256, § 90, p. 723; Laws 1959, c. 391, § 1, p. 1346; Laws 1969, c. 706, § 4, p. 2710; Laws 1977, LB 487, § 1; Laws 1978, LB 874, § 1; Laws 1979, LB 187, § 230; Laws 1985, LB 662, § 32; Referendum 1986, No. 400; Laws 1989, LB 487, § 3; Laws 1990, LB 1090, § 6; Laws 1990, LB 1059, § 36; Laws 1991, LB 511, § 35; Laws 1992, LB 245, § 40; Laws 1992, LB 1001, § 16; Laws 1994, LB 858, § 6; Laws 1994, LB 1310, § 3; R.S.1943, (1994), § 79-451; Laws 1996, LB 900, § 281; Laws 1997, LB 269, § 59; Laws 1997, LB 806, § 27; Laws 1998, Spec. Sess., LB 1, § 13; Laws 1999, LB 272, § 73; Laws 1999, LB 813, § 11; Laws 2001, LB 797, § 13; Laws 2003, LB 67, § 6; Laws 2003, LB 394, § 6; Laws 2006, LB 1024, § 52; Laws 2007, LB641, § 9; Laws 2009, LB549, § 20; Laws 2010, LB1070, § 6.
Effective date April 6, 2010.

Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

(c) SCHOOL BOARD ELECTIONS AND MEMBERSHIP

79-544 School board members; contract to teach prohibited.

No member of a school board shall be engaged in a contract to teach pursuant to sections 79-817 to 79-821 with the school district which he or she serves as a board member.

Source: Laws 1881, c. 78, subdivision III, § 10, p. 345; Laws 1883, c. 72, § 5, p. 291; R.S.1913, § 6761; C.S.1922, § 6302; C.S.1929, § 79-310; R.S.1943, § 79-310; Laws 1949, c. 256, § 105, p. 727; Laws 1971, LB 214, § 1; R.S.1943, (1994), § 79-466; Laws 1996, LB 900, § 297; Laws 1999, LB 272, § 75; Laws 2001, LB 242, § 24; Laws 2009, LB163, § 1.

(e) SCHOOL BOARD OFFICERS

79-569 Class I, II, III, IV, or VI school district; president; powers and duties.

The president of the school board of a Class I, II, III, IV, or VI school district shall: (1) Preside at all meetings of the district; (2) countersign all orders upon the treasury for money to be disbursed by the district and all warrants of the secretary on the county treasurer for money raised for district purposes or apportioned to the district by the county treasurer; (3) administer the oath to the secretary and treasurer of the district when such an oath is required by law in the transaction of the business of the district; and (4) perform such other duties as may be required by law of the president of the board. He or she is entitled to vote on any issue that may come before any meeting. If the president of the school board of a Class I school district is absent from any district meeting, the legal voters present may elect a suitable person to preside at the meeting.

Source: Laws 1881, c. 78, subdivision IV, § 1, p. 345; Laws 1901, c. 63, § 5, p. 439; Laws 1909, c. 120, § 1, p. 460; R.S.1913, § 6763; C.S.1922, § 6304; C.S.1929, § 79-401; R.S.1943, § 79-401; Laws 1949, c. 256, § 91, p. 723; R.S.1943, (1994), § 79-452; Laws 1996, LB 900, § 322; Laws 1997, LB 345, § 25; Laws 1999, LB 272, § 76; Laws 2009, LB549, § 21.

Cross References

For form of oath, see sections 11-101 and 11-101.01.

79-575 Secretary; disbursements; how made.

The secretary of a school district shall draw and sign all orders upon the treasurer for all money to be disbursed by the district and all warrants upon the county treasurer for money raised for district purposes or apportioned to the district by the county treasurer and shall present the same to the president to be countersigned. No warrant, check, or other instrument drawn upon bank depository funds of the district shall be issued until so countersigned. No warrant, check, or other instrument drawn upon bank depository funds of the district shall be countersigned by the president until the amount for which it is drawn is written upon its face. Facsimile signatures of board members may be used, and a person or persons delegated by the board may sign and validate all warrants, checks, and other instruments drawn upon bank depository funds of the district.

Source: Laws 1881, c. 78, subdivision IV, § 16, p. 350; Laws 1883, c. 72, § 8, p. 292; R.S.1913, § 6778; C.S.1922, § 6319; C.S.1929, § 79-416; R.S.1943, § 79-418; Laws 1949, c. 256, § 89, p. 722; Laws 1955, c. 315, § 6, p. 976; Laws 1980, LB 734, § 1; R.S. 1943, (1994), § 79-450; Laws 1996, LB 900, § 328; Laws 1999, LB 272, § 77; Laws 2009, LB392, § 9.

79-592 Class V school district; treasurer; bond or insurance; duties.

The treasurer of a Class V school district shall receive all taxes of the school district from the county treasurer. The treasurer of the school district shall attend all meetings of the board of education of the Class V district when required to do so, shall prepare and submit in writing a monthly report of the state of the district's finances, and shall pay school money either upon a

warrant signed by the president, or in the president's absence by the vice president, and countersigned by the secretary or upon a check or other instrument drawn upon bank depository funds of the school district. The treasurer shall also perform such other duties as designated by the board of education. Before entering into the discharge of his or her duties and during the entire time he or she so serves, the treasurer shall give bond or evidence of equivalent insurance coverage payable to the board in such amount as may be required by the board, but in no event less than two hundred thousand dollars, conditioned for the faithful discharge of his or her duties as treasurer of the school district, for the safekeeping and proper disbursement of all funds and money of the school district received by the treasurer. Such bond shall be signed by one or more surety companies of recognized responsibility, to be approved by the board. The cost of the bond or insurance shall be paid by the school district. Such bond or insurance coverage may be enlarged at any time the board may deem an enlargement or additional bond or insurance coverage to be necessary.

Source: Laws 1891, c. 45, § 12, p. 321; Laws 1903, c. 96, § 1, p. 553; R.S.1913, § 7020; C.S.1922, § 6651; C.S.1929, § 79-2714; R.S. 1943, § 79-2715; Laws 1947, c. 297, § 1, p. 912; Laws 1949, c. 256, § 260, p. 778; Laws 1996, LB 604, § 9; R.S.1943, (1994), § 79-1004.04; Laws 1996, LB 900, § 345; Laws 2005, LB 380, § 5; Laws 2009, LB392, § 10.

(f) PROVIDING EDUCATION OUTSIDE THE DISTRICT

79-598 Pupils; instruction in another district; contracts authorized; contents; cost per pupil; determination; transportation; attendance reports; noncompliance penalties; dissolution of district.

(1) The school board of any public school district in this state, when authorized by a majority of the votes cast at any annual or special meeting, shall (a) contract with the board of any neighboring public school district or districts for the instruction of all or any part of the pupils residing in the first named district in the school or schools maintained by the neighboring public school district or districts for a period of time not to exceed two years and (b) make provision for the transportation of such pupils to the school or schools of the neighboring public school district or districts.

(2) The school board of any public school district may also, when petitioned to do so by at least two-thirds of the parents residing in the district having children of school age who will attend school under the contract plan, (a) contract with the board of any neighboring public school district or districts for the instruction of all or any part of the pupils residing in the first named district in the school or schools maintained by the neighboring public school district or districts for a period of time not to exceed two years and (b) make provision for the transportation of such pupils to the school or schools of the neighboring public school district or districts.

(3) The contract price for instruction referred to in subsections (1) and (2) of this section shall be the cost per pupil for the immediately preceding school year or the current year, whichever appears more practical as determined by the board of the district which accepts the pupils for instruction. The cost per pupil shall be determined by dividing the sum of the operational cost and debt service expense of the accepting district, except retirement of debt principal,

plus three percent of the insurable or present value of the school plant and equipment of the accepting district, by the average daily membership of pupils in the accepting district. Payment of the contract price shall be made in equal installments at the beginning of the first and second semesters.

(4) All the contracts referred to in subsections (1) and (2) of this section shall be in writing, and copies of all such contracts shall be filed in the office of the superintendent of the primary high school district on or before August 15 of each year. School districts thus providing instruction for their children in neighboring districts shall be considered as maintaining a school as required by law. The teacher of the school providing the instruction shall keep a separate record of the attendance of all pupils from the first named district and make a separate report to the secretary of that district. The board of every sending district contracting under this section shall enter into contracts with school districts of the choice of the parents of the children to be educated under the contract plan. Any school district failing to comply with this section shall not be paid any funds from the state apportionment of school funds while such violation continues.

(5) The State Committee for the Reorganization of School Districts may dissolve any district (a) failing to comply with this section, (b) in which the votes cast at an annual or special election on the question of contracting with a neighboring district are evenly divided, or (c) in which the governing body of the district is evenly divided in its vote on the question of contracting pursuant to subsection (2) of this section. The state committee shall dissolve and attach to a neighboring district or districts any school district which, for two consecutive years, contracts for the instruction of its pupils, except that when such dissolution will create extreme hardships on the pupils or the district affected, the State Board of Education may, on application by the school board of the district, waive the requirements of this subsection. The dissolution of any school district pursuant to this section shall be effected in the manner prescribed in section 79-498.

Source: Laws 1897, c. 64, § 1, p. 311; R.S.1913, § 6944; C.S.1922, § 6526; C.S.1929, § 79-2103; R.S.1943, § 79-2112; Laws 1945, c. 212, § 1, p. 625; Laws 1947, c. 287, § 1, p. 896; Laws 1949, c. 256, § 124, p. 733; Laws 1951, c. 280, § 1, p. 944; Laws 1953, c. 291, § 5, p. 990; Laws 1953, c. 298, § 2, p. 1006; Laws 1955, c. 313, § 1, p. 966; Laws 1955, c. 314, § 1, p. 968; Laws 1955, c. 315, § 8, p. 977; Laws 1959, c. 393, § 1, p. 1349; Laws 1959, c. 386, § 2, p. 1337; Laws 1961, c. 401, § 1, p. 1215; Laws 1965, c. 521, § 1, p. 1647; Laws 1967, c. 535, § 1, p. 1770; Laws 1967, c. 536, § 1, p. 1773; Laws 1969, c. 709, § 3, p. 2724; Laws 1971, LB 292, § 10; Laws 1989, LB 30, § 4; Laws 1989, LB 487, § 4; R.S.1943, (1994), § 79-486; Laws 1996, LB 900, § 351; Laws 1999, LB 272, § 82; Laws 2003, LB 67, § 9; Laws 2009, LB549, § 22.

Cross References

Contract for instruction relative to certain mergers and dissolutions, see section 79-470.

Depopulated districts, provisions for contracting, see section 79-499.

Expense of opposing dissolution order under this section, see section 79-471.

ARTICLE 6

SCHOOL TRANSPORTATION

Section

79-606. Sale of school bus; alteration required; violation; penalty.

79-608. Students; transportation; buses; operator; requirements; violation; penalty.

79-611. Students; transportation; transportation allowance; when authorized; limitations; board; authorize service.

79-606 Sale of school bus; alteration required; violation; penalty.

When any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for transportation of students is sold and used for any other purpose than for transportation of students, such vehicle shall be painted a distinct color other than that prescribed by the State Board of Education and the stop arms and system of alternately flashing warning signal lights on such vehicle shall be removed. It shall be the purchaser's responsibility to see that the modifications required by this section are made. Any person violating this section shall be guilty of a Class V misdemeanor and, upon conviction thereof, be fined not less than twenty-five dollars nor more than one hundred dollars.

Source: Laws 1963, c. 459, § 1, p. 1487; Laws 1971, LB 292, § 12; Laws 1974, LB 863, § 10; Laws 1981, LB 316, § 2; Laws 1988, LB 1142, § 5; R.S.1943, (1994), § 79-488.05; Laws 1996, LB 900, § 367; Laws 2009, LB549, § 23.

79-608 Students; transportation; buses; operator; requirements; violation; penalty.

(1) Any person, before operating a school bus, including any school bus which transports students by direct contract with the students or their parents and not owned by or under contract with the school district or nonpublic school, shall submit himself or herself to (a) an examination, to be conducted by a driver's license examiner of the Department of Motor Vehicles, to determine his or her qualifications to operate such bus and (b) an examination by a licensed physician to determine whether or not he or she meets the physical and mental standards established pursuant to section 79-607 and shall furnish to the school board or board of education or the governing authority of a nonpublic school and to the Director of Motor Vehicles a written report of each such examination on standard forms prescribed by the State Department of Education, signed by the person conducting the same, showing that he or she is qualified to operate a school bus and that he or she meets the physical and mental standards. If the Director of Motor Vehicles determines that the person is so qualified and meets such standards, the director shall issue to the person a special school bus operator's permit, which shall expire each year on the date of birth of the holder, in such form as the director prescribes. No contract shall be entered into until such permit has been received and exhibited to the school board or the governing authority of a nonpublic school. The holder of such permit shall have it on his or her person at all times while operating a school bus.

(2) It shall be unlawful for any person operating a school bus to be or remain on duty for a longer period than sixteen consecutive hours. When any person operating a bus has been continuously on duty for sixteen hours, he or she shall be relieved and not be permitted or required to again go on duty without having

at least ten consecutive hours' rest off duty, and no such operator, who has been on duty sixteen hours in the aggregate in any twenty-four-hour period, shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty.

(3) Any person violating this section shall be guilty of a Class V misdemeanor. His or her contract with the school district shall be canceled as provided in section 79-607.

Source: Laws 1963, c. 460, § 1, p. 1488; Laws 1965, c. 523, § 3, p. 1653; Laws 1971, LB 292, § 13; Laws 1973, LB 358, § 2; Laws 1977, LB 39, § 251; Laws 1989, LB 285, § 142; Laws 1990, LB 980, § 35; R.S.1943, (1994), § 79-488.06; Laws 1996, LB 900, § 369; Laws 2009, LB549, § 24.

79-611 Students; transportation; transportation allowance; when authorized; limitations; board; authorize service.

(1) The school board of any school district shall provide free transportation, partially provide free transportation, or pay an allowance for transportation in lieu of free transportation as follows:

(a) When a student attends an elementary school in his or her own district and lives more than four miles from the public schoolhouse in such district as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence;

(b) When a student is required to attend an elementary school outside of his or her own district and lives more than four miles from such elementary school as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence;

(c) When a student attends a secondary school in his or her own Class II or Class III school district and lives more than four miles from the public schoolhouse as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence. This subdivision does not apply when one or more Class I school districts merge with a Class VI school district to form a new Class II or III school district on or after January 1, 1997; and

(d) When a student, other than a student in grades ten through twelve in a Class V district, attends an elementary or junior high school in his or her own Class V district and lives more than four miles from the public schoolhouse in such district as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence.

(2)(a) The school board of any school district that is a member of a learning community shall provide free transportation for a student who resides in such learning community and attends school in such school district if (i) the student is transferring pursuant to the open enrollment provisions of section 79-2110, qualifies for free or reduced-price lunches, and lives more than one mile from the school to which he or she transfers, (ii) the student is transferring pursuant to such open enrollment provisions, is a student who contributes to the socioeconomic diversity of enrollment at the school building he or she attends, and lives more than one mile from the school to which he or she transfers, (iii) the student is attending a focus school or program and lives more than one mile from the school building housing the focus school or program, or (iv) the

student is attending a magnet school or program and lives more than one mile from the magnet school or the school housing the magnet program.

(b) For purposes of this subsection, student who contributes to the socioeconomic diversity of enrollment at the school building he or she attends has the definition found in section 79-2110. This subsection does not prohibit a school district that is a member of a learning community from providing transportation to any intradistrict student.

(3) The transportation allowance which may be paid to the parent, custodial parent, or guardian of students qualifying for free transportation pursuant to subsection (1) or (2) of this section shall equal two hundred eighty-five percent of the mileage rate provided in section 81-1176, multiplied by each mile actually and necessarily traveled, on each day of attendance, beyond which the one-way distance from the residence of the student to the schoolhouse exceeds three miles.

(4) Whenever students from more than one family travel to school in the same vehicle, the transportation allowance prescribed in subsection (3) of this section shall be payable as follows:

(a) To the parent, custodial parent, or guardian providing transportation for students from other families, one hundred percent of the amount prescribed in subsection (3) of this section for the transportation of students of such parent's, custodial parent's, or guardian's own family and an additional five percent for students of each other family not to exceed a maximum of one hundred twenty-five percent of the amount determined pursuant to subsection (3) of this section; and

(b) To the parent, custodial parent, or guardian not providing transportation for students of other families, two hundred eighty-five percent of the mileage rate provided in section 81-1176 multiplied by each mile actually and necessarily traveled, on each day of attendance, from the residence of the student to the pick-up point at which students transfer to the vehicle of a parent, custodial parent, or guardian described in subdivision (a) of this subsection.

(5) When a student who qualifies under the mileage requirements of subsection (1) of this section lives more than three miles from the location where the student must be picked up and dropped off in order to access school-provided free transportation, as measured by the shortest route that must actually and necessarily be traveled by motor vehicle between his or her residence and such location, such school-provided transportation shall be deemed partially provided free transportation. School districts partially providing free transportation shall pay an allowance to the student's parent or guardian equal to two hundred eighty-five percent of the mileage rate provided in section 81-1176 multiplied by each mile actually and necessarily traveled, on each day of attendance, beyond which the one-way distance from the residence of the student to the location where the student must be picked up and dropped off exceeds three miles.

(6) The board may authorize school-provided transportation to any student who does not qualify under the mileage requirements of subsection (1) of this section and may charge a fee to the parent or guardian of the student for such service. An affiliated high school district may provide free transportation or pay the allowance described in this section for high school students residing in an affiliated Class I district. No transportation payments shall be made to a family for mileage not actually traveled by such family. The number of days the

student has attended school shall be reported monthly by the teacher to the board of such public school district.

(7) No more than one allowance shall be made to a family irrespective of the number of students in a family being transported to school. If a family resides in a Class I district which is part of a Class VI district and has students enrolled in any of the grades offered by the Class I district and in any of the non-high-school grades offered by the Class VI district, such family shall receive not more than one allowance for the distance actually traveled when both districts are on the same direct travel route with one district being located a greater distance from the residence than the other. In such cases, the travel allowance shall be prorated among the school districts involved.

(8) No student shall be exempt from school attendance on account of distance from the public schoolhouse.

Source: Laws 1927, c. 84, § 1, p. 251; Laws 1929, c. 92, § 1, p. 348; C.S.1929, § 79-1902; Laws 1931, c. 149, § 1, p. 405; Laws 1941, c. 163, § 1, p. 650; C.S.Supp.,1941, § 79-1902; R.S.1943, § 79-1907; Laws 1949, c. 256, § 128, p. 735; Laws 1951, c. 276, § 6, p. 930; Laws 1955, c. 315, § 9, p. 979; Laws 1963, c. 483, § 1, p. 1553; Laws 1969, c. 717, § 1, p. 2743; Laws 1969, c. 718, § 1, p. 2744; Laws 1969, c. 719, § 1, p. 2746; Laws 1976, LB 852, § 1; Laws 1977, LB 117, § 1; Laws 1977, LB 33, § 10; Laws 1979, LB 425, § 1; Laws 1980, LB 867, § 2; Laws 1981, LB 204, § 156; Laws 1981, LB 316, § 3; Laws 1986, LB 419, § 1; Laws 1987, LB 200, § 1; Laws 1990, LB 259, § 22; Laws 1990, LB 1059, § 38; Laws 1993, LB 348, § 21; Laws 1994, LB 1311, § 1; R.S.1943, (1994), § 79-490; Laws 1996, LB 900, § 372; Laws 1997, LB 710, § 4; Laws 1997, LB 806, § 28; Laws 1999, LB 272, § 84; Laws 2003, LB 394, § 7; Laws 2005, LB 126, § 42; Laws 2006, LB 1024, § 56; Referendum 2006, No. 422; Laws 2007, LB641, § 10; Laws 2008, LB1154, § 8; Laws 2009, LB549, § 25.

Cross References

For definitions relating to affiliation of school districts, see section 79-4,101.
Public Elementary and Secondary Student Fee Authorization Act, see section 79-2,125.

ARTICLE 7

ACCREDITATION, CURRICULUM, AND INSTRUCTION

(j) CAREER EDUCATION PARTNERSHIP ACT

Section

- 79-763. Repealed. Laws 2009, LB 476, § 6.
- 79-764. Repealed. Laws 2009, LB 476, § 6.
- 79-765. Repealed. Laws 2009, LB 476, § 6.
- 79-766. Repealed. Laws 2009, LB 476, § 6.
- 79-767. Repealed. Laws 2009, LB 476, § 6.
- 79-768. Repealed. Laws 2009, LB 476, § 6.

(m) NEBRASKA COMMUNITY COLLEGE DEGREE

79-771. Nebraska community college degrees; how treated.

(n) CENTER FOR STUDENT LEADERSHIP AND EXTENDED LEARNING ACT

- 79-772. Act, how cited.
- 79-773. Legislative findings.
- 79-774. Terms, defined.

Section

79-775. Purpose of act; Center for Student Leadership and Extended Learning; duties.

(o) POLICY TO SHARE STUDENT DATA

79-776. State Board of Education; policy to share student data; duties.

(j) CAREER EDUCATION PARTNERSHIP ACT

79-763 Repealed. Laws 2009, LB 476, § 6.

79-764 Repealed. Laws 2009, LB 476, § 6.

79-765 Repealed. Laws 2009, LB 476, § 6.

79-766 Repealed. Laws 2009, LB 476, § 6.

79-767 Repealed. Laws 2009, LB 476, § 6.

79-768 Repealed. Laws 2009, LB 476, § 6.

(m) NEBRASKA COMMUNITY COLLEGE DEGREE

79-771 Nebraska community college degrees; how treated.

For purposes of financial aid relating to postsecondary education and admission to postsecondary educational institutions, a student shall be deemed a high school graduate if he or she has obtained an associate of arts degree or an associate of science degree from a community college in Nebraska.

Source: Laws 2009, LB102, § 1.

(n) CENTER FOR STUDENT LEADERSHIP
AND EXTENDED LEARNING ACT

79-772 Act, how cited.

Sections 79-772 to 79-775 shall be known and may be cited as the Center for Student Leadership and Extended Learning Act.

Source: Laws 2009, LB476, § 1.

79-773 Legislative findings.

(1) The Legislature finds that:

(a) Since 1928, Nebraska students have benefited from participation in career education student organizations such as Nebraska FFA, Family Career and Community Leaders of America (FCCLA), Future Business Leaders of America (FBLA), Skills USA, Nebraska DECA, and Health Occupations Students of America (HOSA);

(b) Research conducted in 2007 by the National Research Center for Career and Technical Education has documented a positive association between career education student organizations participation and academic motivation, academic engagement, grades, career self-efficacy, college aspirations, and employability skills;

(c) Long-term sustainability of the state associations of career education student organizations has a positive impact on Nebraska students and is in the best interests of the economic well-being of the State of Nebraska;

(d) Students in Nebraska schools should have opportunities to acquire academic, technical, and employability knowledge and skills needed to meet the demands of a global economy;

(e) Students benefit from the opportunities provided by career education student organizations to develop and demonstrate leadership skills that prepare them for civic, economic, and entrepreneurial leadership roles;

(f) Students benefit from engaging in extended-learning experiences outside their normal classrooms that allow them to apply their knowledge and skill in real-world situations;

(g) There is a need to establish and expand strategies and programs that enable young people to be college-ready and career-ready, build assets, and remain as productive citizens in their communities; and

(h) There is a need to establish a statewide structure that supports existing and emerging curriculum and program offerings with student leadership development opportunities and experiences.

(2) The Legislature recognizes that Nebraska must provide opportunities to educate young people with leadership and employability skills to (a) meet the needs of business and industry and remain economically viable, (b) educate and nurture future entrepreneurs for successful business ventures to diversify and strengthen our economic base, (c) foster rewarding personal development experiences that involve students in their communities and encourage them to return to their communities after completing postsecondary education, and (d) invest in and support the leadership development of our future state and community civic leaders.

Source: Laws 2009, LB476, § 2.

79-774 Terms, defined.

For purposes of the Center for Student Leadership and Extended Learning Act:

(1) Career and technical education means educational programs that support the development of knowledge and skill in the following areas: Agriculture, food, and natural resources; architecture and construction; arts, audiovisual, technology, and communication; business management and administration; education and training; finance; government and public administration; health science; hospitality and tourism; human services; information technology; law, public safety, and security; marketing; manufacturing; science, technology, engineering, and mathematics; and transportation, distribution, and logistics;

(2) Career education student organization means an organization for individuals enrolled in a career and technical education program that engages career and technical education activities as an integral part of the instructional program; and

(3) Extended learning means activities and programs that expand opportunities for students to participate in educational activities outside the normal classroom.

Source: Laws 2009, LB476, § 3.

79-775 Purpose of act; Center for Student Leadership and Extended Learning; duties.

The purpose of the Center for Student Leadership and Extended Learning Act is to provide state support for establishing and maintaining within the State Department of Education the Center for Student Leadership and Extended Learning. The center shall provide ongoing financial and administrative support for state leadership and administration of Nebraska career education student organizations, create and coordinate opportunities for students to participate in educational activities outside the normal classroom, and partner with state and local organizations to share research and identify best practices that can be disseminated to schools and community organizations.

Source: Laws 2009, LB476, § 4.

(o) POLICY TO SHARE STUDENT DATA

79-776 State Board of Education; policy to share student data; duties.

The State Board of Education shall enter into memoranda of understanding on or before September 1, 2010, with the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, and the board of governors of each community college area to adopt a policy to share student data. At a minimum, the policy shall ensure that the exchange of information is conducted in conformance with the requirements of the federal Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g, and all federal regulations and applicable guidelines adopted in accordance with such act, as such act, regulations, and guidelines existed on January 1, 2010.

Source: Laws 2010, LB1071, § 7.

Operative date April 15, 2010.

ARTICLE 8

TEACHERS AND ADMINISTRATORS

(a) CERTIFICATES

Section

- 79-808. Teachers and administrators; certificates and permits; requirements; board; duties; advisory committees.
- 79-810. Certificates or permits; issuance by Commissioner of Education; fee; disposition; contents of certificate or permit; endorsements; Certification Fund; Professional Practices Commission Fund; created; use; investment.

(p) EXCELLENCE IN TEACHING ACT

- 79-8,132. Act, how cited.
- 79-8,133. Attracting Excellence to Teaching Program; created; terms, defined.
- 79-8,134. Attracting Excellence to Teaching Program; purposes.
- 79-8,135. Attracting Excellence to Teaching Program; administration; eligible students.
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- 79-8,137. Attracting Excellence to Teaching Program; eligible student; contract requirements; loan payments; suspension; loan forgiveness; amount.
- 79-8,137.01. Enhancing Excellence in Teaching Program; created; terms, defined.
- 79-8,137.02. Enhancing Excellence in Teaching Program; purposes.
- 79-8,137.03. Enhancing Excellence in Teaching Program; administration; eligible student; loans.
- 79-8,137.04. Enhancing Excellence in Teaching Program; contract requirements; loan payments; suspension; loan forgiveness; amount.
- 79-8,137.05. Excellence in Teaching Cash Fund; created; use; investment.
- 79-8,138. Repayment tracking.

Section	
79-8,139.	Reports.
79-8,140.	Rules and regulations.

(a) CERTIFICATES

79-808 Teachers and administrators; certificates and permits; requirements; board; duties; advisory committees.

(1) The board shall establish, adopt, and promulgate appropriate rules, regulations, and procedures governing the issuance, renewal, conversion, suspension, and revocation of certificates and permits to teach, provide special services, and administer based upon (a) earned college credit in humanities, social and natural sciences, mathematics, or career and technical education, (b) earned college credit, or its equivalent in professional education, for particular teaching, special services, or administrative assignments, (c) criminal history record information if the applicant has not been a continuous Nebraska resident for five years immediately preceding application for the first issuance of a certificate, (d) human relations training, (e) successful teaching, administration, or provision of special services, and (f) moral, mental, and physical fitness for teaching, all in accordance with sound educational practices. Such rules, regulations, and procedures shall also provide for endorsement requirements to indicate areas of specialization on such certificates and permits.

(2) The board may issue a temporary certificate, valid for a period not to exceed two years, to any applicant for certification who has not completed the human relations training requirement.

(3) Members of any advisory committee established by the board to assist the board in teacher education and certification matters shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. Each school district which has an employee who serves as a member of such committee and which is required to hire a person to replace such member during the member's attendance at meetings or activities of the committee or any subcommittee thereof shall be reimbursed from the Certification Fund for the expense it incurs from hiring a replacement. School districts may excuse employees who serve on such advisory committees from certain duties which conflict with any advisory committee duties.

Source: Laws 1963, c. 491, § 3, p. 1569; Laws 1981, LB 427, § 1; Laws 1984, LB 994, § 9; Laws 1985, LB 633, § 7; Laws 1986, LB 997, § 14; Laws 1987, LB 529, § 6; Laws 1989, LB 250, § 2; Laws 1990, LB 1090, § 20; Laws 1991, LB 511, § 57; Laws 1992, LB 245, § 62; Laws 1995, LB 123, § 2; R.S.Supp., 1995, § 79-1247.05; Laws 1996, LB 900, § 438; Laws 2001, LB 314, § 1; Laws 2003, LB 685, § 8; Laws 2009, LB547, § 2.

79-810 Certificates or permits; issuance by Commissioner of Education; fee; disposition; contents of certificate or permit; endorsements; Certification Fund; Professional Practices Commission Fund; created; use; investment.

(1) Certificates and permits shall be issued by the commissioner upon application on forms prescribed and provided by him or her which shall include the applicant's social security number.

(2) Each certificate or permit issued by the commissioner shall indicate the area of authorization to teach, provide special services, or administer and any

areas of endorsement for which the holder qualifies. During the term of any certificate or permit issued by the commissioner, additional endorsements may be made on the certificate or permit if the holder submits an application, meets the requirements for issuance of the additional endorsements, and pays a nonrefundable fee of forty dollars.

(3) The Certification Fund is created. Any fee received by the department under sections 79-806 to 79-815 shall be remitted to the State Treasurer for credit to the fund. The fund shall be used by the department in paying the costs of certifying educators pursuant to such sections and to carry out subsection (3) of section 79-808. For issuance of a certificate or permit valid in all schools, the nonrefundable fee shall be fifty-five dollars, except that thirteen dollars of the fifty-five-dollar fee shall be credited to the Professional Practices Commission Fund which is created for use by the department to pay for the provisions of sections 79-859 to 79-871, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. For issuance of a certificate or permit valid only in nonpublic schools, the nonrefundable fee shall be forty dollars. Any money in the Certification Fund or the Professional Practices 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.

Source: Laws 1963, c. 491, § 5, p. 1571; Laws 1967, c. 549, § 8, p. 1814; Laws 1969, c. 728, § 1, p. 2763; Laws 1969, c. 729, § 1, p. 2764; Laws 1969, c. 584, § 79, p. 2393; Laws 1977, LB 540, § 1; Laws 1980, LB 771, § 1; Laws 1991, LB 855, § 1; Laws 1991, LB 511, § 58; Laws 1992, LB 245, § 63; Laws 1993, LB 348, § 29; Laws 1994, LB 1066, § 89; R.S.1943, (1994), § 79-1247.07; Laws 1996, LB 900, § 440; Laws 1997, LB 206, § 1; Laws 1997, LB 752, § 216; Laws 2002, Second Spec. Sess., LB 1, § 5; Laws 2003, LB 685, § 10; Laws 2007, LB150, § 2; Laws 2009, First Spec. Sess., LB3, § 59.

Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(p) EXCELLENCE IN TEACHING ACT

79-8,132 Act, how cited.

Sections 79-8,132 to 79-8,140 shall be known and may be cited as the Excellence in Teaching Act and shall include the Attracting Excellence to Teaching Program and the Enhancing Excellence in Teaching Program.

Source: Laws 2000, LB 1399, § 15; Laws 2009, LB547, § 3.

79-8,133 Attracting Excellence to Teaching Program; created; terms, defined.

The Attracting Excellence to Teaching Program is created. For purposes of the Attracting Excellence to Teaching Program:

(1) Department means the State Department of Education;

(2) Eligible institution means a not-for-profit college or university which (a) is located in Nebraska, (b) is accredited by the North Central Association of Colleges and Schools, (c) has a teacher education program, and (d) if a

privately funded college or university, has not opted out of the program pursuant to rules and regulations;

(3) Eligible student means an individual who (a) is a full-time student, (b) is enrolled in an eligible institution in an undergraduate or a graduate teacher education program working toward his or her initial certificate to teach in Nebraska, (c) if enrolled at a state-funded eligible institution, is a resident student as described in section 85-502 or, if enrolled in a privately funded eligible institution, would be deemed a resident student if enrolled in a state-funded eligible institution, and (d) for applicants applying for the first time on or after April 23, 2009, is a student majoring in a shortage area;

(4) Full-time student means, in the aggregate, the equivalent of a student who in a twelve-month period is enrolled in twenty-four semester credit hours for undergraduate students or eighteen semester credit hours for graduate students of classroom, laboratory, clinical, practicum, or independent study course work;

(5) Majoring in a shortage area means pursuing a degree which will allow an individual to be properly endorsed to teach in a shortage area;

(6) Shortage area means a secular field of teaching for which there is a shortage, as determined by the department, of properly endorsed teachers at the time the borrower first receives funds pursuant to the program; and

(7) Teacher education program means a program of study approved by the State Board of Education pursuant to subdivision (5)(g) of section 79-318.

Source: Laws 2000, LB 1399, § 16; Laws 2003, LB 685, § 20; Laws 2009, LB547, § 4.

79-8,134 Attracting Excellence to Teaching Program; purposes.

The purposes of the Attracting Excellence to Teaching Program are to:

(1) Attract outstanding students to major in shortage areas at the teacher education programs of Nebraska's postsecondary educational institutions;

(2) Retain resident students and graduates as teachers in the accredited or approved public and private schools of Nebraska; and

(3) Establish a loan contract that requires a borrower to obtain employment as a teacher in this state after graduation.

Source: Laws 2000, LB 1399, § 17; Laws 2009, LB547, § 5.

79-8,135 Attracting Excellence to Teaching Program; administration; eligible students.

(1) The department shall administer the Attracting Excellence to Teaching Program either directly or by contracting with public or private entities.

(2) To be eligible for the program, an eligible student shall:

(a) Graduate in the top quarter of his or her high school class or have a minimum cumulative grade-point average of 3.0 on a four-point scale in an eligible institution;

(b) Agree to complete a teacher education program at an eligible institution and, for applicants applying for the first time on or after April 23, 2009, to complete the major on which the applicant's eligibility is based; and

(c) Commit to teach in an accredited or approved public or private school in Nebraska upon (i) successful completion of the teacher education program for which the applicant is applying to the Attracting Excellence to Teaching Program and (ii) becoming certified pursuant to sections 79-806 to 79-815.

(3) Eligible students may apply on an annual basis for loans in an amount of not more than three thousand dollars per year. Loans awarded to individual students shall not exceed a cumulative period exceeding five consecutive years. Loans shall only be awarded through an eligible institution. Loans shall be funded pursuant to section 79-8,137.05.

Source: Laws 2000, LB 1399, § 18; Laws 2003, LB 685, § 21; Laws 2009, LB547, § 6.

79-8,136 Transferred to section 79-8,137.05.

79-8,137 Attracting Excellence to Teaching Program; eligible student; contract requirements; loan payments; suspension; loan forgiveness; amount.

(1)(a) Prior to receiving any money from a loan pursuant to the Attracting Excellence to Teaching Program, an eligible student shall enter into a contract with the department. Such contract shall be exempt from the requirements of sections 73-501 to 73-509.

(b) For eligible students who applied for the first time prior to April 23, 2009, the contract shall require that if (i) the borrower is not employed as a teacher in Nebraska for a time period equal to the number of years required for loan forgiveness pursuant to subsection (2) of this section and is not enrolled as a full-time student in a graduate program within six months after obtaining an undergraduate degree for which a loan from the program was obtained or (ii) the borrower does not complete the requirements for graduation within five consecutive years after receiving the initial loan under the program, then the loan must be repaid, with interest at the rate fixed pursuant to section 45-103 accruing as of the date the borrower signed the contract, and an appropriate penalty as determined by the department may be assessed. If a borrower fails to remain enrolled at an eligible institution or otherwise fails to meet the requirements of an eligible student, repayment of the loan shall commence within six months after such change in eligibility. The State Board of Education may by rules and regulations provide for exceptions to the conditions of repayment pursuant to this subdivision based upon mitigating circumstances.

(c) For eligible students who apply for the first time on or after April 23, 2009, the contract shall require that if (i) the borrower is not employed as a full-time teacher teaching in an approved or accredited school in Nebraska and teaching at least a portion of the time in the shortage area for which the loan was received for a time period equal to the number of years required for loan forgiveness pursuant to subsection (3) of this section and is not enrolled as a full-time student in a graduate program within six months after obtaining an undergraduate degree for which a loan from the program was obtained or (ii) the borrower does not complete the requirements for graduation within five consecutive years after receiving the initial loan under the program, then the loan shall be repaid with interest at the rate fixed pursuant to section 45-103 accruing as of the date the borrower signed the contract and actual collection costs as determined by the department. If a borrower fails to remain enrolled at an eligible institution or otherwise fails to continue to be an eligible student, repayment of the loan shall commence within six months after such change in

eligibility. The State Board of Education may by rule and regulation provide for exceptions to the conditions of repayment pursuant to this subdivision based upon mitigating circumstances.

(2) If the borrower applied for the first time prior to April 23, 2009, and (a) successfully completes the teacher education program and becomes certified pursuant to sections 79-806 to 79-815, (b) becomes employed as a teacher in this state within six months of becoming certified, and (c) otherwise meets the requirements of the contract, payments shall be suspended for the number of years that the borrower is required to remain employed as a teacher in this state under the contract. For each year that the borrower teaches in Nebraska pursuant to the contract, payments shall be forgiven in an amount equal to the amount borrowed for one year, except that if the borrower teaches in a school district that is in a local system classified as very sparse as defined in section 79-1003 or teaches in a school district in which at least forty percent of the students are poverty students as defined in section 79-1003, payments shall be forgiven each year in an amount equal to the amount borrowed for two years.

(3) If the borrower applies for the first time on or after April 23, 2009, and (a) successfully completes the teacher education program and major for which the borrower is receiving a forgivable loan pursuant to the program and becomes certified pursuant to sections 79-806 to 79-815 with an endorsement in the shortage area for which the loan was received, (b) becomes employed as a full-time teacher teaching at least a portion of the time in the shortage area for which the loan was received in an approved or accredited school in this state within six months of becoming certified, and (c) otherwise meets the requirements of the contract, payments shall be suspended for the number of years that the borrower is required to remain employed as a teacher in this state under the contract. Beginning after the first two years of teaching full-time in Nebraska following graduation for the degree for which the loan was received, for each year that the borrower teaches full-time in Nebraska pursuant to the contract, the loan shall be forgiven in an amount equal to three thousand dollars, except that if the borrower teaches full-time in a school district that is in a local system classified as very sparse as defined in section 79-1003, teaches in a school building in which at least forty percent of the formula students are poverty students as defined in section 79-1003, or teaches in an accredited or approved private school in Nebraska in which at least forty percent of the enrolled students qualified for free lunches as determined by the most recent data available from the department, payments shall be forgiven each year in an amount equal to six thousand dollars.

Source: Laws 2000, LB 1399, § 20; Laws 2003, LB 685, § 22; Laws 2008, LB988, § 7; Laws 2009, LB547, § 7.

79-8,137.01 Enhancing Excellence in Teaching Program; created; terms, defined.

The Enhancing Excellence in Teaching Program is created. For purposes of the Enhancing Excellence in Teaching Program:

- (1) Department means the State Department of Education;
- (2) Eligible graduate program means a program of study offered by an eligible institution which results in obtaining a graduate degree;
- (3) Eligible institution means a not-for-profit college or university which (a) is located in Nebraska, (b) is accredited by the North Central Association of

Colleges and Schools, (c) has a teacher education program, and (d) if a privately funded college or university, has not opted out of the Enhancing Excellence in Teaching Program pursuant to rules and regulations;

(4) Eligible student means an individual who (a) is a certificated teacher employed to teach in an approved or accredited school in Nebraska, (b) is enrolled in an eligible graduate program, (c) if enrolled at a state-funded eligible institution, is a resident student as described in section 85-502 or, if enrolled in a privately funded eligible institution, would be deemed a resident student if enrolled in a state-funded eligible institution, and (d) is majoring in a shortage area, curriculum and instruction, a subject area in which the individual already holds a secular teaching endorsement, or a subject area that will result in an additional secular teaching endorsement which the superintendent of the school district or head administrator of the private, denominational, or parochial school employing the individual believes will be beneficial to the students of such school district or school as evidenced by a statement signed by the superintendent or head administrator;

(5) Majoring in a shortage area or subject area means pursuing a degree which will allow an individual to be properly endorsed to teach in such shortage area or subject area; and

(6) Shortage area means a secular field of teaching for which there is a shortage, as determined by the department, of properly endorsed teachers at the time the borrower first receives funds pursuant to the Enhancing Excellence in Teaching Program.

Source: Laws 2009, LB547, § 8; Laws 2010, LB1071, § 8.
Operative date April 15, 2010.

79-8,137.02 Enhancing Excellence in Teaching Program; purposes.

The purposes of the Enhancing Excellence in Teaching Program are to:

(1) Retain teachers in the accredited or approved public and private schools of Nebraska;

(2) Improve the skills of existing teachers in Nebraska through the graduate education programs of Nebraska's postsecondary educational institutions; and

(3) Establish a loan contract that requires a borrower to continue employment as a teacher in this state after graduation from an eligible graduate program.

Source: Laws 2009, LB547, § 9; Laws 2010, LB1071, § 9.
Operative date April 15, 2010.

79-8,137.03 Enhancing Excellence in Teaching Program; administration; eligible student; loans.

(1) The department shall administer the Enhancing Excellence in Teaching Program either directly or by contracting with public or private entities.

(2) To be eligible for the program, an eligible student shall:

(a) Agree to complete an eligible graduate program at an eligible institution and to complete the major on which the applicant's eligibility is based as determined by the department; and

(b) Commit to teach in an accredited or approved public or private school in Nebraska upon successful completion of the eligible graduate program for

which the applicant is applying to the Enhancing Excellence in Teaching Program and to maintaining certification pursuant to sections 79-806 to 79-815.

(3) Eligible students may apply on an annual basis for loans in an amount of not more than one hundred seventy-five dollars per credit hour. Loans awarded to individual students shall not exceed a cumulative period exceeding five consecutive years. Loans shall only be awarded through the department. Loans shall be funded pursuant to section 79-8,137.05.

Source: Laws 2009, LB547, § 10; Laws 2010, LB1071, § 10.
Operative date April 15, 2010.

79-8,137.04 Enhancing Excellence in Teaching Program; contract requirements; loan payments; suspension; loan forgiveness; amount.

(1) Prior to receiving any money from a loan pursuant to the Enhancing Excellence in Teaching Program, an eligible student shall enter into a contract with the department. Such contract shall be exempt from the requirements of sections 73-501 to 73-509. The contract shall require that if (a) the borrower is not employed as a full-time teacher teaching in an approved or accredited school in Nebraska for a time period equal to the number of years required for loan forgiveness pursuant to subsection (2) of this section or (b) the borrower does not complete the requirements for graduation within five consecutive years after receiving the initial loan under the program, then the loan shall be repaid, with interest at the rate fixed pursuant to section 45-103 accruing as of the date the borrower signed the contract and actual collection costs as determined by the department. If a borrower fails to remain enrolled at an eligible institution or otherwise fails to meet the requirements of an eligible student, repayment of the loan shall commence within six months after such change in eligibility. The State Board of Education may by rules and regulations provide for exceptions to the conditions of repayment pursuant to this subsection based upon mitigating circumstances.

(2) If the borrower (a) successfully completes the eligible graduate program and major for which the borrower is receiving a forgivable loan pursuant to the Enhancing Excellence in Teaching Program and maintains certification pursuant to sections 79-806 to 79-815, (b) maintains employment as a teacher in an approved or accredited school in this state, and (c) otherwise meets the requirements of the contract, payments shall be suspended for the number of years that the borrower is required to remain employed as a teacher in this state under the contract. Beginning after the first two years of teaching full-time in Nebraska following graduation for the degree for which the loan was received, for each year that the borrower teaches full-time in Nebraska pursuant to the contract, the loan shall be forgiven in an amount equal to three thousand dollars, except that if the borrower teaches full-time in a school district that is in a local system classified as very sparse as defined in section 79-1003, teaches in a school building in which at least forty percent of the students are poverty students as defined in section 79-1003, or teaches in an accredited or approved private school in Nebraska in which at least forty percent of the enrolled students qualified for free lunches as determined by the most recent data available from the department, payments shall be forgiven each year in an amount equal to six thousand dollars.

Source: Laws 2009, LB547, § 11; Laws 2010, LB1071, § 11.
Operative date April 15, 2010.

79-8,137.05 Excellence in Teaching Cash Fund; created; use; investment.

The Excellence in Teaching Cash Fund is created. The fund shall consist of appropriations by the Legislature, transfers pursuant to section 9-812, and loan repayments, penalties, and interest payments received in the course of administering the Attracting Excellence to Teaching Program and the Enhancing Excellence in Teaching Program. The department shall allocate on an annual basis up to four hundred thousand dollars in the aggregate of the funds to be distributed for the Attracting Excellence to Teaching Program to all eligible institutions according to the distribution formula as determined by rule and regulation. The eligible institutions shall act as agents of the department in the distribution of the funds for the Attracting Excellence to Teaching Program to eligible students. The remaining available funds shall be distributed by the department to eligible students for the Enhancing Excellence in Teaching 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 2000, LB 1399, § 19; Laws 2001, Spec. Sess., LB 3, § 6; R.S.1943, (2008), § 79-8,136; Laws 2009, LB547, § 12.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

79-8,138 Repayment tracking.

The department has the administrative responsibility to track borrowers and to develop repayment tracking and collection mechanisms for the Attracting Excellence to Teaching Program and the Enhancing Excellence in Teaching Program. The department may contract for such services. When a loan has been forgiven pursuant to section 79-8,137 or 79-8,137.04, the amount forgiven may be taxable income to the borrower and the department shall provide notification of the amount forgiven to the borrower, the Department of Revenue, and the United States Internal Revenue Service if required by the Internal Revenue Code.

Source: Laws 2000, LB 1399, § 21; Laws 2009, LB547, § 13.

79-8,139 Reports.

(1) Each eligible institution shall file an annual report for the Attracting Excellence to Teaching Program and the Enhancing Excellence in Teaching Program with the department containing such information as required by rule and regulation. On or before December 31, 2010, and on or before December 31 of each even-numbered year thereafter, the department shall submit a report to the Governor, the Clerk of the Legislature, and the Education Committee of the Legislature on the status of the programs, the status of the borrowers, and the impact of the programs on the number of teachers in shortage areas in Nebraska and on the number of teachers receiving graduate degrees in teaching endorsement areas in Nebraska. Each report shall include information on an institution-by-institution basis, the status of borrowers, and a financial statement with a description of the activity of the Excellence in Teaching Cash Fund.

(2) Any report pursuant to this section which includes information about borrowers shall exclude confidential information or any other information which specifically identifies a borrower.

Source: Laws 2000, LB 1399, § 22; Laws 2009, LB547, § 14.

79-8,140 Rules and regulations.

The State Board of Education may adopt and promulgate rules and regulations to determine teacher shortage areas and to carry out the Excellence in Teaching Act.

Source: Laws 2000, LB 1399, § 23; Laws 2009, LB547, § 15.

ARTICLE 9

SCHOOL EMPLOYEES RETIREMENT SYSTEMS

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

Section

79-902.	Terms, defined.
79-910.01.	Retirement system; participation.
79-915.	Retirement system; membership; requirements.
79-920.	State school official; department employee; retirement system options.
79-947.01.	Benefits; adjustment.
79-951.	Retirement; disability; conditions; application.
79-954.	Retirement; disability beneficiary; restoration to active service; effect; retention of allowance; when.
79-958.	Employee; employer; required deposits and contributions.
79-966.	School Retirement Fund; state deposits; amount; determination.

(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

79-978.	Terms, defined.
79-990.	Employees retirement system; time served in armed forces or on leave of absence; resignation for maternity purposes; effect.
79-9,113.	Employees retirement system; federal Social Security Act; state retirement plan; how affected; required contributions; payment; membership service annuity; computations.

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

79-902 Terms, defined.

For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Retirement Fund together with regular interest thereon, compounded monthly, quarterly, semiannually, or annually;

(2) Beneficiary means any person in receipt of a school retirement allowance or other benefit provided by the act;

(3) Member means any person who has an account in the School Retirement Fund;

(4) County school official means (a) until July 1, 2000, the county superintendent or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate and (b) on or after July 1, 2000, the county superintendent, county school administrator, or district super-

intendent and any person serving in his or her office who is required by law to have a teacher's certificate;

(5) Creditable service means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, nor service years for which member contributions are withdrawn and not repaid. Creditable service also does not include service rendered by a member for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act or service which the board determines was rendered with the intent to defraud the retirement system;

(6) Disability retirement allowance means the annuity paid to a person upon retirement for disability under section 79-952;

(7) Employer means the State of Nebraska or any subdivision thereof or agency of the state or subdivision authorized by law to hire school employees or to pay their compensation;

(8) Fiscal year means any year beginning July 1 and ending June 30 next following;

(9) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(10) School employee means a contributing member who earns service credit pursuant to section 79-927. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a regular basis in any capacity; and (c) regular employees hired by a public school on an ongoing basis to assume the duties of other regular employees who are temporarily absent. Substitute employees and temporary employees shall not be considered school employees;

(11) Prior service means service rendered as a school employee in the public schools of the State of Nebraska prior to July 1, 1945;

(12) Public school means any and all schools offering instruction in elementary or high school grades, as defined in section 79-101, which schools are supported by public funds and are wholly under the control and management of the State of Nebraska or any subdivision thereof, including (a) schools or other entities established, maintained, and controlled by the school boards of local school districts, except Class V school districts, (b) any educational service unit, and (c) any other educational institution wholly supported by public funds, except schools under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or the community college boards of governors for any community college areas;

(13) Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

(14) Retirement board or board means the Public Employees Retirement Board;

(15) Retirement system means the School Retirement System of the State of Nebraska;

(16) Required deposit means the deduction from a member's compensation as provided for in section 79-958 which shall be deposited in the School Retirement Fund;

(17) School year means one fiscal year which includes not less than one thousand instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five percent of the then legal school year;

(18) Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) military service when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under sections 79-951 to 79-953;

(19) School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to 79-935. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of annuity. The last payment shall be at the end of the calendar month in which such member dies or in accordance with the payment option chosen by the member;

(20) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(21) State deposit means the deposit by the state in the retirement system on behalf of any member;

(22) State school official means the Commissioner of Education and his or her professional staff who are required by law or by the State Department of Education to hold a certificate as such term is defined in section 79-807;

(23) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(24) Emeritus member means a person (a) who has entered retirement under the provisions of the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-916, (b) who has thereafter been reemployed in any capacity by a public school, a Class V school district, or a school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community

college board of governors or has become a state school official or county school official subsequent to such retirement, and (c) who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

(25) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making these determinations except when a lump-sum settlement is made to an estate. If the lump-sum settlement is made to an estate, the interest rate will be determined by the Moody's Triple A Bond Index as of the prior June 30, rounded to the next lower quarter percent;

(26) Retirement date means (a) if the member has terminated employment, the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system or (b) if the member has filed an application but has not yet terminated employment, the first day of the month following the date on which the member terminates employment. An application may be filed no more than ninety days prior to the effective date of the member's initial benefit;

(27) Disability retirement date means the first day of the month following the date upon which a member's request for disability retirement is received on a retirement application provided by the retirement system if the member has terminated employment in the school system and has complied with sections 79-951 to 79-954 as such sections refer to disability retirement;

(28) Retirement application means the form approved by the retirement system for acceptance of a member's request for either regular or disability retirement;

(29) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the School Employees Retirement Act. Such credit shall not be included as years of creditable service in the benefit calculation;

(30)(a) Final average compensation means the sum of the member's total compensation during the three twelve-month periods of service as a school employee in which such compensation was the greatest divided by thirty-six.

(b) If a member has such compensation for less than thirty-six months, his or her final average compensation shall be determined by dividing his or her total compensation in all months by the total number of months of his or her creditable service therefor.

(c) Payments under the Retirement Incentive Plan pursuant to section 79-855 and Staff Development Assistance pursuant to section 79-856 shall not be included in the determination of final average compensation;

(31) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(32) Current benefit means (a) until July 1, 2000, the initial benefit increased by all adjustments made pursuant to section 79-947.02 and (b) on or after July

1, 2000, the initial benefit increased by all adjustments made pursuant to the School Employees Retirement Act;

(33) Initial benefit means the retirement benefit calculated at the time of retirement;

(34) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(35)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation does not include (i) fraudulently obtained amounts as determined by the retirement board, (ii) amounts for unused sick leave or unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, or (vii) beginning on September 4, 2005, employer contributions made for the purposes of separation payments made at retirement and early retirement inducements as provided for in section 79-514.

(c) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993.

(d)(i) In the determination of compensation for members on or after July 1, 2002, through June 30, 2005, that part of a member's compensation for the fiscal year which exceeds the member's compensation with the same employer for the preceding fiscal year by more than ten percent shall be excluded unless (A) the member experienced a substantial change in employment position or (B) the excess compensation occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee.

(ii) For purposes of this subdivision:

(A) Category of school employee means either all employees of the employer who are administrators or certificated teachers, or all employees of the employer who are not administrators or certificated teachers, or both; and

(B) Recognized collective-bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board.

(e)(i) In the determination of compensation for members on or after July 1, 2005, that part of a member's compensation for the plan year which exceeds the member's compensation with the same employer for the preceding plan year by more than seven percent of the compensation base during the sixty months preceding the member's retirement shall be excluded unless (A) the member experienced a substantial change in employment position, (B) as verified by the school board, the excess compensation above seven percent occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee, and the percentage increase in compensation above seven percent shall not be excluded for employees outside of a collective-bargaining unit or within the same category of school employee, or (C) the excess compensation occurred as the result of a districtwide permanent benefit change made by the employer for a category of school employee in accordance with subdivision (35)(a)(iv) of this section.

(ii) For purposes of this subdivision:

(A) Category of school employee means either all employees of the employer who are administrators or certificated teachers, or all employees of the employer who are not administrators or certificated teachers, or both;

(B) Compensation base means (I) for current members employed with the same employer, the member's compensation for the plan year ending June 30, 2005, or (II) for members newly hired or hired by a separate employer on or after July 1, 2005, the member's compensation for the first full plan year following the member's date of hiring. Thereafter, the member's compensation base shall be increased each plan year by the lesser of seven percent of the member's preceding plan year's compensation base or the member's actual annual compensation increase during the preceding plan year; and

(C) Recognized collective-bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board;

(36) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's current employer, the date of which separation is determined by the employer. The employer shall notify the board of the date on which such a termination has occurred. A member shall not be deemed to have terminated employment if the member subsequently provides service to any employer participating in the retirement system provided for in the School Employees Retirement Act within one hundred eighty calendar days after ceasing employment unless such service:

- (a) Is voluntary or substitute service provided on an intermittent basis; or
- (b) Is as provided in subsection (2) of section 79-920.

A member shall not be deemed to have terminated employment if the board determines that a purported termination was not a bona fide separation from service with the employer;

(37) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or be of a long and indefinite duration;

(38) Substitute employee means a person hired by a public school as a temporary employee to assume the duties of regular employees due to the temporary absence of the regular employees. Substitute employee does not mean a person hired as a regular employee on an ongoing basis to assume the duties of other regular employees who are temporarily absent;

(39) Participation means qualifying for and making required deposits to the retirement system during the course of a plan year;

(40) Regular employee means an employee hired by a public school or under contract in a regular full-time or part-time position who works a full-time or part-time schedule on an ongoing basis for fifteen or more hours per week. An employee hired as described in this subdivision to provide service for less than fifteen hours per week but who provides service for an average of fifteen hours or more per week in each calendar month of any three calendar months of a plan year shall immediately commence contributions and shall be deemed a regular employee; and

(41) Temporary employee means an employee hired by a public school who is not a regular employee and who is hired to provide service for a limited period of time to accomplish a specific purpose or task. When such specific purpose or task is complete, the employment of such temporary employee shall terminate and in no case shall the temporary employment period exceed one year in duration.

Source: Laws 1945, c. 219, § 1, p. 638; R.S.Supp.,1947, § 79-2901; Laws 1949, c. 256, § 435, p. 840; Laws 1953, c. 315, § 1, p. 1042; Laws 1961, c. 410, § 1, p. 1229; Laws 1963, c. 469, § 7, p. 1506; Laws 1963, c. 495, § 1, p. 1580; Laws 1965, c. 530, § 1, p. 1663; Laws 1965, c. 531, § 1, p. 1671; Laws 1967, c. 546, § 2, p. 1798; Laws 1969, c. 584, § 84, p. 2396; Laws 1969, c. 735, § 1, p. 2773; Laws 1971, LB 987, § 16; Laws 1975, LB 50, § 1; Laws 1984, LB 971, § 1; Laws 1985, LB 350, § 1; Laws 1986, LB 325, § 1; Laws 1986, LB 311, § 14; Laws 1987, LB 549, § 1; Laws 1988, LB 551, § 10; Laws 1988, LB 1170, § 1; Laws 1989, LB 506, § 9; Laws 1991, LB 549, § 24; Laws 1992, LB 1001, § 32; Laws 1994, LB 833, § 28; Laws 1996, LB 700, § 5; Laws 1996, LB 847, § 27; R.S.1943, (1994), § 79-1501; Laws 1996, LB 900, § 537; Laws 1996, LB 1076, § 13; Laws 1996, LB 1273, § 23; Laws 1997, LB 347, § 26; Laws 1997, LB 623, § 12; Laws 1997, LB 624, § 16; Laws 1997, LB 724, § 3; Laws 1998, LB 1191, § 45; Laws 1999, LB 272, § 91; Laws 1999, LB 538, § 1; Laws 1999, LB 674, § 3; Laws 2000, LB 1192, § 9; Laws 2001, LB 408, § 13; Laws 2002, LB 407, § 22; Laws 2003, LB 451, § 18; Laws 2005, LB 329, § 2; Laws 2005, LB 364, § 8; Laws 2005, LB 503, § 8; Laws 2006, LB 1019, § 8; Laws 2010, LB950, § 11.

Operative date July 1, 2010.

Cross References

Public Employees Retirement Board, see sections 84-1501 to 84-1513.

Spousal Pension Rights Act, see section 42-1101.

Wage and Hour Act, see section 48-1209.

79-910.01 Retirement system; participation.

(1) Each person employed by a public school who is a school employee and who is qualified to participate in the retirement system shall participate in the retirement system.

(2) Public schools shall ensure that all school employees who qualify for participation pursuant to this section shall begin annual participation on July 1 of each plan year or upon such person's date of hire, if later than July 1, and that all required deposits are made on behalf of such employees.

Source: Laws 2002, LB 407, § 26; Laws 2010, LB950, § 12.
Operative date July 1, 2010.

79-915 Retirement system; membership; requirements.

(1) Persons residing outside of the United States and engaged temporarily as school employees in the State of Nebraska shall not become members of the retirement system.

(2) On and after July 1, 2010, no school employee shall be authorized to participate in the retirement system provided for in the School Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

Source: Laws 1945, c. 219, § 11, p. 642; R.S.Supp., 1947, § 79-2911; Laws 1949, c. 256, § 445, p. 845; R.S. 1943, (1994), § 79-1511; Laws 1996, LB 900, § 550; Laws 2010, LB950, § 13.
Operative date July 1, 2010.

79-920 State school official; department employee; retirement system options.

(1) An individual who was, prior to July 19, 1980, a state school official and did not become a member of the State Employees Retirement System of the State of Nebraska pursuant to the State Employees Retirement Act may, within sixty days after September 1, 1986, elect to become a member of such system. An individual so electing shall pay the contributions required by such system when the service and minimum age requirements have been met.

(2)(a) An individual (i) who is or was previously a school employee or who was employed in an out-of-state or a Class V school district, (ii) who becomes employed by the State Department of Education after July 1, 1989, and (iii) who is a state school official may file with the retirement board within thirty days after employment an election to become or remain a member of the School Retirement System of the State of Nebraska. Employees electing not to participate in the School Retirement System shall participate in the State Employees Retirement System of the State of Nebraska.

(b) An individual shall be required to participate in the State Employees Retirement System if (i) the individual terminated employment from a public school participating in the School Retirement System and retired pursuant to the School Employees Retirement Act and (ii) the employment by the State Department of Education began or will begin within one hundred eighty days after terminating employment from the school.

(3) An employee electing not to be covered by the School Retirement System of the State of Nebraska under this section shall not be subject to section 79-957 but shall be allowed to retain his or her accumulated contribution in the system and continue to become vested in the state's accumulated contribution as well as the State Employees Retirement System of the State of Nebraska according to the following:

(a) The years of participation in the School Retirement System of the State of Nebraska before an election is made plus the years of participation in the State Employees Retirement System of the State of Nebraska after the election is made shall both be credited toward compliance with the service requirements provided under section 79-931; and

(b) The years of participation in the School Retirement System of the State of Nebraska before the election is made plus the years of participation in the State Employees Retirement System of the State of Nebraska after the election is made shall both be credited toward compliance with section 84-1321.

Source: Laws 1980, LB 818, § 2; Laws 1986, LB 325, § 13; Laws 1986, LB 311, § 22; Laws 1989, LB 506, § 12; R.S.1943, (1994), § 79-1565; Laws 1996, LB 900, § 555; Laws 1997, LB 623, § 15; Laws 2010, LB950, § 14.
Operative date July 1, 2010.

Cross References

State Employees Retirement Act, see section 84-1331.

79-947.01 Benefits; adjustment.

(1) Beginning July 1, 2000, and each July 1 thereafter, current benefits paid to a member or beneficiary shall be adjusted so that the purchasing power of the benefit being paid is not less than seventy-five percent of the purchasing power of the initial benefit. The purchasing power of the initial benefit in any year following the year in which the initial benefit commenced shall be calculated by dividing the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the current year by the Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the year in which the benefit commenced. The result shall be multiplied by the product that results when the amount of the initial benefit is multiplied by seventy-five percent. In any year in which applying the adjustment provided in subsection (2) of this section results in a benefit which would be less than seventy-five percent of the purchasing power of the initial benefit as calculated above, 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. In all other years, the adjustment provided under subsection (2) of this section shall be provided. The adjustment pursuant to this subsection shall not cause a current benefit to be reduced.

(2) Except as provided in subsection (1) of this section:

(a) Beginning July 1, 2000, and until July 1, 2001, the current benefit of a member or the beneficiary of such a member shall be increased annually by the lesser of (i) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (ii) two percent; and

(b) Beginning July 1, 2001, the current benefit to a member or the beneficiary of such a member shall be increased annually by the lesser of (i) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (ii) two and one-half percent.

(3) The state shall contribute to the Annuity Reserve Fund an annual level dollar payment certified by the board. For the 1996-97 fiscal year through the 2012-13 fiscal year, the annual level dollar payment certified by the board shall equal 81.7873 percent of six million eight hundred ninety-five thousand dollars.

(4) The retirement board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the percentage change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics 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.

(5) In addition to the adjustments provided in subsections (1), (2), and (4) of this section, the current benefit to a member or beneficiary of such member, and for which the first payment was dated on or before June 30, 2007, shall be subject to adjustment of the greater of (a) the annuity payable to the member or beneficiary as adjusted, if applicable, under the provisions of subsection (1), (2), or (4) of this section or (b) eighty-five percent of the annuity which results when the original annuity that was paid to the member or beneficiary, before any cost-of-living adjustments under this section, is adjusted by the increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between the commencement date of the annuity and June 30, 2007.

Source: Laws 1996, LB 700, § 7; Laws 1999, LB 674, § 5; Laws 2001, LB 711, § 3; Laws 2004, LB 1097, § 27; Laws 2007, LB596, § 1; Laws 2008, LB1147, § 9; Laws 2010, LB950, § 15.
Operative date July 1, 2010.

79-951 Retirement; disability; conditions; application.

(1) A member shall be retired on account of disability, either upon his or her own application or the application of his or her employer or a person acting in his or her behalf, if a medical examination, made at the expense of the retirement system and conducted by a competent disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, selected by the retirement board, shows and the physician certifies to the retirement board that the member is unable to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which began while the member was a participant in the plan and which can be expected to result in death or be of a long and indefinite duration. The medical examination may be waived if, in the judgment of the retirement board, extraordinary circumstances exist which preclude substantial gainful activity by the member. Such circumstances shall include hospice placement or similar confinement for a terminal illness or injury.

(2) The member shall have five years from the date he or she terminates employment in a public school located in Nebraska in which to make application for disability retirement benefits if the disability is related to employment in a public school located in Nebraska. If the disability is not related to a public school located in Nebraska, the member shall have one year from the date he or she terminates employment in which to make application for disability retirement benefits. Any application for retirement on account of disability shall be made on a retirement application provided by the retirement system. Upon approval by the board, benefits shall begin on the disability retirement date.

Source: Laws 1945, c. 219, § 24, p. 646; R.S.Supp.,1947, § 79-2924; Laws 1949, c. 256, § 457, p. 848; Laws 1963, c. 495, § 3, p. 1584; Laws 1975, LB 50, § 3; Laws 1987, LB 549, § 9; Laws 1991, LB 549, § 37; R.S.1943, (1994), § 79-1523; Laws 1996, LB 900, § 586; Laws 1996, LB 1076, § 27; Laws 1997, LB 623, § 25; Laws 1998, LB 1191, § 55; Laws 1999, LB 538, § 2; Laws 2000, LB 1192, § 15; Laws 2004, LB 1097, § 28; Laws 2010, LB950, § 16.
Operative date July 1, 2010.

79-954 Retirement; disability beneficiary; restoration to active service; effect; retention of allowance; when.

(1) Except as provided in subsection (2) of this section, if a disability beneficiary under the age of sixty-five years is restored to active service as a school employee or if the examining physician certifies that the person is no longer disabled for service as a school employee, the school or disability retirement allowance shall cease. If the beneficiary again becomes a school employee, he or she shall become a member of the retirement system. Any prior service certificate, on the basis of which his or her creditable service was computed at the time of his or her retirement for disability, shall be restored to full force and effect upon his or her again becoming a member of such retirement system.

(2) If a disability beneficiary under the age of sixty-five years obtains employment as a school employee and the examining physician certifies that the beneficiary has a permanent disability, the beneficiary shall retain his or her disability retirement allowance if the beneficiary works fewer than fifteen hours per week.

Source: Laws 1945, c. 219, § 27, p. 647; R.S.Supp.,1947, § 79-2927; Laws 1949, c. 256, § 460, p. 849; R.S.1943, (1994), § 79-1526; Laws 1996, LB 900, § 589; Laws 2009, LB449, § 1.

79-958 Employee; employer; required deposits and contributions.

(1) Beginning on September 1, 2006, and ending August 31, 2007, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund seven and eighty-three hundredths percent of compensation. Beginning on September 1, 2007, and ending August 31, 2009, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund seven and twenty-eight hundredths percent of compensation. Beginning on September 1, 2009, and ending August 31, 2014, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund eight and twenty-eight

hundredths percent of compensation. Beginning on September 1, 2014, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund seven and twenty-eight hundredths percent of compensation. Such deposits shall be transmitted at the same time and in the same manner as required employer contributions.

(2) For the purpose of providing the funds to pay for formula annuities, every employer shall be required to deposit in the School Retirement Fund one hundred one percent of the required contributions of the school employees of each employer. Such deposits shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions.

(3) The employer shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the employer shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the School Employees Retirement Act in the same manner and to the same extent as member contributions made prior to the date picked up.

(4) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (3) of this section.

Source: Laws 1945, c. 219, § 32, p. 649; R.S.Supp.,1947, § 79-2932; Laws 1949, c. 256, § 465, p. 851; Laws 1951, c. 291, § 6, p. 968; Laws 1959, c. 414, § 2, p. 1388; Laws 1967, c. 546, § 9, p. 1806; Laws 1971, LB 987, § 24; Laws 1984, LB 457, § 3; Laws 1985, LB 353, § 3; Laws 1986, LB 325, § 11; Laws 1988, LB 160, § 4; Laws 1988, LB 1170, § 6; Laws 1991, LB 549, § 39; Laws 1994, LB 833, § 33; Laws 1995, LB 574, § 80; Laws 1996, LB 700, § 10; R.S.Supp.,1995, § 79-1531; Laws 1996, LB 900, § 593; Laws 1997, LB 623, § 27; Laws 1998, LB 1191, § 57; Laws 2001, LB 408, § 17; Laws 2002, LB 407, § 35; Laws 2005, LB 503, § 10; Laws 2007, LB596, § 2; Laws 2009, LB187, § 1.

79-966 School Retirement Fund; state deposits; amount; determination.

(1) On the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board shall annually, on or before July 1, determine the state deposit to be made by the state in the School Retirement Fund for that fiscal year. The amount of such state deposit shall be determined pursuant to section 79-966.01.

The retirement board shall thereupon certify the amount of such state deposit, and on the warrant of the Director of Administrative Services, the State Treasurer shall, as of July 1 of such year, transfer from funds appropriated by the state for that purpose to the School Retirement Fund the amount of such state deposit.

(2) In addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to seven-tenths of one percent of the compensation of all members of the retirement system for each fiscal year on or after July 1, 1984, until July 1, 2009. For each fiscal year beginning July 1, 2009, until July 1, 2014, in addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to one percent of the compensation of all members of the retirement system. For each fiscal year beginning July 1, 2014, in addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to seven-tenths of one percent of the compensation of all members of the retirement system.

(3) In addition to the state deposits required by subsections (1) and (2) of this section, beginning on July 1, 2005, and each fiscal year thereafter, the state shall deposit in the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity benefit established pursuant to sections 79-933 and 79-952 as accrued through the end of the previous fiscal year of the school employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act.

Source: Laws 1945, c. 219, § 41, p. 651; R.S.Supp., 1947, § 79-2941; Laws 1949, c. 256, § 474, p. 853; Laws 1965, c. 530, § 4, p. 1668; Laws 1969, c. 735, § 12, p. 2782; Laws 1971, LB 987, § 25; Laws 1981, LB 248, § 3; Laws 1984, LB 457, § 5; Laws 1988, LB 1170, § 10; R.S.1943, (1994), § 79-1540; Laws 1996, LB 900, § 601; Laws 2002, LB 407, § 39; Laws 2004, LB 1097, § 29; Laws 2009, LB187, § 2.

Cross References

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

(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

79-978 Terms, defined.

For purposes of the Class V School Employees Retirement Act, unless the context otherwise requires:

(1) Retirement system or system means the School Employees' Retirement System of (corporate name of the school district as described in section 79-405) as provided for by the act;

(2) Board means the board of education of the school district;

(3) Trustee means a trustee provided for in section 79-980;

(4) Employee means the following enumerated persons receiving compensation from the school district: (a) Regular teachers and administrators employed on a written contract basis; and (b) regular employees, not included in subdivi-

sion (4)(a) of this section, hired upon a full-time basis, which basis shall contemplate a workweek of not less than thirty hours;

(5) Member means any employee included in the membership of the retirement system or any former employee who has made contributions to the system and has not received a refund;

(6) Annuitant means any member receiving an allowance;

(7) Beneficiary means any person entitled to receive or receiving a benefit by reason of the death of a member;

(8) Membership service means service on or after September 1, 1951, as an employee of the school district and a member of the system for which compensation is paid by the school district. Credit for more than one year of membership service shall not be allowed for service rendered in any fiscal year. Beginning September 1, 2005, a member shall be credited with a year of membership service for each fiscal year in which the member performs one thousand or more hours of compensated service as an employee of the school district. An hour of compensated service shall include any hour for which the member is compensated by the school district during periods where no service is performed due to vacation or approved leave. If a member performs less than one thousand hours of compensated service during a fiscal year, one-tenth of a year of membership service shall be credited for each one hundred hours of compensated service by the member in such fiscal year. In determining a member's total membership service, all periods of membership service, including fractional years of membership service in one-tenth-year increments, shall be aggregated;

(9) Prior service means service rendered prior to September 1, 1951, for which credit is allowed under section 79-999, service rendered by retired employees receiving benefits under preexisting systems, and service for which credit is allowed under sections 79-990, 79-991, 79-994, 79-995, and 79-997;

(10) Creditable service means the sum of the membership service and the prior service, measured in one-tenth-year increments;

(11) Compensation means salary or wages payable by the school district before reduction for contributions picked up under section 414(h) of the Internal Revenue Code, elective contributions made pursuant to section 125 or 403(b) of the code, or amounts not currently includible in income by reason of section 132(f)(4) of the code, subject to the applicable limitations of section 401(a)(17) of the code;

(12) Military service means service in the uniformed services as defined in 38 U.S.C. 4301 et seq., as such provision existed on March 27, 1997;

(13) Accumulated contributions means the sum of amounts contributed by a member of the system together with regular interest credited thereon;

(14) Regular interest means interest (a) on the total contributions of the member prior to the close of the last preceding fiscal year, (b) compounded annually, and (c) at rates to be determined annually by the board, which shall have the sole, absolute, and final discretionary authority to make such determination, except that the rate for any given year in no event shall exceed the actual percentage of net earnings of the system during the last preceding fiscal year;

(15) Retirement date means the date of retirement of a member for service or disability as fixed by the board;

(16) Normal retirement date means the end of the month during which the member attains age sixty-five and has completed at least five years of membership service;

(17) Early retirement date means that month and year selected by a member having at least ten years of creditable service which includes a minimum of five years of membership service and who has attained age fifty-five;

(18) Retirement allowance means the total annual retirement benefit payable to a member for service or disability;

(19) Annuity means annual payments, for both prior service and membership service, for life as provided in the Class V School Employees Retirement Act;

(20) Actuarial tables means:

(a) For determining the actuarial equivalent of any annuities other than joint and survivorship annuities, a unisex mortality table using twenty-five percent of the male mortality and seventy-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually; and

(b) For joint and survivorship annuities, a unisex retiree mortality table using sixty-five percent of the male mortality and thirty-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually and a unisex joint annuitant mortality table using thirty-five percent of the male mortality and sixty-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually;

(21) Actuarial equivalent means the equality in value of the retirement allowance for early retirement or the retirement allowance for an optional form of annuity, or both, with the normal form of the annuity to be paid, as determined by the application of the appropriate actuarial table, except that use of such actuarial tables shall not effect a reduction in benefits accrued prior to September 1, 1985, as determined by the actuarial tables in use prior to such date;

(22) Fiscal year means the period beginning September 1 in any year and ending on August 31 of the next succeeding year;

(23) Primary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of a member; and

(24) Secondary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of all primary beneficiaries prior to the death of the member. If no primary beneficiary survives the member, secondary beneficiaries shall be treated in the same manner as primary beneficiaries.

Source: Laws 1951, c. 274, § 1, p. 910; Laws 1953, c. 308, § 1, p. 1025; Laws 1967, c. 544, § 1, p. 1786; Laws 1976, LB 994, § 1; Laws 1982, LB 131, § 1; Laws 1985, LB 215, § 1; Laws 1987, LB 298, § 5; Laws 1988, LB 1142, § 9; Laws 1988, LB 551, § 2; Laws 1989, LB 237, § 1; Laws 1991, LB 350, § 1; Laws 1992, LB 1001, § 20; Laws 1993, LB 107, § 1; Laws 1995, LB 505, § 1; R.S.Supp., 1995, § 79-1032; Laws 1996, LB 900, § 613; Laws 1997, LB 347, § 28; Laws 1997, LB 623, § 28; Laws 1998, LB

497, § 6; Laws 2000, LB 155, § 1; Laws 2005, LB 364, § 11;
Laws 2010, LB950, § 17.
Operative date July 1, 2010.

Cross References

For supplemental retirement benefits, see sections 79-940 to 79-947.

79-990 Employees retirement system; time served in armed forces or on leave of absence; resignation for maternity purposes; effect.

(1) Any member who is eligible for reemployment on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., as adopted under section 55-161, or who is eligible for reemployment under section 55-160 may pay to the retirement system after the date of his or her return from active military service, and within the period required by law, not to exceed five years, an amount equal to the sum of all deductions which would have been made from the salary which he or she would have received during the period of military service for which creditable service is desired. If such payment is made, the member shall be entitled to credit for membership service in determining his or her annuity for the period for which contributions have been made and the board shall be responsible for any funding necessary to provide for the benefit which is attributable to this increase in the member's creditable service. The member's payments shall be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary.

(2) Under such rules and regulations as the board may prescribe, any member who was away from his or her position while on a leave of absence from such position authorized by the board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for any or all time he or she was on leave of absence. Such time shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on salary at the level received immediately prior to the leave of absence. Such credit shall be received if such member pays into the retirement system (a) an amount equal to the sum of the deductions from his or her salary for the portion of the leave for which creditable service is desired, (b) any contribution which the school district would have been required to make for the portion of the leave for which creditable service is desired had he or she continued to receive salary at the level received immediately prior to the leave of absence, and (c) regular interest on these combined payments from the date such deductions would have been made to the date of repayment. Such amounts shall be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from the date of the termination of his or her leave of absence. Interest on any delayed payment shall be at the rate of regular interest. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary, and if payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement

system to purchase each additional one-tenth-year increment. Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this section shall not exceed four years in length, and in order to receive credit for the leave of absence, the member must have returned to employment with the school district within one year after termination of the leave of absence.

(3) Until one year after May 2, 2001, any member currently employed by the school district who resigned from full-time employment with the school district for maternity purposes prior to September 1, 1979, and was reemployed as a full-time employee by the school district before the end of the school year following the school year of such member's resignation may have such absence treated as though the absence was a leave of absence described in subsection (2) of this section. The period of such absence for maternity purposes shall be included in creditable service when determining the member's eligibility for death, disability, termination, and retirement benefits if the member submits satisfactory proof to the board that the prior resignation was for maternity purposes and the member complies with the payment provisions of subsection (2) of this section before the one-year anniversary of May 2, 2001.

Source: Laws 1951, c. 274, § 12, p. 917; Laws 1981, LB 369, § 1; Laws 1982, LB 131, § 3; Laws 1988, LB 551, § 3; Laws 1991, LB 350, § 4; Laws 1992, LB 1001, § 21; Laws 1993, LB 107, § 4; Laws 1995, LB 505, § 4; Laws 1996, LB 847, § 26; R.S.Supp., 1995, § 79-1043; Laws 1996, LB 900, § 625; Laws 1996, LB 1076, § 12; Laws 2001, LB 711, § 10; Laws 2002, LB 722, § 7; Laws 2005, LB 364, § 12; Laws 2010, LB950, § 18.
Operative date July 1, 2010.

79-9,113 Employees retirement system; federal Social Security Act; state retirement plan; how affected; required contributions; payment; membership service annuity; computations.

(1)(a) If, at any future time, a majority of the eligible members of the retirement system votes to be included under an agreement providing old age and survivors insurance under the Social Security Act of the United States, the contributions to be made by the member and the school district for membership service, from and after the effective date of the agreement with respect to services performed subsequent to December 31, 1954, shall each be reduced from five to three percent but not less than three percent of the member's salary per annum, and the credits for membership service under this system, as provided in section 79-999, shall thereafter be reduced from one and one-half percent to nine-tenths of one percent and not less than nine-tenths of one percent of salary or wage earned by the member during each fiscal year, and from one and sixty-five hundredths percent to one percent and not less than one percent of salary or wage earned by the member during each fiscal year and from two percent to one and two-tenths percent of salary or wage earned by the member during each fiscal year, and from two and four-tenths percent to one and forty-four hundredths percent of salary or wage earned by the member during each fiscal year, except that after September 1, 1963, and prior to September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-

fourths percent of salary covered by old age and survivors insurance, and five percent above that amount. Commencing September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five percent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five and twenty-five hundredths percent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the school district shall contribute an amount equal to the membership contribution which shall be four and nine-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1989, all employees of the school district shall contribute an amount equal to the membership contribution which shall be five and eight-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1995, all employees of the school district shall contribute an amount equal to the membership contribution which shall be six and three-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 2007, all employees of the school district shall contribute an amount equal to the membership contribution which shall be seven and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2009, all employees of the school district shall contribute an amount equal to the membership contribution which shall be eight and three-tenths percent of the compensation paid in each fiscal year.

(b) The contributions by the school district in any fiscal year beginning on or after September 1, 1999, shall be the greater of (i) one hundred percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees.

(c) The contributions by the school district in any fiscal year beginning on or after September 1, 2007, shall be the greater of (i) one hundred and one percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees.

(d) The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under the Class V School Employees Retirement Act.

(e) After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a

membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year and the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section 79-988 as such section existed immediately prior to February 20, 1982, not to become members of the system shall not be less than they would have been had they remained under any preexisting system to date of retirement.

(f) Members of this system having the service qualifications of members of the School Retirement System of the State of Nebraska, as provided by section 79-926, shall receive the state service annuity provided by sections 79-933 to 79-935 and 79-951.

(2) The school district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Beginning September 1, 1995, the school district shall also pick up any contributions required by sections 79-990, 79-991, and 79-992 which are made under an irrevocable payroll deduction authorization between the member and the school district, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service rules that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the system. Employee contributions picked up shall be treated for all purposes of the Class V School Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Source: Laws 1951, c. 274, § 25, p. 923; Laws 1953, c. 308, § 4, p. 1029; Laws 1955, c. 321, § 3, p. 993; Laws 1963, c. 490, § 5, p. 1567; Laws 1969, c. 724, § 2, p. 2755; Laws 1972, LB 1116, § 3; Laws

1976, LB 994, § 3; Laws 1982, LB 131, § 12; Laws 1983, LB 488, § 1; Laws 1984, LB 218, § 3; Laws 1989, LB 237, § 7; Laws 1995, LB 505, § 8; Laws 1995, LB 574, § 77; R.S.Supp., 1995, § 79-1056; Laws 1996, LB 900, § 648; Laws 1997, LB 623, § 33; Laws 1998, LB 497, § 26; Laws 1998, LB 1191, § 63; Laws 2000, LB 155, § 5; Laws 2007, LB596, § 3; Laws 2009, LB187, § 3.

Cross References

For provisions of federal Social Security Act, see Chapter 68, article 6.

ARTICLE 10

SCHOOL TAXATION, FINANCE, AND FACILITIES

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

Section

- 79-1001. Act, how cited.
 79-1003. Terms, defined.
 79-1003.01. Summer school allowance; summer school student unit, defined; calculation.
 79-1005.01. State aid calculation generally; income tax receipts; disbursement.
 79-1007.04. Elementary class size allowance; calculation.
 79-1007.05. Focus school and program allowance; calculation.
 79-1007.06. Poverty allowance; calculation.
 79-1007.07. Financial reports relating to poverty allowance; department; duties; report; appeal of department decisions.
 79-1007.08. Limited English proficiency allowance; calculation.
 79-1007.09. Financial reports relating to limited English proficiency; department; duties; report; appeal of department decisions.
 79-1007.10. Cost growth factor; computation.
 79-1007.11. School district formula need; calculation.
 79-1007.15. Elementary site allowance; calculation.
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 79-1007.19. Teacher education adjustment; calculation.
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 79-1007.23. Instructional time allowance; calculation.
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 79-1014. Limited English proficiency plan; submission required; when; review; approval; elements required; appeal.
 79-1015. Repealed. Laws 2009, LB 545, § 26.
 79-1016. Adjusted valuation; how established; objections; filing; appeal; notice; correction due to clerical error; injunction prohibited.
 79-1017.01. Local system formula resources; amounts included.
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 79-1022. Distribution of income tax receipts and state aid; effect on budget.
 79-1023. School district; general fund budget of expenditures; limitation; department; certification.

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Section

- 79-1024. Budget statement; submitted to department; Auditor of Public Accounts; duties; failure to submit; effect.
- 79-1026.01. School fiscal year 2008-09 and subsequent fiscal years; applicable allowable growth rate; determination; target budget level.
- 79-1027. Budget; restrictions.
- 79-1028.01. School fiscal years; district may exceed certain limits; situations enumerated; state board; duties.
- 79-1028.02. School fiscal years 2009-10 and 2010-11; American Recovery and Reinvestment Act percentage; school district allocation; computation; school district; duties.
- 79-1028.03. Retirement aid; calculation.
- 79-1030. Unused budget authority; carried forward.
- 79-1031.01. Appropriations Committee; duties.
- 79-1033. State aid; payments; reports; use; requirements; failure to submit reports; effect; early payments.

(b) SCHOOL FUNDS

- 79-1035. School funds; apportionment by Commissioner of Education; basis.
- 79-1036. School funds; public lands; amount in lieu of tax; reappraisal; appeal.
- 79-1041. County treasurer; distribute school funds; when.
- 79-1065.01. Financial support to school districts; lump-sum payments.

(c) SCHOOL TAXATION

- 79-1073. General fund property tax receipts; learning community coordinating council; certification; division; distribution; property tax refund or in lieu of property tax reimbursement; proportionality.
- 79-1073.01. Learning communities; special building funds; distribution; property tax refund or in lieu of property tax reimbursement; proportionality.

(d) SCHOOL BUDGETS AND ACCOUNTING

- 79-1084. Class III school district; school board; budget; tax; levy; publication of expenditures; violation; penalty; duty of county board.
- 79-1086. Class V school district; board of education; budget; how prepared; certification of levy; levy of taxes.

(e) SITE AND FACILITIES ACQUISITION, MAINTENANCE, AND DISPOSITION

- 79-10,110. Health and safety modifications, qualified zone academy, or American Recovery and Reinvestment Act of 2009 purpose; school board; powers and duties; hearing; tax levy authorized; issuance of bonds authorized.

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

79-1001 Act, how cited.

Sections 79-1001 to 79-1033 shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Source: Laws 1990, LB 1059, § 1; Laws 1995, LB 542, § 1; Laws 1995, LB 840, § 3; R.S.Supp.,1995, § 79-3801; Laws 1996, LB 900, § 652; Laws 1996, LB 1050, § 10; Laws 1997, LB 806, § 29; Laws 1998, LB 1134, § 1; Laws 1998, LB 1219, § 13; Laws 1999, LB 149, § 1; Laws 2001, LB 833, § 3; Laws 2002, LB 898, § 2; Laws 2004, LB 1091, § 8; Laws 2006, LB 1024, § 71; Laws 2007, LB641, § 12; Laws 2008, LB988, § 8; Laws 2009, LB545, § 3; Laws 2009, First Spec. Sess., LB5, § 2.
Effective date November 21, 2009.

79-1003 Terms, defined.

For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted general fund operating expenditures means (a) for school fiscal years before school fiscal year 2007-08, general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the transportation allowance and minus the special receipts allowance, (b) for school fiscal year 2007-08, general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the sum of the transportation, special receipts, and distance education and telecommunications allowances, (c) for school fiscal year 2008-09, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, and focus school and program allowance, (d) for school fiscal year 2009-10, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, instructional time allowance, and focus school and program allowance, (e) for school fiscal years 2010-11 through 2012-13, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance, and (f) for school fiscal year 2013-14 and each school fiscal year thereafter, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each local system in the state, adjusted pursuant to the adjustment factors described in section 79-1016. Adjusted valuation means the adjusted valuation for the property tax year ending during the school fiscal year immediately preceding the school fiscal year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-1015.01, adjusted valuation does not include the value of any property which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;

(3) Allocated income tax funds means the amount of assistance paid to a local system pursuant to section 79-1005.01 or 79-1005.02 as adjusted by the minimum levy adjustment pursuant to section 79-1008.02;

(4) Average daily attendance of a student who resides on Indian land means average daily attendance of a student who resides on Indian land from the most recent data available on November 1 preceding the school fiscal year in which aid is to be paid;

(5) Average daily membership means the average daily membership for grades kindergarten through twelve attributable to the local system, as provided in each district's annual statistical summary, and includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(6) Base fiscal year means the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

(7) Board means the school board of each school district;

(8) Categorical funds means funds limited to a specific purpose by federal or state law, including, but not limited to, Title I funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, Head Start funds, and funds from the Education Innovation Fund;

(9) Consolidate means to voluntarily reduce the number of school districts providing education to a grade group and does not include dissolution pursuant to section 79-498;

(10) Department means the State Department of Education;

(11) District means any Class I, II, III, IV, V, or VI school district and, beginning with the calculation of state aid for school fiscal year 2011-12 and each school fiscal year thereafter, a unified system as defined in section 79-4,108;

(12) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;

(13) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and 79-1022.02;

(14) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528;

(15) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

(16) Formula students means:

(a) For school fiscal years prior to school fiscal year 2008-09, (i) for state aid certified pursuant to section 79-1022, the sum of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid, multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid and the prior two school fiscal years, plus qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and (ii) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus qualified early childhood education average daily membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid was paid; and

(b) For school fiscal year 2008-09 and each school fiscal year thereafter, (i) for state aid certified pursuant to section 79-1022, the sum of the product of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and the prior two school fiscal years plus sixty percent of the qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which aid is to be paid minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5 and (ii) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus sixty percent of the qualified early childhood education average daily membership plus tuitioned students minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the average daily membership multiplied by 0.5 from the school fiscal year immediately preceding the school fiscal year in which aid was paid;

(17) Free lunch and free milk student means a student who qualified for free lunches or free milk from the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

(18) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;

(19) General fund budget of expenditures means the total budget of disbursements and transfers for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-1023 and the calculation pursuant to subdivision (2) of section 79-1027.01, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district;

(20) General fund expenditures means all expenditures from the general fund;

(21) General fund operating expenditures means:

(a) For state aid calculated for school fiscal years prior to school fiscal year 2008-09, the total general fund expenditures minus categorical funds, tuition paid, transportation fees paid to other districts, adult education, summer school, community services, redemption of the principal portion of general fund debt service, retirement incentive plans, staff development assistance, and transfers from other funds into the general fund for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid as reported on the annual financial report prior to December 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

(b) For state aid calculated for school fiscal year 2008-09, as reported for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid on the annual financial report submitted prior to December 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for

providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, and federal impact aid, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, and (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund;

(c) For state aid calculated for school fiscal year 2009-10, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, and federal impact aid, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, and (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred; and

(d) For state aid calculated for school fiscal year 2010-11 and each school fiscal year thereafter, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (v) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, and (vi)(A) expenditures in school fiscal years 2009-10

through 2013-14 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (B) expenditures in school fiscal years 2009-10 through 2013-14 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the Class V School Employees Retirement System to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent.

For purposes of this subdivision (21) of this section, receipts from levy override elections shall equal ninety-nine percent of the difference of the total general fund levy minus a levy of one dollar and five cents per one hundred dollars of taxable valuation multiplied by the assessed valuation for school districts that have voted pursuant to section 77-3444 to override the maximum levy provided pursuant to section 77-3442;

(22) High school district means a school district providing instruction in at least grades nine through twelve;

(23) Income tax liability means the amount of the reported income tax liability for resident individuals pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(24) Income tax receipts means the amount of income tax collected pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(25) Limited English proficiency students means (a) for school fiscal years prior to school fiscal year 2009-10, the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid and (b) for school fiscal year 2009-10 and each school fiscal year thereafter, the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid plus the difference of such students with limited English proficiency minus the average number of limited English proficiency students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(26) Local system means a learning community for purposes of calculation of state aid for the second full school fiscal year after becoming a learning community and each school fiscal year thereafter, a unified system, a Class VI district and the associated Class I districts, or a Class II, III, IV, or V district and any affiliated Class I districts or portions of Class I districts. The membership, expenditures, and resources of Class I districts that are affiliated with multiple high school districts will be attributed to local systems based on the percent of the Class I valuation that is affiliated with each high school district;

(27) Low-income child means (a) for school fiscal years prior to 2008-09, a child under nineteen years of age living in a household having an annual adjusted gross income of fifteen thousand dollars or less for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated and (b) for school fiscal year 2008-09 and each school fiscal year thereafter, a child under nineteen years of age living in a household having

an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income that would allow a student from a family of four people to be a free lunch and free milk student during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated;

(28) Low-income students means the number of low-income children within the district multiplied by the ratio of the formula students in the district divided by the total children under nineteen years of age residing in the district as derived from income tax information;

(29) Most recently available complete data year means the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual statistical summary, Nebraska income tax liability by school district for the calendar year in which the majority of the school fiscal year falls, and adjusted valuation data are available;

(30) Poverty students means (a) for school fiscal years prior to school fiscal year 2009-10, the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, and (b) for school fiscal year 2009-10 and each school fiscal year thereafter, the number of low-income students or the number of students who are free lunch and free milk students in a district plus the difference of the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(31) Qualified early childhood education average daily membership means the product of the average daily membership for school fiscal year 2006-07 and each school fiscal year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the actual instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(32) Qualified early childhood education fall membership means the product of membership on the last Friday in September 2006 and each year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(33) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

(34) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

(35) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

(36) Sparse local system means a local system that is not a very sparse local system but which meets the following criteria:

(a)(i) Less than two students per square mile in the county in which each high school is located, based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than ten miles between each high school attendance center and the next closest high school attendance center on paved roads;

(b)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads;

(c)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than two hundred seventy-five square miles in the local system; or

(d)(i) Less than two formula students per square mile in the local system and (ii) the local system includes an area equal to ninety-five percent or more of the square miles in the largest county in which a high school attendance center is located in the local system;

(37) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

(38) Special grant funds means the budgeted receipts for grants, including, but not limited to, Title I funds, Title VI funds, funds from the Education Innovation Fund, reimbursements for wards of the court, short-term borrowings including, but not limited to, registered warrants and tax anticipation notes, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment. The state board shall approve a listing of grants that qualify as special grant funds;

(39) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

(40) State board means the State Board of Education;

(41) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

(42) Statewide average basic funding per formula student means the statewide total basic funding for all districts divided by the statewide total formula students for all districts;

(43) Statewide average general fund operating expenditures per formula student means the statewide total general fund operating expenditures for all districts divided by the statewide total formula students for all districts;

(44) Teacher has the definition found in section 79-101;

(45) Temporary aid adjustment factor means (a) for school fiscal years before school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, the local system's special receipts allow-

ance, and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping and (b) for school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping;

(46) Tuitioned students means students in kindergarten through grade twelve of the district whose tuition is paid by the district to some other district or education agency; and

(47) Very sparse local system means a local system that has:

(a)(i) Less than one-half student per square mile in each county in which each high school attendance center is located based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads; or

(b)(i) More than four hundred fifty square miles in the local system, (ii) less than one-half student per square mile in the local system, and (iii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads.

Source: Laws 1990, LB 1059, § 3; Laws 1991, LB 511, § 71; Laws 1992, LB 245, § 76; Laws 1994, LB 1290, § 3; Laws 1995, LB 840, § 4; R.S.Supp., 1995, § 79-3803; Laws 1996, LB 900, § 654; Laws 1996, LB 1050, § 12; Laws 1997, LB 347, § 29; Laws 1997, LB 710, § 5; Laws 1997, LB 713, § 1; Laws 1997, LB 806, § 31; Laws 1998, LB 306, § 42; Laws 1998, LB 1134, § 2; Laws 1998, LB 1219, § 15; Laws 1998, LB 1229, § 3; Laws 1998, Spec. Sess., LB 1, § 15; Laws 1999, LB 149, § 3; Laws 1999, LB 813, § 19; Laws 2001, LB 313, § 1; Laws 2001, LB 797, § 18; Laws 2001, LB 833, § 4; Laws 2002, LB 898, § 3; Laws 2005, LB 126, § 45; Laws 2005, LB 577, § 1; Laws 2006, LB 1024, § 73; Laws 2006, LB 1208, § 4; Referendum 2006, No. 422; Laws 2007, LB641, § 13; Laws 2008, LB988, § 9; Laws 2009, LB545, § 4; Laws 2009, LB549, § 26; Laws 2009, First Spec. Sess., LB5, § 3; Laws 2010, LB1071, § 12.

Operative date July 15, 2010.

Cross References

Nebraska Budget Act, see section 13-501.

Nebraska Revenue Act of 1967, see section 77-2701.

79-1003.01 Summer school allowance; summer school student unit, defined; calculation.

(1) For school fiscal year 2008-09, the department shall calculate a summer school allowance for each district equal to two and one-half percent of the summer school student units for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student. For purposes of this subsection, summer school student unit means one student enrolled in summer school in a school district, whether or not the student is in the membership of the school district, for (a) at least three hours but fewer than six hours per day and (b) at least twelve days but fewer than

twenty-four days. Each school district shall receive a summer school student unit for each qualified time period for which a student is enrolled, up to six units per student per summer.

(2) For school fiscal year 2009-10 and each school fiscal year thereafter, the department shall calculate a summer school allowance for each district which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. A summer school allowance shall be equal to two and one-half percent of the summer school student units for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student. Summer school student units shall be calculated for each student enrolled in summer school in a school district who attends such summer school for at least twelve days, whether or not the student is in the membership of the school district. The initial number of units for each such student shall equal the sum of the ratios, each rounded down to the nearest whole number, of the number of days for which the student attended summer school classes in such district for at least three hours and less than six hours per day divided by twelve days and of two times the number of days for which the student attended summer school classes in such district for six or more hours per day divided by twelve days.

(3) Each school district shall receive an additional summer school student unit for each summer school student unit attributed to remedial math or reading programs. Each school district shall also receive an additional summer school student unit for each summer school student unit attributed to a free lunch and free milk student. This section does not prevent school districts from requiring and collecting fees for summer school, except that summer school student units shall not be calculated for school districts which collect fees for summer school from students who qualify for free or reduced-price lunches under United States Department of Agriculture child nutrition programs.

Source: Laws 2007, LB641, § 14; Laws 2008, LB988, § 10; Laws 2010, LB1071, § 13.

Operative date July 15, 2010.

79-1005.01 State aid calculation generally; income tax receipts; disbursement.

For state aid calculated for all school fiscal years except school fiscal years 2002-03 through 2007-08:

(1) An amount equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 shall be disbursed as option payments as determined under section 79-1009 and as allocated income tax funds as determined in this section and sections 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01, except as provided in section 79-1008.02. Funds not distributed as allocated income tax funds due to minimum levy adjustments shall not increase the amount available to local systems for distribution as allocated income tax funds;

(2) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the preceding tax year the income tax liability of resident individuals for each local system. The 1996 income tax liability of resident individuals of Class I districts that are affiliated with multiple high

school districts shall be divided between local systems based on the percentage of the Class I district's valuation affiliated with each high school district; and

(3) Using the data certified by the Tax Commissioner pursuant to subdivision (2) of this section, the department shall calculate the allocation percentage and each local system's allocated income tax funds. The allocation percentage shall be an amount equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 minus the total amount paid for option students pursuant to section 79-1009 and, for aid calculated for school fiscal year 2010-11, minus twenty million dollars with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to subdivision (2) of this section. Each local system's allocated income tax funds shall be calculated by multiplying the allocation percentage times the local system's income tax liability certified pursuant to subdivision (2) of this section.

Source: Laws 1997, LB 806, § 33; Laws 1998, Spec. Sess., LB 1, § 16; Laws 1999, LB 149, § 4; Laws 2002, LB 898, § 4; Laws 2004, LB 1093, § 2; Laws 2008, LB988, § 11; Laws 2009, First Spec. Sess., LB5, § 4.

Effective date November 21, 2009.

79-1007.04 Elementary class size allowance; calculation.

(1) For school fiscal years 2008-09 through 2012-13, the department shall determine the elementary class size allowance for each school district from information submitted by a school district on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated.

(2) For school fiscal year 2008-09, the allowance shall equal the statewide average general fund operating expenditures per formula student multiplied by 0.20 then multiplied by the number of students in the school district in kindergarten through grade eight who qualify for free or reduced-price lunches and who spend at least fifty percent of the school day in a classroom with a minimum of ten students and a maximum of twenty students as reported on the fall membership report from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid.

(3) For school fiscal years 2009-10 through 2012-13, the allowance shall equal the statewide average general fund operating expenditures per formula student multiplied by twenty percent of the number of students in the school district in kindergarten through grade three who spend at least fifty percent of the school day in one or more classrooms with a minimum of ten students and a maximum of twenty students as reported on the fall membership report from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid for state aid certified pursuant to section 79-1022 and as reported on the annual statistical summary report from the school fiscal year immediately preceding the school fiscal year in which the aid was paid for the final calculation of state aid pursuant to section 79-1065.

Source: Laws 2006, LB 1024, § 77; Laws 2007, LB641, § 17; Laws 2008, LB988, § 27; Laws 2010, LB1071, § 14.

Operative date July 15, 2010.

79-1007.05 Focus school and program allowance; calculation.

For school fiscal year 2008-09 and each school fiscal year thereafter, the department shall determine the focus school and program allowance for each school district in a learning community which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. Such form may require confirmation from a learning community official that the focus school or program has been approved by the learning community coordinating council for the school fiscal year for which the allowance is being calculated. The focus school and program allowance for each school district in a learning community shall equal the sum of the allowances calculated pursuant to this section for each focus school and focus program operated by the school district for the school fiscal year for which aid is being calculated.

For the school fiscal year containing the majority of the first school year that a school or program will be in operation as a focus school or program approved by the learning community and meeting the requirements of section 79-769, the focus school and program allowance for such focus school or program shall equal the statewide average general fund operating expenditures per formula student multiplied by 0.10 then multiplied by the estimated number of students who will be participating in the focus school or program as reported on the form required pursuant to this section.

For the school fiscal year containing the majority of the second school year that a school or program will be in operation as a focus school or program approved by the learning community and meeting the requirements of section 79-769, the focus school and program allowance for such focus school or program shall equal the statewide average general fund operating expenditures per formula student multiplied by 0.10 then multiplied by (1) for state aid certified pursuant to section 79-1022, the difference of the product of two multiplied by the number of students participating in the focus school or program as reported on the fall membership report from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid minus the estimated number of students used in the certification of state aid pursuant to section 79-1022 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and (2) for the final calculation of state aid pursuant to section 79-1065, the difference of the product of two multiplied by the number of students participating in the focus school or program as reported on the annual statistical summary report from the school fiscal year immediately preceding the school fiscal year in which the aid was paid minus the estimated number of students used in the final calculation of state aid pursuant to section 79-1065 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid.

For the school fiscal year containing the majority of the third school year that a school or program will be in operation as a focus school or program approved by the learning community and meeting the requirements of section 79-769 and each school fiscal year thereafter, the focus school and program allowance for such focus school or program shall equal the statewide average general fund operating expenditures per formula student multiplied by 0.10 then multiplied by the number of students participating in the focus school or program as reported on the fall membership report from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid for state aid certified pursuant to section 79-1022 and as reported on the annual

statistical summary report from the school fiscal year immediately preceding the school fiscal year in which the aid was paid for the final calculation of state aid pursuant to section 79-1065.

Source: Laws 2006, LB 1024, § 78; Laws 2007, LB641, § 18; Laws 2010, LB1070, § 7; Laws 2010, LB1071, § 15.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1070, section 7, with LB1071, section 15, to reflect all amendments.

Note: Changes made by LB1070 became effective April 6, 2010. Changes made by LB1071 became operative July 15, 2010.

79-1007.06 Poverty allowance; calculation.

(1) For school fiscal year 2008-09 and each school fiscal year thereafter, the department shall determine the poverty allowance for each school district that meets the requirements of this section and has not been disqualified pursuant to section 79-1007.07. Each school district shall designate a maximum poverty allowance on a form prescribed by the department on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which aid is being calculated. The school district may decline to participate in the poverty allowance by providing the department with a maximum poverty allowance of zero dollars on such form on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which aid is being calculated. Each school district designating a maximum poverty allowance greater than zero dollars shall submit a poverty plan pursuant to section 79-1013.

(2) The poverty allowance for each school district that has not been disqualified pursuant to section 79-1007.07 shall equal the lesser of:

(a) The maximum amount designated pursuant to subsection (1) of this section by the school district in the local system, if such school district designated a maximum amount, for the school fiscal year for which aid is being calculated; or

(b) The sum of:

(i) The statewide average general fund operating expenditures per formula student multiplied by 0.0375 then multiplied by the poverty students comprising more than five percent and not more than ten percent of the formula students in the school district; plus

(ii) The statewide average general fund operating expenditures per formula student multiplied by 0.0750 then multiplied by the poverty students comprising more than ten percent and not more than fifteen percent of the formula students in the school district; plus

(iii) The statewide average general fund operating expenditures per formula student multiplied by 0.1125 then multiplied by the poverty students comprising more than fifteen percent and not more than twenty percent of the formula students in the school district; plus

(iv) The statewide average general fund operating expenditures per formula student multiplied by 0.1500 then multiplied by the poverty students comprising more than twenty percent and not more than twenty-five percent of the formula students in the school district; plus

(v) The statewide average general fund operating expenditures per formula student multiplied by 0.1875 then multiplied by the poverty students comprising

ing more than twenty-five percent and not more than thirty percent of the formula students in the school district; plus

(vi) The statewide average general fund operating expenditures per formula student multiplied by 0.2250 then multiplied by the poverty students comprising more than thirty percent of the formula students in the school district.

Source: Laws 2006, LB 1024, § 79; Laws 2007, LB641, § 19; Laws 2008, LB988, § 28; Laws 2009, LB549, § 27.

79-1007.07 Financial reports relating to poverty allowance; department; duties; report; appeal of department decisions.

(1)(a) For school fiscal year 2007-08, the annual financial report required pursuant to section 79-528 shall include:

(i) The amount of federal funds received based on poverty as defined by the federal program providing the funds; and

(ii) The expenditures and sources of funding for each program related to poverty with a narrative description of the program and the method used to allocate money to the program and within the program.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection. The department shall also determine for each school district an amount that shall be deemed the poverty allowance for purposes of this section. Such amount shall equal the adjustments to the weighted formula students pursuant to subdivision (1)(c)(iii) of section 79-1007.01 multiplied by the average formula cost per student in the school district's cost grouping.

(2)(a) For school fiscal year 2008-09 and each school fiscal year thereafter, the annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the poverty allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on poverty as defined by the federal program providing the funds;

(iii) The expenditures and sources of funding for each program related to poverty with a narrative description of the program, the method used to allocate money to the program and within the program, and the program's relationship to the poverty plan submitted pursuant to section 79-1013 for such school fiscal year;

(iv) The expenditures and sources of funding for support costs directly attributable to implementing the district's poverty plan; and

(v) An explanation of how any required elements of the poverty plan for such school fiscal year were met.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(3) For school fiscal year 2009-10 and each school fiscal year thereafter, the department shall determine the poverty allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would include in the poverty allowance expenditures only those expenditures that were used to specifically address issues related to the education of students living in poverty or to the implemen-

tation of the poverty plan, that do not replace expenditures that would have occurred if the students involved in the program did not live in poverty, that are not included in other allowances, and that are paid for with noncategorical funds generated by state or local taxes or funds distributed through the Tax Equity and Educational Opportunities Support Act pursuant to the federal American Recovery and Reinvestment Act of 2009. The department shall establish a procedure to allow school districts to receive preapproval for categories of expenditures that could be included in poverty allowance expenditures.

(4) For school fiscal year 2009-10 and each school fiscal year thereafter, if the poverty allowance expenditures do not equal 117.65 percent or more of the poverty allowance for the most recently available complete data year, the department shall calculate a poverty allowance correction. The poverty allowance correction shall equal the poverty allowance minus eighty-five percent of the poverty allowance expenditures. If the poverty allowance expenditures do not equal fifty percent or more of the allowance for such school fiscal year, the school district shall also be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated.

(5) For school fiscal year 2010-11 and each school fiscal year thereafter, if the department determines that the school district did not meet the required elements of the poverty plan for the most recently available complete data year, the department shall calculate a poverty allowance correction equal to fifty percent of the poverty allowance for such school fiscal year and the school district shall also be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated. Any poverty allowance correction calculated pursuant to this subsection shall be added to any poverty allowance correction calculated pursuant to subsection (4) of this section to arrive at the total poverty allowance correction.

(6) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated.

(7) The department shall annually provide the Legislature with a report containing a general description of the expenditures and funding sources for programs related to poverty statewide and specific descriptions of the expenditures and funding sources for programs related to poverty for each school district.

(8) The state board shall establish a procedure for appeal of decisions of the department to the state board for a final determination.

Source: Laws 2006, LB 1024, § 80; Laws 2007, LB641, § 20; Laws 2008, LB988, § 29; Laws 2009, LB545, § 5.

79-1007.08 Limited English proficiency allowance; calculation.

(1) For school fiscal year 2008-09 and each school fiscal year thereafter, the department shall determine the limited English proficiency allowance for each school district that meets the requirements of this section and has not been disqualified pursuant to section 79-1007.09. Each school district shall designate a maximum limited English proficiency allowance on or before October 15 of

the school fiscal year immediately preceding the school fiscal year for which aid is being calculated. The school district may decline to participate in the limited English proficiency allowance by providing the department with a maximum limited English proficiency allowance of zero dollars on such form on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which aid is being calculated. Each school district designating a maximum limited English proficiency allowance greater than zero dollars shall submit a limited English proficiency plan pursuant to section 79-1014.

(2) The limited English proficiency allowance for each school district that has not been disqualified pursuant to section 79-1007.09 shall equal the lesser of:

(a) The amount designated pursuant to subsection (1) of this section by the school district, if such school district designated a maximum amount, for the school fiscal year for which aid is being calculated; or

(b) The statewide average general fund operating expenditures per formula student multiplied by 0.25 then multiplied by:

(i) The number of students in the school district who are limited English proficient as defined under 20 U.S.C. 7801, as such section existed on January 1, 2006, if such number is greater than or equal to twelve;

(ii) Twelve, if the number of students in the school district who are limited English proficient as defined under 20 U.S.C. 7801, as such section existed on January 1, 2006, is greater than or equal to one and less than twelve; or

(iii) Zero, if the number of students in the school district who are limited English proficient as defined under 20 U.S.C. 7801, as such section existed on January 1, 2006, is less than one.

Source: Laws 2006, LB 1024, § 81; Laws 2007, LB641, § 21; Laws 2008, LB988, § 30; Laws 2009, LB549, § 28.

79-1007.09 Financial reports relating to limited English proficiency; department; duties; report; appeal of department decisions.

(1)(a) For school fiscal year 2007-08, the annual financial report required pursuant to section 79-528 shall include:

(i) The amount of federal funds received based on students who are limited English proficient as defined by the federal program providing the funds; and

(ii) The expenditures and sources of funding for each program related to limited English proficiency with a narrative description of the program and the method used to allocate money to the program and within the program.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection. The department shall also determine for each school district an amount that shall be deemed the limited English proficiency allowance for purposes of this section. Such amount shall equal the adjustments to the weighted formula students pursuant to subdivision (1)(c)(ii) of section 79-1007.01 multiplied by the average formula cost per student in the school district's cost grouping.

(2)(a) For school fiscal year 2008-09 and each school fiscal year thereafter, the annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the limited English proficiency allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on students who are limited English proficient as defined by the federal program providing the funds;

(iii) The expenditures and sources of funding for each program related to limited English proficiency with a narrative description of the program, the method used to allocate money to the program and within the program, and the program's relationship to the limited English proficiency plan submitted pursuant to section 79-1014 for such school fiscal year;

(iv) The expenditures and sources of funding for support costs directly attributable to implementing the district's limited English proficiency plan; and

(v) An explanation of how any required elements of the limited English proficiency plan for such school fiscal year were met.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(3) For school fiscal year 2009-10 and each school fiscal year thereafter, the department shall determine the limited English proficiency allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would only include in the limited English proficiency allowance expenditures those expenditures that were used to specifically address issues related to the education of students with limited English proficiency or to the implementation of the limited English proficiency plan, that do not replace expenditures that would have occurred if the students involved in the program did not have limited English proficiency, that are not included in other allowances, and that are paid for with noncategorical funds generated by state or local taxes or funds distributed through the Tax Equity and Educational Opportunities Support Act pursuant to the federal American Recovery and Reinvestment Act of 2009. The department shall establish a procedure to allow school districts to receive preapproval for categories of expenditures that could be included in limited English proficiency allowance expenditures.

(4) For school fiscal year 2009-10 and each school fiscal year thereafter, if the limited English proficiency allowance expenditures do not equal 117.65 percent or more of the limited English proficiency allowance for the most recently available complete data year, the department shall calculate a limited English proficiency allowance correction. The limited English proficiency allowance correction shall equal the limited English proficiency allowance minus eighty-five percent of the limited English proficiency allowance expenditures. If the limited English proficiency allowance expenditures do not equal fifty percent or more of the allowance for such school fiscal year, the school district shall also be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

(5) For school fiscal year 2010-11 and each school fiscal year thereafter, if the department determines that the school district did not meet the required elements of the limited English proficiency plan for the most recently available complete data year, the department shall calculate a limited English proficiency allowance correction equal to fifty percent of the limited English proficiency allowance for such school fiscal year and the school district shall also be disqualified from receiving a limited English proficiency allowance for the

school fiscal year for which aid is being calculated. Any limited English proficiency allowance correction calculated pursuant to this subsection shall be added to any limited English proficiency allowance correction calculated pursuant to subsection (4) of this section to arrive at the total limited English proficiency allowance correction.

(6) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

(7) The department shall annually provide the Legislature with a report containing a general description of the expenditures and funding sources for programs related to limited English proficiency statewide and specific descriptions of the expenditures and funding sources for programs related to limited English proficiency for each school district.

(8) The state board shall establish a procedure for appeal of decisions of the department to the state board for a final determination.

Source: Laws 2006, LB 1024, § 82; Laws 2007, LB641, § 22; Laws 2008, LB988, § 31; Laws 2009, LB545, § 6.

79-1007.10 Cost growth factor; computation.

(1) For state aid calculated for all school fiscal years except school fiscal years 2009-10 through 2013-14, the cost growth factor shall equal the sum of: (a) One; plus (b) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (c) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; plus (d) one percent.

(2)(a) For state aid calculated for school fiscal year 2009-10, the cost growth factor shall equal the sum of: (i) One; plus (ii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (iii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; plus (iv) one and five-tenths percent.

(b) For state aid calculated for school fiscal year 2010-11, the cost growth factor shall equal the sum of: (i) One; plus (ii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (iii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; plus (iv) two percent.

(c) For state aid calculated for school fiscal years 2011-12 through 2013-14, the cost growth factor shall equal the sum of: (i) One; plus (ii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (iii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding

the school fiscal year in which the aid is to be distributed; plus (iv) one and five-tenths percent.

Source: Laws 2006, LB 1024, § 83; Laws 2007, LB21, § 2; Laws 2008, LB988, § 32; Laws 2009, LB545, § 7.

79-1007.11 School district formula need; calculation.

(1) Except as otherwise provided in this section, for school fiscal year 2008-09, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, distance education and telecommunications allowance, averaging adjustment, and teacher education adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and local choice adjustment.

(2) Except as otherwise provided in this section, for school fiscal year 2009-10, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, distance education and telecommunications allowance, averaging adjustment, teacher education adjustment, new learning community transportation adjustment, student growth adjustment, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and local choice adjustment.

(3) Except as otherwise provided in this section, for school fiscal year 2010-11, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and local choice adjustment.

(4) Except as otherwise provided in this section, for school fiscal years 2011-12 and 2012-13, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment, any positive student growth adjustment correction, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, any negative student growth adjustment correction, and local choice adjustment.

(5) Except as otherwise provided in this section, for school fiscal year 2013-14 and each school fiscal year thereafter, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment, any positive student growth adjustment correction, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, any negative student growth adjustment correction, and local choice adjustment.

(6) If the formula need calculated for a school district pursuant to subsections (1) through (5) of this section is less than one hundred percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(7) Except as provided in subsection (9) of this section, if the formula need calculated for a school district pursuant to subsections (1) through (5) of this section is more than one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, except that the formula need shall not be reduced pursuant to this subsection for any district (a) receiving a student growth adjustment for the school fiscal year for which aid is being calculated or (b) for school fiscal year 2008-09, for which the formula students for the certification of aid pursuant to section 79-1022 for school fiscal year 2008-09 minus the formula students for the certification of aid pursuant to section 79-1022 for school fiscal year 2007-08 equals at least the greater of twenty-five students or one percent of the formula students for the certification of aid pursuant to section 79-1022 for school fiscal year 2007-08.

(8) For purposes of subsections (6) and (7) of this section, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be the formula need used in the final calculation of aid pursuant to section 79-1065 and for districts that were affected by a reorganization with an effective date in the calendar year preceding the calendar year in which aid is certified for the school fiscal year for which aid is being calculated, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be attributed to the affected school districts based on information provided to the department by the school districts or proportionally based on the adjusted valuation transferred if sufficient information has not been provided to the department.

(9) For state aid calculated for the first full school fiscal year of a new learning community, if the formula need calculated for a member school district pursuant to subsections (1) through (6) of this section is less than the sum of the school district's state aid certified for the school fiscal year

immediately preceding the first full school fiscal year of the learning community plus the school district's other actual receipts included in local system formula resources pursuant to section 79-1018.01 for such school fiscal year plus the product of the school district's general fund levy for such school fiscal year up to one dollar and five cents multiplied by the school district's assessed valuation for such school fiscal year, the formula need for such school district for the school fiscal year for which aid is being calculated shall equal such sum.

Source: Laws 2008, LB988, § 13; Laws 2008, LB1153, § 7; Laws 2009, LB545, § 8; Laws 2009, First Spec. Sess., LB5, § 5.
Effective date November 21, 2009.

79-1007.15 Elementary site allowance; calculation.

(1) For school fiscal year 2008-09, the department shall calculate an elementary site allowance for any district in which (a) the district has more than one elementary attendance site, (b) at least one of the elementary attendance sites does not offer any other grades, (c) the square miles in the district divided by the number of elementary attendance sites in the district equals one hundred square miles or more per elementary attendance site, and (d) the fall membership in elementary site grades in the district divided by the number of elementary site grades then divided again by the number of elementary attendance sites equals fifteen or fewer students per grade per elementary attendance site. Qualifying elementary attendance sites for such districts shall only offer elementary site grades and shall have an average of fifteen or fewer students per grade in the fall membership.

(2) For school fiscal year 2009-10 and each school fiscal year thereafter, the department shall calculate an elementary site allowance for any district which has at least one qualifying elementary attendance site and which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. A qualifying elementary attendance site shall be an elementary attendance site, in a district with multiple elementary attendance sites, which does not have another elementary attendance site within seven miles in the same school district or which is the only public elementary attendance site located in an incorporated city or village.

(3) The elementary site allowance for each qualifying district shall equal the sum of the elementary site allowances for each qualifying elementary attendance site in the district. The elementary site allowance for each qualifying elementary attendance site shall equal five hundred percent of the statewide average general fund operating expenditures per formula student multiplied by the result of rounding the ratio of the fall membership attributed to the elementary attendance site divided by eight up to the next whole number if the result was not a whole number, except that if the resulting whole number is greater than the number of elementary site grades, the whole number shall be reduced to equal the number of elementary site grades.

(4) For purposes of this section:

(a) Each district shall determine which grades are considered elementary site grades, except that (i) all grades designated as elementary site grades shall be offered in each elementary attendance site in the district, without any preference indicated by the school board or any school district administrator for students to attend different elementary attendance sites depending on their

elementary site grade level, for the school fiscal year for which aid is being calculated and for each of the five school fiscal years preceding the school fiscal year for which aid is being calculated and (ii) elementary site grades shall not include grades nine, ten, eleven, or twelve;

(b) An elementary attendance site is an attendance site in which elementary site grades are offered;

(c) The primary elementary site shall be the elementary attendance site to which the most formula students are attributed in the district and shall not be a qualifying elementary attendance site; and

(d) Fall membership means the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(5) If the elementary attendance site is new or is being reopened after being closed for at least one school year, the requirements of subdivision (4)(a)(i) of this section with respect to preceding school fiscal years shall not apply to school fiscal years in which the elementary attendance site was not in operation.

(6) The department shall determine if the qualifications for the elementary site allowance have been met for each elementary attendance site for which information has been submitted. The department may rely on the information submitted and any other information available to the department, including, but not limited to, past attendance patterns. The state board shall establish a procedure for appeal of decisions of the department to the state board for a final determination.

Source: Laws 2008, LB988, § 17; Laws 2009, First Spec. Sess., LB5, § 6. Effective date November 21, 2009.

79-1007.16 Basic funding; calculation.

For school fiscal year 2008-09 and each school fiscal year thereafter, the department shall calculate basic funding for each district as follows:

(1) A comparison group shall be established for each district consisting of the districts for which basic funding is being calculated, the five larger districts that are closest in size to the district for which basic funding is being calculated as measured by formula students, and the five smaller districts that are closest in size to the district for which basic funding is being calculated as measured by formula students. If there are not five districts that are larger than the district for which basic funding is being calculated or if there are not five districts that are smaller than the district for which basic funding is being calculated, the comparison group shall consist of only as many districts as fit the criteria. If more than one district has exactly the same number of formula students as the largest or smallest district in the comparison group, all of the districts with exactly the same number of formula students as the largest or smallest districts in the comparison group shall be included in the comparison group. If one or more districts have exactly the same number of formula students as the district for which basic funding is being calculated, all such districts shall be included in the comparison group in addition to the five larger districts and the five smaller districts. The comparison group shall remain the same for the final calculation of aid pursuant to section 79-1065;

(2) For districts with nine hundred or more formula students, basic funding shall equal the formula students multiplied by the average of the adjusted

general fund operating expenditures per formula student for each district in the comparison group, excluding both the district with the highest adjusted general fund operating expenditures per formula student and the district with the lowest adjusted general fund operating expenditures per formula student of the districts in the comparison group; and

(3) For districts with fewer than nine hundred formula students, basic funding shall equal the product of the average of the adjusted general fund operating expenditures for each district in the comparison group, excluding both the district with the highest adjusted general fund operating expenditures and the district with the lowest adjusted general fund operating expenditures of the districts in the comparison group.

Source: Laws 2008, LB988, § 18; Laws 2009, LB549, § 29.

79-1007.18 Averaging adjustment; calculation.

(1) For school fiscal year 2008-09 and each school fiscal year thereafter, the department shall calculate an averaging adjustment for districts if the basic funding per formula student is less than the averaging adjustment threshold and the general fund levy for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated was at least ninety-six cents per one hundred dollars of taxable valuation for aid calculated for school fiscal year 2008-09 and at least one dollar per one hundred dollars of taxable valuation for aid calculated for school fiscal year 2009-10 and each school fiscal year thereafter. For school districts that are members of a learning community, the general fund levy for purposes of this section includes both the common general fund levy and the school district general fund levy authorized pursuant to subdivisions (2)(b) and (2)(c) of section 77-3442. The averaging adjustment for aid calculated for school fiscal year 2008-09 shall equal seventy-five percent of the product of the district's formula students multiplied by the percentage specified in subsection (4) of this section for such district of the difference between the averaging adjustment threshold minus such district's basic funding per formula student. The averaging adjustment for aid calculated for school fiscal year 2009-10 and each school fiscal year thereafter shall equal the district's formula students multiplied by the percentage specified in this section for such district of the difference between the averaging adjustment threshold minus such district's basic funding per formula student.

(2)(a) For school fiscal year 2008-09, the averaging adjustment threshold shall equal the statewide average basic funding per formula student.

(b) For school fiscal year 2009-10 and each school fiscal year thereafter, the averaging adjustment threshold shall equal the lesser of (i) the averaging adjustment threshold for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated increased by the sum of the basic allowable growth rate plus five-tenths of one percent or (ii) the statewide average basic funding per formula student for the school fiscal year for which aid is being calculated.

(3) The percentage to be used in the calculation of an averaging adjustment shall be based on the general fund levy for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(4) The percentages to be used in the calculation of averaging adjustments for school fiscal year 2008-09 shall be as follows:

(a) If such levy was at least ninety-six cents per one hundred dollars of taxable valuation but less than ninety-seven cents per one hundred dollars of taxable valuation, the percentage shall be ten percent;

(b) If such levy was at least ninety-seven cents per one hundred dollars of taxable valuation but less than ninety-eight cents per one hundred dollars of taxable valuation, the percentage shall be twenty percent;

(c) If such levy was at least ninety-eight cents per one hundred dollars of taxable valuation but less than ninety-nine cents per one hundred dollars of taxable valuation, the percentage shall be thirty percent;

(d) If such levy was at least ninety-nine cents per one hundred dollars of taxable valuation but less than one dollar per one hundred dollars of taxable valuation, the percentage shall be forty percent;

(e) If such levy was at least one dollar per one hundred dollars of taxable valuation but less than one dollar and one cent per one hundred dollars of taxable valuation, the percentage shall be fifty percent;

(f) If such levy was at least one dollar and one cent per one hundred dollars of taxable valuation but less than one dollar and two cents per one hundred dollars of taxable valuation, the percentage shall be sixty percent;

(g) If such levy was at least one dollar and two cents per one hundred dollars of taxable valuation but less than one dollar and three cents per one hundred dollars of taxable valuation, the percentage shall be seventy percent;

(h) If such levy was at least one dollar and three cents per one hundred dollars of taxable valuation but less than one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be eighty percent; and

(i) If such levy was at least one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be ninety percent.

(5) The percentages to be used in the calculation of averaging adjustments for school fiscal year 2009-10 and each school fiscal year thereafter shall be as follows:

(a) If such levy was at least one dollar per one hundred dollars of taxable valuation but less than one dollar and one cent per one hundred dollars of taxable valuation, the percentage shall be fifty percent;

(b) If such levy was at least one dollar and one cent per one hundred dollars of taxable valuation but less than one dollar and two cents per one hundred dollars of taxable valuation, the percentage shall be sixty percent;

(c) If such levy was at least one dollar and two cents per one hundred dollars of taxable valuation but less than one dollar and three cents per one hundred dollars of taxable valuation, the percentage shall be seventy percent;

(d) If such levy was at least one dollar and three cents per one hundred dollars of taxable valuation but less than one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be eighty percent; and

(e) If such levy was at least one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be ninety percent.

Source: Laws 2008, LB988, § 20; Laws 2009, LB545, § 9.

79-1007.19 Teacher education adjustment; calculation.

For school fiscal years 2008-09 and 2009-10, the department shall calculate a teacher education adjustment for each district as follows:

(1) Teacher education points shall be calculated for each district by the department based upon data from the fall personnel report required pursuant to section 79-804 for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid. Each full-time equivalent teacher shall (a) be under contract with a school district as required pursuant to section 79-818 and (b) only be counted one time in the awarding of any points pursuant to this section. Each district shall receive one point for each full-time equivalent teacher who has earned and been awarded a master's degree or an education specialist's degree and two points for each full-time equivalent teacher who has earned and been awarded a doctoral degree;

(2) A teacher education index shall be calculated for each district by dividing the ratio of teacher education points for the district divided by the number of full-time equivalent teachers in the district by the ratio of teacher education points for all districts divided by the number of full-time equivalent teachers in all districts; and

(3) The teacher education adjustment for each district shall equal ten percent of the district's basic funding multiplied by the difference of the product of the district's teacher education index minus one, except that if the result is less than zero, the teacher education adjustment shall equal zero.

Source: Laws 2008, LB988, § 21; Laws 2009, First Spec. Sess., LB5, § 7. Effective date November 21, 2009.

79-1007.20 Student growth adjustment; school district; application; department; powers.

(1) For school fiscal year 2009-10 and each school fiscal year thereafter, school districts may apply to the department for a student growth adjustment, on a form prescribed by the department, on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which aid is being calculated. Such form shall require an estimate of the average daily membership for the school fiscal year for which aid is being calculated, the estimated student growth calculated by subtracting the fall membership of the current school fiscal year from the estimated average daily membership for the school fiscal year for which aid is being calculated, and evidence supporting the estimates. On or before the immediately following December 1, the department shall approve the estimated student growth, approve a modified student growth, or deny the application based on the requirements of this section, the evidence submitted on the application, and any other information provided by the department. The state board shall establish procedures for appeal of decisions of the department to the state board for final determination.

(2) The student growth adjustment for each approved district shall equal the sum of the product of the school district's basic funding per formula student multiplied by the difference of the approved student growth minus the greater of twenty-five students or one percent of the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated plus the product of fifty percent of the school district's basic funding per formula student multiplied by the greater of twenty-five students or one percent of the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(3) For school fiscal year 2011-12 and each school fiscal year thereafter, the department shall calculate a student growth adjustment correction for each district that received a student growth adjustment for aid distributed in the most recently available complete data year. Such student growth correction shall equal the product of the difference of the average daily membership for such school fiscal year minus the sum of the formula students and the approved student growth used to calculate the student growth adjustment for such school fiscal year multiplied by the school district's basic funding per formula student used in the final calculation of aid pursuant to section 79-1065 for such school fiscal year, except that the absolute value of a negative correction shall not exceed the original adjustment.

Source: Laws 2008, LB988, § 22; Laws 2009, LB549, § 30.

79-1007.21 Two-year new school adjustment; school district; application; department; powers.

(1) For school fiscal year 2009-10 and each school fiscal year thereafter, school districts may apply to the department for a two-year new school adjustment, on a form prescribed by the department, on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which the first-year new school adjustment would be included in the calculation of state aid. Such form shall require evidence of recent and expected student growth, evidence that a new building or the expansion or remodeling of an existing building is being completed to provide additional student capacity to accommodate such growth and not to replace an existing building, evidence that the school fiscal year for which the district would receive the first-year adjustment will be the first full school fiscal year for which students will utilize such additional capacity, and evidence of the estimated additional student capacity to be provided by the project. On or before the immediately following December 1, the department shall approve the estimated additional capacity for use in the adjustment, approve a modified estimated additional capacity for use in the adjustment, or deny the application based on the requirements of this section, the evidence submitted on the application, and any other information provided by the department. Each approval shall include an approved estimated additional student capacity for the new building. The state board shall establish procedures for appeal of decisions of the department to the state board for final determination.

(2) The first-year new school adjustment for each approved district shall equal the school district's basic funding per formula student multiplied by twenty percent of the approved estimated additional student capacity. The second-year new school adjustment for each approved district shall equal the school district's basic funding per formula student multiplied by ten percent of the approved estimated additional student capacity.

Source: Laws 2008, LB988, § 23; Laws 2009, LB549, § 31.

79-1007.22 New learning community transportation adjustment; application; department; powers.

(1) For state aid calculated for each of the second and third full school fiscal years of a new learning community, each member school district may apply to the department for a new learning community transportation adjustment, on a form prescribed by the department, on or before October 15 of the school fiscal

year immediately preceding the school fiscal year for which the new learning community transportation adjustment would be included in the calculation of state aid. Such form shall require evidence supporting estimates of increased transportation costs for the district due to the provisions of subsection (2) of section 79-611. On or before the immediately following December 1, the department shall approve the estimate of increased transportation costs for use in the adjustment, approve a modified estimate of increased transportation costs for use in the adjustment, or deny the application based on the requirements of this section, the evidence submitted on the application, and any other information provided by the department. The state board shall establish procedures for appeal of decisions of the department to the state board for final determination.

(2) The new learning community transportation adjustment shall equal the approved estimate of increased transportation costs due to the provisions of subsection (2) of section 79-611. School districts shall submit evidence of the actual increase in transportation costs due to the provisions of subsection (2) of section 79-611, and the department shall recalculate the adjustment using such actual costs pursuant to section 79-1065.

Source: Laws 2008, LB988, § 24; Laws 2009, LB62, § 4; Laws 2009, LB549, § 32.

79-1007.23 Instructional time allowance; calculation.

For state aid calculated for school fiscal year 2009-10 and each school fiscal year thereafter:

(1) The department shall calculate an instructional time allowance for each district which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. The instructional time allowance shall be equal to the product of the formula students of such district multiplied by the instructional time factor for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student;

(2) The instructional time factor shall equal the difference of the ratio of the district's average hours of instruction for each full-time student during the regular school year for the most recently available complete data year divided by: (a) For state aid calculated for school fiscal year 2009-10, the comparison group average hours of instruction for each full-time student during the regular school year for the most recently available complete data year minus one; or (b) for state aid calculated for school fiscal year 2010-11 and each school fiscal year thereafter, the statewide average hours of instruction for each full-time student during the regular school year for the most recently available complete data year minus one, except that if the result is less than zero, the instructional time factor shall equal zero;

(3) For school fiscal years 2009-10 and 2010-11, the comparison group average hours of instruction for each full-time student shall be an average of the averages for all school districts in the comparison group. The average hours of instruction shall be defined by the department and shall not include extracurricular activities outside of the regular school day or time designated for students to eat lunch. The statewide average hours of instruction for each full-time student shall be an average of the averages for all school districts; and

(4) For school fiscal year 2011-12 and each school fiscal year thereafter, the average hours of instruction shall be defined by the department and shall be based on scheduled time for courses and the number of students participating in such courses as reported to the department for the most recently available complete data year. Hours of instruction shall not include extracurricular activities outside of the regular school day or time designated for students to eat lunch. The statewide average hours of instruction for each student shall be an average of the averages for all school districts.

Source: Laws 2008, LB988, § 25; Laws 2009, LB545, § 10; Laws 2009, First Spec. Sess., LB5, § 9; Laws 2010, LB1071, § 16.
Operative date July 15, 2010.

79-1007.24 Aid stabilization; calculation.

(1) For school fiscal year 2008-09, aid stabilization shall be calculated for each local system and disbursed in an amount equal to the difference of the state aid paid to such local system for school fiscal year 2007-08 pursuant to section 79-1022 minus two and one-half percent of the need calculated for the school fiscal year for which aid is being calculated and minus the sum of the calculated equalization aid, allocated income tax funds, and net option funding for such school fiscal year, except that aid stabilization shall not be less than zero.

(2) For school fiscal year 2009-10, aid stabilization shall be calculated for each local system and disbursed in an amount equal to the difference of the state aid paid to such local system for school fiscal year 2007-08 pursuant to section 79-1022 minus five percent of the need calculated for the school fiscal year for which aid is being calculated and minus the sum of the calculated equalization aid, allocated income tax funds, and net option funding for such school fiscal year, except that aid stabilization shall not be less than zero. If the amount actually paid to a local system during school fiscal year 2007-08 was different than the amount certified pursuant to section 79-1022 due to a reorganization affecting such local system, the amount that was actually paid to such local system during such school fiscal year shall be deemed the amount paid pursuant to section 79-1022.

Source: Laws 2008, LB988, § 26; Laws 2009, LB545, § 11.

79-1007.25 Teacher education allowance; calculation.

For school fiscal year 2010-11 and each school fiscal year thereafter, the department shall calculate a teacher education allowance for each district as follows:

(1) Teacher education points shall be calculated for each district by the department based upon data from the fall personnel report required pursuant to section 79-804 for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid. Each full-time equivalent teacher shall (a) be under contract with a school district as required pursuant to section 79-818 and (b) only be counted one time in awarding any points pursuant to this section. Each district shall receive one point for each full-time equivalent teacher who has earned and been awarded a master's degree or an education specialist's degree and two points for each full-time equivalent teacher who has earned and been awarded a doctoral degree;

(2) A teacher education index shall be calculated for each district by dividing the ratio of teacher education points for the district divided by the number of full-time equivalent teachers in the district by the ratio of teacher education points for all districts divided by the number of full-time equivalent teachers in all districts; and

(3) The teacher education allowance for each district shall equal eight and one-half percent of the statewide average general fund operating expenditures per formula student multiplied by the district's formula students and multiplied by the difference of the product of the district's teacher education index minus one, except that if the result is less than zero, the teacher education allowance shall equal zero.

Source: Laws 2009, First Spec. Sess., LB5, § 8.
Effective date November 21, 2009.

79-1008.01 Equalization aid; amount.

Except as provided in sections 79-1008.02 to 79-1010, each local system shall receive equalization aid in the amount that the total formula need of each local system, as determined pursuant to sections 79-1007.01 to 79-1007.23 and section 79-1007.25, exceeds its total formula resources as determined pursuant to sections 79-1015.01 to 79-1018.01.

Source: Laws 1997, LB 710, § 11; Laws 1997, LB 806, § 38; Laws 1998, LB 989, § 7; Laws 1998, Spec. Sess., LB 1, § 19; Laws 1999, LB 149, § 6; Laws 2001, LB 797, § 20; Laws 2002, LB 898, § 8; Laws 2003, LB 540, § 4; Laws 2004, LB 1093, § 5; Laws 2006, LB 1024, § 84; Laws 2008, LB988, § 33; Laws 2009, First Spec. Sess., LB5, § 10.
Effective date November 21, 2009.

79-1011 Incentives for consolidation; qualification; requirements; payment.

(1) To encourage consolidation of Class II and III school districts with less than three hundred ninety students, incentives shall be paid to reorganized Class II, III, IV, or V districts resulting from consolidations which meet the requirements of this section. This section shall only apply to consolidations with an effective date after May 31, 2009, and before June 1, 2011.

(2) To qualify for incentive payments under this section, the consolidation must be approved for incentive payments by the State Committee for the Reorganization of School Districts. Consolidating school districts shall file an application with the state committee on or before June 15, 2009, or within thirty days following the issuance of the boundary change order pursuant to subsection (1) of section 79-479, whichever is later. The state committee shall approve or disapprove incentive payments within thirty days after receipt of the application.

(3) For incentive payments to be approved by the state committee, a reorganization study, including efficiency, demographic, curriculum, facility, financial, and community components, must be completed prior to the reorganization. If a study containing such elements has been completed and the study indicates that the reorganization will most likely result in more efficiency in the delivery of educational services or greater educational opportunities, the state committee may approve incentive payments.

(4) Incentive payments shall be based on the number of students moving from Class II or III school districts with less than three hundred ninety students into a reorganized Class II, III, IV, or V school district with at least three hundred ninety students based on the average daily membership in each affected district in the school fiscal year immediately preceding the first school fiscal year the boundary change will be in effect and the average daily membership the consolidated district would have had following the boundary change if it had occurred in the school fiscal year immediately preceding the first school fiscal year the boundary change will be in effect. The incentive amount for each district involved in the reorganization having an average daily membership of less than three hundred ninety students shall equal one hundred twenty-five thousand dollars plus the product of five hundred dollars per student multiplied by the difference of three hundred ninety students minus the average daily membership in such district.

(5) Except as otherwise provided in this subsection, base fiscal year incentive payments shall equal fifty percent of the amount calculated pursuant to subsection (4) of this section. Base fiscal year incentive payments shall be calculated as of August 2 immediately preceding the base fiscal year and shall be paid directly to the reorganized district from the School District Reorganization Fund pursuant to subsection (6) of this section. The payments shall be made in ten as nearly as possible equal payments on the last business day of each month, beginning in September and ending the following June, for the base fiscal year. If the total amount of base fiscal year incentive payments for that school fiscal year exceeds the amount in the School District Reorganization Fund, the base fiscal year incentive payments shall be reduced proportionately so that the total amount of base fiscal year incentive payments equals the amount of funds so appropriated. The base fiscal year incentive payments shall not be included in local system formula resources as calculated under section 79-1018.01.

(6) The amount calculated pursuant to subsection (4) of this section minus the amount of base fiscal year incentive payments pursuant to subsection (5) of this section shall be paid out of any remaining funds in the School District Reorganization Fund after base fiscal year incentive payments. If the total amount of second-year incentive payments exceeds the remaining funds, the second-year incentive payments shall be reduced proportionately so that the total amount of second-year incentive payments equals the amount in the fund. Second-year incentive payments shall not be included in local system formula resources as calculated pursuant to section 79-1018.01.

Source: Laws 2004, LB 1091, § 9; Laws 2009, LB545, § 12.

79-1012 School District Reorganization Fund; created; use; investment.

The School District Reorganization Fund is created. The fund shall be administered by the department. The fund shall consist of money transferred from the Education Innovation Fund and shall be used to provide payments to reorganized school districts pursuant to section 79-1011. Any money remaining in the School District Reorganization Fund on July 1, 2013, shall be transferred to the Education Innovation Fund on such date. Any money in the School District Reorganization Fund available for investment shall be invested by the

state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2004, LB 1091, § 10; Laws 2007, LB603, § 4; Laws 2009, LB545, § 13.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

79-1013 Poverty plan; submission required; when; review; approval; elements required; appeal.

(1) On or before October 15 of each year, each school district designating a maximum poverty allowance greater than zero dollars shall submit a poverty plan for the next school fiscal year to the department and to the learning community coordinating council of any learning community of which the school district is a member. On or before the immediately following December 1, (a) the department shall approve or disapprove such plan for school districts that are not members of a learning community based on the inclusion of the elements required pursuant to this section and (b) the learning community coordinating council and, as to the applicable portions thereof, each achievement subcouncil, shall approve or disapprove such plan for school districts that are members of such learning community based on the inclusion of such elements. On or before the immediately following December 5, each learning community coordinating council shall certify to the department the approval or disapproval of the poverty plan for each member school district.

(2) In order to be approved pursuant to this section, a poverty plan shall include an explanation of how the school district will address the following issues for such school fiscal year:

(a) Attendance, including absence followup and transportation for students qualifying for free or reduced-price lunches who reside more than one mile from the attendance center;

(b) Student mobility, including transportation to allow a student to continue attendance at the same school if the student moves to another attendance area within the same school district or within the same learning community;

(c) Parental involvement at the school-building level with a focus on the involvement of parents in poverty and from other diverse backgrounds;

(d) Parental involvement at the school-district level with a focus on the involvement of parents in poverty and from other diverse backgrounds;

(e) Class size reduction or maintenance of small class sizes in elementary grades;

(f) Scheduled teaching time on a weekly basis that will be free from interruptions;

(g) Access to early childhood education programs for children in poverty;

(h) Student access to social workers;

(i) Access to summer school, extended-school-day programs, or extended-school-year programs;

(j) Mentoring for new and newly reassigned teachers;

(k) Professional development for teachers and administrators, focused on addressing the educational needs of students in poverty and students from other diverse backgrounds;

(l) Coordination with elementary learning centers if the school district is a member of a learning community; and

(m) An evaluation to determine the effectiveness of the elements of the poverty plan.

(3) The state board shall establish a procedure for appeal of decisions of the department and of learning community coordinating councils to the state board for a final determination.

Source: Laws 2007, LB641, § 23; Laws 2008, LB988, § 36; Laws 2010, LB1071, § 17.

Operative date July 15, 2010.

79-1014 Limited English proficiency plan; submission required; when; review; approval; elements required; appeal.

(1) On or before October 15 of each year, each school district designating a maximum limited English proficiency allowance greater than zero dollars shall submit a limited English proficiency plan for the next school fiscal year to the department and to the learning community coordinating council of any learning community of which the school district is a member. On or before the immediately following December 1, (a) the department shall approve or disapprove such plans for school districts that are not members of a learning community, based on the inclusion of the elements required pursuant to this section and (b) the learning community coordinating council, and, as to the applicable portions thereof, each achievement subcouncil, shall approve or disapprove such plan for school districts that are members of such learning community, based on the inclusion of such elements. On or before the immediately following December 5, each learning community coordinating council shall certify to the department the approval or disapproval of the limited English proficiency plan for each member school district.

(2) In order to be approved pursuant to this section, a limited English proficiency plan must include an explanation of how the school district will address the following issues for such school fiscal year:

(a) Identification of students with limited English proficiency;

(b) Instructional approaches;

(c) Assessment of such students' progress toward mastering the English language; and

(d) An evaluation to determine the effectiveness of the elements of the limited English proficiency plan.

(3) The state board shall establish a procedure for appeal of decisions of the department and of learning community coordinating councils to the state board for a final determination.

Source: Laws 2007, LB641, § 24; Laws 2008, LB988, § 37; Laws 2009, LB549, § 33; Laws 2010, LB1071, § 18.

Operative date July 15, 2010.

79-1015 Repealed. Laws 2009, LB 545, § 26.**79-1016 Adjusted valuation; how established; objections; filing; appeal; notice; correction due to clerical error; injunction prohibited.**

(1) On or before August 25, the county assessor shall certify to the Property Tax Administrator the total taxable value by school district in the county for the current assessment year on forms prescribed by the Tax Commissioner. The county assessor may amend the filing for changes made to the taxable valuation of the school district in the county if corrections or errors on the original certification are discovered. Amendments shall be certified to the Property Tax Administrator on or before September 30.

(2) On or before October 10, the Property Tax Administrator shall compute and certify to the State Department of Education the adjusted valuation for the current assessment year for each class of property in each school district and each local system. The adjusted valuation of property for each school district and each local system, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible state aid value as defined in subsection (3) of this section. The Property Tax Administrator shall notify each school district and each local system of its adjusted valuation for the current assessment year by class of property on or before October 10. Establishment of the adjusted valuation shall be based on the taxable value certified by the county assessor for each school district in the county adjusted by the determination of the level of value for each school district from an analysis of the comprehensive assessment ratio study or other studies developed by the Property Tax Administrator, in compliance with professionally accepted mass appraisal techniques, as required by section 77-1327. The Tax Commissioner shall adopt and promulgate rules and regulations setting forth standards for the determination of level of value for state aid purposes.

(3) For purposes of this section, state aid value means:

(a) For real property other than agricultural and horticultural land, ninety-six percent of actual value;

(b) For agricultural and horticultural land, seventy-two percent of actual value as provided in sections 77-1359 to 77-1363. For agricultural and horticultural land that receives special valuation pursuant to section 77-1344, seventy-two percent of special valuation as defined in section 77-1343; and

(c) For personal property, the net book value as defined in section 77-120.

(4) On or before November 10, any local system may file with the Tax Commissioner written objections to the adjusted valuations prepared by the Property Tax Administrator, stating the reasons why such adjusted valuations are not the valuations required by subsection (3) of this section. The Tax Commissioner shall fix a time for a hearing. Either party shall be permitted to introduce any evidence in reference thereto. On or before January 1, the Tax Commissioner shall enter a written order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Tax Commissioner shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. A copy of the written order shall be mailed to the local system within seven days after the date of the order. The written order of the Tax Commissioner may be appealed

within thirty days after the date of the order to the Tax Equalization and Review Commission in accordance with section 77-5013.

(5) On or before November 10, any local system or county official may file with the Tax Commissioner a written request for a nonappealable correction of the adjusted valuation due to clerical error as defined in section 77-128 or, for agricultural and horticultural land, assessed value changes by reason of land qualified or disqualified for special use valuation pursuant to sections 77-1343 to 77-1347.01. On or before the following January 1, the Tax Commissioner shall approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from such action to the State Department of Education.

(6) On or before May 31 of the year following the certification of adjusted valuation pursuant to subsection (2) of this section, any local system or county official may file with the Tax Commissioner a written request for a nonappealable correction of the adjusted valuation due to changes to the tax list that change the assessed value of taxable property. Upon the filing of the written request, the Tax Commissioner shall require the county assessor to recertify the taxable valuation by school district in the county on forms prescribed by the Tax Commissioner. The recertified valuation shall be the valuation that was certified on the tax list, pursuant to section 77-1613, increased or decreased by changes to the tax list that change the assessed value of taxable property in the school district in the county in the prior assessment year. On or before the following July 31, the Tax Commissioner shall approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from such action to the State Department of Education.

(7) No injunction shall be granted restraining the distribution of state aid based upon the adjusted valuations pursuant to this section.

(8) A school district whose state aid is to be calculated pursuant to subsection (5) of this section and whose state aid payment is postponed as a result of failure to calculate state aid pursuant to such subsection may apply to the state board for lump-sum payment of such postponed state aid. Such application may be for any amount up to one hundred percent of the postponed state aid. The state board may grant the entire amount applied for or any portion of such amount. The state board shall notify the Director of Administrative Services of the amount of funds to be paid in a lump sum and the reduced amount of the monthly payments. The Director of Administrative Services shall, at the time of the next state aid payment made pursuant to section 79-1022, draw a warrant for the lump-sum amount from appropriated funds and forward such warrant to the district.

Source: Laws 1990, LB 1059, § 9; Laws 1991, LB 829, § 32; Laws 1991, LB 511, § 76; Laws 1992, LB 245, § 81; Laws 1992, LB 719A, § 198; Laws 1994, LB 1290, § 7; Laws 1995, LB 490, § 185; R.S.Supp., 1995, § 79-3809; Laws 1996, LB 900, § 662; Laws 1996, LB 934, § 5; Laws 1996, LB 1050, § 24; Laws 1997, LB 270, § 103; Laws 1997, LB 271, § 53; Laws 1997, LB 342, § 4; Laws 1997, LB 595, § 6; Laws 1997, LB 713, § 3; Laws 1997, LB 806, § 46; Laws 1998, Spec. Sess., LB 1, § 24; Laws 1999, LB 194, § 34; Laws 1999, LB 813, § 22; Laws 2000, LB 968, § 80; Laws 2001, LB 170, § 28; Laws 2002, LB 994, § 30; Laws 2004, LB 973, § 66; Laws 2005, LB 126, § 46; Laws 2005, LB 263,

§ 16; Laws 2006, LB 808, § 46; Laws 2006, LB 968, § 16; Referendum 2006, No. 422; Laws 2007, LB334, § 101; Laws 2008, LB988, § 39; Laws 2009, LB166, § 21.

Cross References

Tax Equalization and Review Commission Act, see section 77-5001.

79-1017.01 Local system formula resources; amounts included.

Local system formula resources includes retirement aid determined under section 79-1028.03, allocated income tax funds determined for each such district pursuant to the provisions of section 79-1005.01 or 79-1005.02, and adjustments pursuant to section 79-1008.02.

Source: Laws 1997, LB 806, § 48; Laws 2002, LB 898, § 11; Laws 2009, LB545, § 14.

79-1018.01 Local system formula resources; other actual receipts included.

Except as otherwise provided in this section, local system formula resources include other actual receipts available for the funding of general fund operating expenditures as determined by the department for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid. Receipts from the Community Improvements Cash Fund and receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act shall not be included. Other actual receipts include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Tuition receipts from individuals, other districts, or any other source except receipts derived from adult education, receipts derived from summer school tuition, receipts derived from early childhood education tuition, and receipts from educational entities as defined in section 79-1201.01 for providing distance education courses through the Distance Education Council until July 1, 2008, and the Educational Service Unit Coordinating Council on and after July 1, 2008, to such educational entities;
- (4) Transportation receipts;
- (5) Interest on investments;
- (6) Other miscellaneous noncategorical local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (7) Special education receipts;
- (8) Special education receipts and non-special education receipts from the state for wards of the court and wards of the state;
- (9) All receipts from the temporary school fund. Beginning with the calculation of aid for school fiscal year 2002-03 and each school fiscal year thereafter, receipts from the temporary school fund shall only include (a) receipts pursuant to section 79-1035, to the extent that such receipts for the calculation of aid for school fiscal year 2018-19 and each school fiscal year thereafter are not returned to the temporary school fund pursuant to section 79-309.01, and (b) the receipt of funds pursuant to section 79-1036 for property leased for a public purpose as set forth in subdivision (1)(a) of section 77-202;
- (10) Motor vehicle tax receipts received on or after January 1, 1998;

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- (11) Pro rata motor vehicle license fee receipts;
- (12) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-734;
- (13) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;
- (14) All other noncategorical federal receipts;
- (15) All receipts pursuant to the enrollment option program under sections 79-232 to 79-246;
- (16) Receipts under the federal Medicare Catastrophic Coverage Act of 1988, as such act existed on May 8, 2001, as authorized pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the local system would have otherwise received pursuant to the Special Education Act;
- (17) Receipts for accelerated or differentiated curriculum programs pursuant to sections 79-1106 to 79-1108.03; and
- (18) Revenue received from the nameplate capacity tax distributed pursuant to section 77-6204.

Source: Laws 1997, LB 710, § 12; Laws 1997, LB 806, § 50; Laws 1998, LB 306, § 44; Laws 1998, LB 1229, § 4; Laws 1998, Spec. Sess., LB 1, § 25; Laws 1999, LB 149, § 9; Laws 2001, LB 797, § 25; Laws 2001, LB 833, § 6; Laws 2006, LB 1208, § 6; Laws 2007, LB603, § 5; Laws 2008, LB988, § 40; Laws 2010, LB1014, § 2; Laws 2010, LB1048, § 16.
Effective date July 15, 2010.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1014, section 2, with LB1048, section 16, to reflect all amendments.

Cross References

Low-Level Radioactive Waste Disposal Act, see section 81-1578.
Special Education Act, see section 79-1110.

79-1022 Distribution of income tax receipts and state aid; effect on budget.

(1) On or before March 10, 2010, on or before April 1, 2011, and on or before March 1 of each year thereafter, the department shall determine the amounts to be distributed to each local system and each district pursuant to the Tax Equity and Educational Opportunities Support Act and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, each learning community, and each district. The amount to be distributed to each district that is not a member of a learning community from the amount certified for a local system shall be proportional based on: (a) For school fiscal years prior to school fiscal year 2008-09, the weighted formula students attributed to each district in the local system; and (b) for school fiscal year 2008-09 and each school fiscal year thereafter, the formula students attributed to each district in the local system. The amount to be distributed to each district that is a member of a learning community from the amount certified for the local system shall be proportional based on the formula needs calculated for each district in the local system. On or before March 10, 2010, on or before April 1, 2011, and on or before March 1 of each year thereafter, the department shall report the necessary funding level to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature. Certified state aid amounts, including adjustments pursuant to section 79-1065.02, shall be shown as budgeted non-property-tax receipts and deducted

prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

(2) Except as provided in subsection (8) of section 79-1016 and sections 79-1033 and 79-1065.02, the amounts certified pursuant to subsection (1) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each ensuing school fiscal year and ending in June of the following year, except that when a school district is to receive a monthly payment of less than one thousand dollars, such payment shall be one lump-sum payment on the last business day of December during the ensuing school fiscal year.

Source: Laws 1990, LB 1059, § 13; Laws 1991, LB 511, § 79; Laws 1992, LB 245, § 84; Laws 1994, LB 1290, § 8; Laws 1994, LB 1310, § 16; Laws 1995, LB 840, § 9; R.S.Supp., 1995, § 79-3813; Laws 1996, LB 900, § 668; Laws 1996, LB 1050, § 30; Laws 1997, LB 710, § 13; Laws 1997, LB 713, § 5; Laws 1997, LB 806, § 51; Laws 1998, Spec. Sess., LB 1, § 28; Laws 1999, LB 149, § 10; Laws 1999, LB 194, § 35; Laws 1999, LB 813, § 23; Laws 2002, LB 898, § 12; Laws 2002, Second Spec. Sess., LB 4, § 1; Laws 2003, LB 67, § 12; Laws 2003, LB 540, § 5; Laws 2004, LB 973, § 67; Laws 2005, LB 126, § 47; Laws 2005, LB 198, § 3; Laws 2006, LB 1024, § 86; Referendum 2006, No. 422; Laws 2007, LB21, § 3; Laws 2007, LB641, § 28; Laws 2008, LB988, § 41; Laws 2009, LB61, § 1; Laws 2009, LB545, § 15; Laws 2009, LB548, § 1; Laws 2010, LB711, § 2; Laws 2010, LB1071, § 19.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB711, section 2, with LB1071, section 19, to reflect all amendments.

Note: Changes made by LB711 became effective February 26, 2010. Changes made by LB1071 became operative April 15, 2010.

79-1023 School district; general fund budget of expenditures; limitation; department; certification.

(1) On or before March 10, 2010, on or before April 1, 2011, and on or before March 1 of each year thereafter, the department shall determine and certify to each school district the maximum general fund budget of expenditures minus the special education budget of expenditures for the immediately following school fiscal year.

(2) Except as provided in section 79-1028.01, no school district shall have a general fund budget of expenditures minus special grant funds and the special education budget of expenditures more than the greater of (a) the product of the difference of the general fund budget of expenditures minus special grant funds and the special education budget of expenditures for the immediately preceding school fiscal year multiplied by (i) except as otherwise provided in subdivision (a)(ii) of this subsection, the sum of one plus the local system's applicable allowable growth rate or (ii) for school fiscal year 2010-11, the sum of one plus seventy-five hundredths of one percent plus the local system's applicable allowable growth rate or (b)(i) except as otherwise provided in subdivision (b)(ii) of this subsection, the difference of one hundred twenty percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately

preceding school fiscal year or (ii) for school fiscal years 2009-10 and 2010-11, the difference of one hundred sixteen and fifteen-hundredths percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year.

Source: Laws 1990, LB 1059, § 14; Laws 1991, LB 829, § 33; Laws 1992, LB 1063, § 202; Laws 1992, Second Spec. Sess., LB 1, § 173; Laws 1995, LB 613, § 3; Laws 1996, LB 299, § 27; R.S.Supp., 1995, § 79-3814; Laws 1996, LB 900, § 669; Laws 1998, LB 989, § 8; Laws 2003, LB 67, § 13; Laws 2008, LB988, § 43; Laws 2009, LB61, § 2; Laws 2009, LB545, § 16; Laws 2009, LB548, § 2; Laws 2009, First Spec. Sess., LB5, § 11; Laws 2010, LB711, § 3; Laws 2010, LB1071, § 20.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB711, section 3, with LB1071, section 20, to reflect all amendments.

Note: Changes made by LB711 became effective February 26, 2010. Changes made by LB1071 became operative April 15, 2010.

Cross References

Retirement expenditures, not exempt from limitations, see section 79-977.

79-1024 Budget statement; submitted to department; Auditor of Public Accounts; duties; failure to submit; effect.

(1) The department may require each district to submit to the department a duplicate copy of such portions of the district's budget statement as the Commissioner of Education directs. The department may verify any data used to meet the requirements of the Tax Equity and Educational Opportunities Support Act. The Auditor of Public Accounts shall review each district's budget statement for statutory compliance, make necessary changes in the budget documents for districts to effectuate the budget limitations imposed pursuant to sections 79-1023 to 79-1030, and notify the Commissioner of Education of any district failing to submit to the auditor the budget documents required pursuant to this subsection by the date established in subsection (1) of section 13-508 or failing to make any corrections of errors in the documents pursuant to section 13-504 or 13-511.

(2) If a school district fails to submit to the department or the auditor the budget documents required pursuant to subsection (1) of this section by the date established in subsection (1) of section 13-508 or fails to make any corrections of errors in the documents pursuant to section 13-504 or 13-511, the commissioner, upon notification from the auditor or upon his or her own knowledge that the required budget documents and any required corrections of errors from any school district have not been properly filed in accordance with the Nebraska Budget Act and after notice to the district and an opportunity to be heard, shall direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the required budget documents or corrections of errors are received by the auditor and the department. In addition, the commissioner shall direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county treasurer of receipt of the required budget documents or corrections of errors. The county treasurer shall withhold such money. For school districts that are members of learning

communities, a determination of school money belonging to the district shall be based on the proportionate share of property tax receipts allocated to the school district by the learning community coordinating council, and the county treasurer shall withhold any such school money in the possession of the county treasurer from the school district. If the school district does not comply with this section prior to the end of the state's biennium following the biennium which included the fiscal year for which state aid was calculated, the state aid funds shall revert to the General Fund. The amount of any reverted funds shall be included in data provided to the Governor in accordance with section 79-1031. The board of any district failing to submit to the department or the auditor the budget documents required pursuant to this section by the date established in subsection (1) of section 13-508 or failing to make any corrections of errors in the documents pursuant to section 13-504 or 13-511 shall be liable to the school district for all school money which such district may lose by such failing.

Source: Laws 1990, LB 1059, § 15; Laws 1991, LB 511, § 80; Laws 1992, LB 245, § 85; Laws 1992, LB 1001, § 43; R.S.1943, (1994), § 79-3815; Laws 1996, LB 900, § 670; Laws 1997, LB 269, § 61; Laws 1997, LB 710, § 14; Laws 1998, Spec. Sess., LB 1, § 29; Laws 1999, LB 272, § 93; Laws 1999, LB 813, § 24; Laws 2001, LB 797, § 26; Laws 2003, LB 67, § 14; Laws 2006, LB 1024, § 87; Laws 2008, LB988, § 44; Laws 2009, LB392, § 11.

Cross References

Nebraska Budget Act, see section 13-501.

79-1026.01 School fiscal year 2008-09 and subsequent fiscal years; applicable allowable growth rate; determination; target budget level.

For school fiscal year 2008-09 and each school fiscal year thereafter, on or before March 10, 2010, on or before April 1, 2011, and on or before March 1 of each year thereafter, the department shall determine and certify to each Class II, III, IV, or V district an applicable allowable growth rate carried out at least four decimal places as follows:

(1) The department shall establish a target budget level range of general fund operating expenditure levels for each school fiscal year for each school district which shall begin at twenty percent less than the school district's formula need and end at the school district's formula need. The beginning point of the range shall be assigned a number equal to the maximum allowable growth rate established in section 79-1025, and the end point of the range shall be assigned a number equal to the basic allowable growth rate as prescribed in such section such that the lower end of the range shall be assigned the maximum allowable growth rate and the higher end of the range shall be assigned the basic allowable growth rate; and

(2) For each school fiscal year, each school district's general fund operating expenditures shall be compared to its target budget level along the range described in subdivision (1) of this section to arrive at an applicable allowable growth rate as follows: If each school district's general fund operating expenditures fall below the lower end of the range, such applicable allowable growth rate shall be the maximum growth rate identified in section 79-1025. If each school district's general fund operating expenditures are greater than the higher end of the range, the school district's allowable growth rate shall be the

basic allowable growth rate identified in such section. If each school district's general fund operating expenditures fall between the lower end and the higher end of the range, the department shall use a linear interpolation calculation between the end points of the range to arrive at the applicable allowable growth rate for the school district.

Source: Laws 2006, LB 1024, § 89; Laws 2009, LB61, § 3; Laws 2009, LB545, § 17; Laws 2009, LB548, § 3; Laws 2010, LB711, § 4; Laws 2010, LB1071, § 21.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB711, section 4, with LB1071, section 21, to reflect all amendments.

Note: Changes made by LB711 became effective February 26, 2010. Changes made by LB1071 became operative April 15, 2010.

79-1027 Budget; restrictions.

No district shall adopt a budget, which includes total requirements of depreciation funds, necessary employee benefit fund cash reserves, and necessary general fund cash reserves, exceeding the applicable allowable reserve percentages of total general fund budget of expenditures as specified in the schedule set forth in this section.

Average daily membership of district	Allowable reserve percentage
0 - 471	45
471.01 - 3,044	35
3,044.01 - 10,000	25
10,000.01 and over	20

On or before March 10, 2010, on or before April 1, 2011, and on or before March 1 each year thereafter, the department shall determine and certify each district's applicable allowable reserve percentage.

Each district with combined necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves less than the applicable allowable reserve percentage specified in this section may, notwithstanding the district's applicable allowable growth rate, increase its necessary general fund cash reserves such that the total necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves do not exceed such applicable allowable reserve percentage.

Source: Laws 1990, LB 1059, § 18; Laws 1991, LB 511, § 83; Laws 1992, LB 245, § 88; Laws 1992, LB 1063, § 204; Laws 1992, Second Spec. Sess., LB 1, § 175; R.S.1943, (1994), § 79-3818; Laws 1996, LB 900, § 673; Laws 1998, Spec. Sess., LB 1, § 31; Laws 1999, LB 149, § 12; Laws 1999, LB 813, § 26; Laws 2001, LB 797, § 28; Laws 2002, LB 460, § 2; Laws 2003, LB 67, § 16; Laws 2005, LB 126, § 49; Referendum 2006, No. 422; Laws 2007, LB21, § 5; Laws 2009, LB61, § 4; Laws 2009, LB545, § 18; Laws 2009, LB548, § 4; Laws 2010, LB711, § 5; Laws 2010, LB1071, § 22.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB711, section 5, with LB1071, section 22, to reflect all amendments.

Note: Changes made by LB711 became effective February 26, 2010. Changes made by LB1071 became operative April 15, 2010.

79-1028.01 School fiscal years; district may exceed certain limits; situations enumerated; state board; duties.

(1) For each school fiscal year, a school district may exceed its maximum general fund budget of expenditures minus the special education budget of expenditures by a specific dollar amount for:

(a) Expenditures for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act;

(b) Expenditures for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district;

(c) Expenditures pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856;

(d) Expenditures of incentive payments or base fiscal year incentive payments to be received in such school fiscal year pursuant to section 79-1011;

(e) Expenditures of amounts received from educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities;

(f) Either (i) the first and second school fiscal years the district will be participating in Network Nebraska for the full school fiscal year or (ii) school fiscal year 2008-09, if the school district participated in Network Nebraska for all of school fiscal year 2007-08, for the difference of the estimated expenditures for such school fiscal year for telecommunications services, access to data transmission networks that transmit data to and from the school district, and the transmission of data on such networks as such expenditures are defined by the department for purposes of the distance education and telecommunications allowance minus the dollar amount of such expenditures for the second school fiscal year preceding the first full school fiscal year the district participates in Network Nebraska;

(g) Expenditures to pay another school district for the transfer of land from such other school district;

(h) Expenditures in school fiscal years 2009-10 through 2013-14 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent;

(i) Expenditures in school fiscal years 2009-10 through 2013-14 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the Class V School Employees Retirement System to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent;

(j) Expenditures for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009;

(k) Expenditures for new elementary attendance sites in the first year of operation or the first year of operation after being closed for at least one school year if such elementary attendance site will most likely qualify for the elementary site allowance in the immediately following school fiscal year as determined by the state board; and

(l) Any expenditures in school fiscal years 2016-17 and 2017-18 of amounts specified in the notice provided by the Commissioner of Education pursuant to section 79-309.01 for teacher performance pay.

(2) The state board shall approve, deny, or modify the amount allowed for any exception to the maximum general fund budget of expenditures minus the special education budget of expenditures pursuant to this section.

Source: Laws 2008, LB988, § 46; Laws 2008, LB1154, § 10; Laws 2009, LB545, § 19; Laws 2010, LB1014, § 3.
Effective date July 15, 2010.

Cross References

Emergency Management Act, see section 81-829.36.

79-1028.02 School fiscal years 2009-10 and 2010-11; American Recovery and Reinvestment Act percentage; school district allocation; computation; school district; duties.

For each of school fiscal years 2009-10 and 2010-11, the American Recovery and Reinvestment Act percentage shall equal the amount of funding from the federal American Recovery and Reinvestment Act of 2009 to be distributed through the Tax Equity and Educational Opportunities Support Act for such school fiscal year divided by the total equalization aid to be distributed pursuant to the Tax Equity and Educational Opportunities Support Act for such school fiscal year. For each school district, the American Recovery and Reinvestment Act allocation shall equal the equalization aid to be distributed to the school district for such school fiscal year multiplied by the American Recovery and Reinvestment Act percentage for such school fiscal year. Such allocation shall only be distributed upon filing of an application signed by the superintendent and school board president of a school district and filed with the department by the superintendent of such school district, which application meets the requirements of the federal American Recovery and Reinvestment Act of 2009 and is approved by the Governor or his or her designee. A school district shall account for, report, and spend such allocation as required by the federal American Recovery and Reinvestment Act of 2009. Such allocation shall not be considered a special grant fund and shall be considered state aid for all purposes except as otherwise provided in this section and the federal American Recovery and Reinvestment Act of 2009.

Source: Laws 2009, LB545, § 20.

79-1028.03 Retirement aid; calculation.

For school fiscal years 2009-10 through 2013-14, an amount calculated by the department shall be paid to each school district as retirement aid equal to the product of fifteen million dollars multiplied by the school district's salary percentage. The school district's salary percentage shall equal the total salary reported by the school district on the annual financial report for the most recently available complete data year divided by the total salary reported by all

school districts in the state on the annual financial report for the most recently available complete data year.

Source: Laws 2009, LB545, § 21.

79-1030 Unused budget authority; carried forward.

A Class II, III, IV, V, or VI district may choose not to increase its general fund budget of expenditures by the full amount of budget authority as calculated pursuant to sections 79-1023 and 79-1026.01. In such cases, the department shall calculate the amount of unused budget authority which shall be carried forward to future budget years so a Class II, III, IV, V, or VI district may increase its general fund budget of expenditures in future budget years by the amount of such total unused budget authority.

Source: Laws 1990, LB 1059, § 21; R.S.1943, (1994), § 79-3821; Laws 1996, LB 900, § 676; Laws 1998, LB 989, § 13; Laws 1998, Spec. Sess., LB 1, § 32; Laws 2006, LB 1024, § 91; Laws 2010, LB1071, § 23.

Operative date July 15, 2010.

79-1031.01 Appropriations Committee; duties.

The Appropriations Committee of the Legislature shall annually include the amount necessary to fund the state aid that will be certified to school districts on or before March 10, 2010, on or before April 1, 2011, and on or before March 1 for each school year thereafter in its recommendations to the Legislature to carry out the requirements of the Tax Equity and Educational Opportunities Support Act.

Source: Laws 1997, LB 710, § 17; Laws 1997, LB 806, § 54; Laws 1998, Spec. Sess., LB 1, § 34; Laws 1999, LB 149, § 15; Laws 2002, LB 898, § 14; Laws 2005, LB 126, § 51; Referendum 2006, No. 422; Laws 2007, LB21, § 6; Laws 2008, LB988, § 48; Laws 2009, LB61, § 5; Laws 2009, LB545, § 22; Laws 2009, LB548, § 5; Laws 2010, LB711, § 6; Laws 2010, LB1071, § 24.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB711, section 6, with LB1071, section 24, to reflect all amendments.

Note: Changes made by LB711 became effective February 26, 2010. Changes made by LB1071 became operative April 15, 2010.

79-1033 State aid; payments; reports; use; requirements; failure to submit reports; effect; early payments.

(1) Except as otherwise provided in the Tax Equity and Educational Opportunities Support Act, state aid payable pursuant to the act for each school fiscal year shall be based upon data found in applicable reports for the most recently available complete data year. The annual financial reports and the annual statistical summary of all school districts shall be submitted to the Commissioner of Education pursuant to the dates prescribed in section 79-528. If a school district fails to timely submit its reports, the commissioner, after notice to the district and an opportunity to be heard, shall direct that any state aid granted pursuant to the act be withheld until such time as the reports are received by the department. In addition, the commissioner shall direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county treasurer of receipt of such reports. The county treasurer shall withhold such money. For school districts that are

members of learning communities, a determination of school money belonging to the district shall be based on the proportionate share of state aid and property tax receipts allocated to the school district by the learning community coordinating council, and the county treasurer shall withhold any such school money in the possession of the county treasurer from the school district. If the school district does not comply with this section prior to the end of the state's biennium following the biennium which included the school fiscal year for which state aid was calculated, the state aid funds shall revert to the General Fund. The amount of any reverted funds shall be included in data provided to the Governor in accordance with section 79-1031.

(2) A district which receives, or has received in the most recently available complete data year or in either of the two school fiscal years preceding the most recently available complete data year, federal funds in excess of twenty-five percent of its general fund budget of expenditures may apply for early payment of state aid paid pursuant to the act when such federal funds are not received in a timely manner. Such application may be made at any time by a district suffering such financial hardship and may be for any amount up to fifty percent of the remaining amount to which the district is entitled during the current school fiscal year. The state board may grant the entire amount applied for or any portion of such amount if the state board finds that a financial hardship exists in the district. The state board shall notify the Director of Administrative Services of the amount of funds to be paid in lump sum and the reduced amount of the monthly payments. The Director of Administrative Services shall, at the time of the next state aid payment made pursuant to section 79-1022, draw a warrant for the lump-sum amount from appropriated funds and forward such warrant to the district. For purposes of this subsection, financial hardship means a situation in which income to a district is exceeded by liabilities to such a degree that if early payment is not received it will be necessary for the district to discontinue vital services or functions.

Source: Laws 1990, LB 1059, § 24; Laws 1991, LB 511, § 88; Laws 1992, LB 245, § 93; Laws 1992, LB 1001, § 44; Laws 1993, LB 348, § 73; Laws 1994, LB 1290, § 9; R.S.1943, (1994), § 79-3824; Laws 1996, LB 900, § 679; Laws 1997, LB 710, § 18; Laws 1998, Spec. Sess., LB 1, § 36; Laws 1999, LB 272, § 94; Laws 2006, LB 1024, § 92; Laws 2009, LB392, § 12.

(b) SCHOOL FUNDS

79-1035 School funds; apportionment by Commissioner of Education; basis.

(1)(a) The State Treasurer shall, each year on or before the third Monday in January, make a complete exhibit of all money belonging to the permanent school fund and the temporary school fund as returned to him or her from the several counties, together with the amount derived from other sources, and deliver such exhibit duly certified to the Commissioner of Education.

(b) Beginning in 2016 and each year thereafter, the exhibit required in subdivision (1)(a) of this section shall include a separate accounting, not to exceed an amount of ten million dollars, of the income from solar and wind energy leases on school lands. The Board of Educational Lands and Funds shall provide the State Treasurer with the information necessary to make the exhibit required by this subsection. Separate accounting shall not be made for income

from solar or wind energy leases on school lands that exceeds the sum of ten million dollars.

(2) On or before February 25 following receipt of the exhibit from the State Treasurer pursuant to subsection (1) of this section, the Commissioner of Education shall make the apportionment of the temporary school fund to each school district as follows: From the whole amount there shall be paid to those districts in which there are school or saline lands, which lands are used for a public purpose, an amount in lieu of tax money that would be raised if such lands were taxable, to be fixed in the manner prescribed in section 79-1036; and the remainder shall be apportioned to the districts according to the pro rata enumeration of children who are five through eighteen years of age in each district last returned from the school district. The calculation of apportionment for each school fiscal year shall include any corrections to the prior school fiscal year's apportionment.

(3) The Commissioner of Education shall certify the amount of the apportionment of the temporary school fund as provided in subsection (2) of this section to the Director of Administrative Services. The Director of Administrative Services shall draw a warrant on the State Treasurer in favor of the various districts for the respective amounts so certified by the Commissioner of Education.

(4) For purposes of this section, lease means any lease, easement, covenant, or other such contractual arrangement.

Source: Laws 1881, c. 78, subdivision XI, § 3, p. 369; R.S.1913, § 6930; Laws 1915, c. 122, § 1, p. 280; C.S.1922, § 6513; C.S.1929, § 79-2002; Laws 1933, c. 144, § 3, p. 558; C.S.Supp.,1941, § 79-2002; R.S.1943, § 79-2002; Laws 1945, c. 210, § 1, p. 622; Laws 1949, c. 256, § 377, p. 817; Laws 1957, c. 359, § 1, p. 1217; Laws 1963, c. 493, § 1, p. 1575; Laws 1971, LB 1002, § 1; Laws 1989, LB 487, § 9; Laws 1990, LB 1090, § 22; Laws 1994, LB 858, § 10; R.S.1943, (1994), § 79-1302; Laws 1996, LB 900, § 681; Laws 1997, LB 345, § 30; Laws 1997, LB 710, § 19; Laws 1999, LB 272, § 95; Laws 2001, LB 797, § 31; Laws 2010, LB1014, § 4.

Effective date July 15, 2010.

79-1036 School funds; public lands; amount in lieu of tax; reappraisal; appeal.

(1) In making the apportionment under section 79-1035, the Commissioner of Education shall distribute from the school fund for school purposes, to any and all learning communities and school districts which are not members of a learning community, in which there are situated school lands which have not been sold and transferred by deed or saline lands owned by the state, which lands are being used for a public purpose, an amount in lieu of tax money that would be raised by school district levies and learning community common levies for which the proceeds are distributed to member school districts pursuant to sections 79-1073 and 79-1073.01 if such lands were taxable, to be ascertained in accordance with subsection (2) of this section, except that:

(a) For Class I districts or portions thereof which are affiliated and in which there are situated school or saline lands, 38.6207 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the

affiliated school system tax levy computed pursuant to section 79-1077, shall be distributed to the affiliated high school district and the remainder shall be distributed to the Class I district;

(b) For Class I districts or portions thereof which are part of a Class VI district which offers instruction in grades nine through twelve and in which there are situated school or saline lands, 38.6207 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the Class VI school system levy computed pursuant to section 79-1078, shall be distributed to the Class VI district and the remainder shall be distributed to the Class I district;

(c) For Class I districts or portions thereof which are part of a Class VI district which offers instruction in grades seven through twelve and in which there are situated school or saline lands, 55.1724 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the Class VI school system levy computed pursuant to section 79-1078, shall be distributed to the Class VI district and the remainder shall be distributed to the Class I district; and

(d) For Class I districts or portions thereof which are part of a Class VI district which offers instruction in grades six through twelve and in which there are situated school or saline lands, 62.0690 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the Class VI school system levy computed pursuant to section 79-1078, shall be distributed to the Class VI district and the remainder shall be distributed to the Class I district.

(2) The county assessor shall certify to the Commissioner of Education the tax levies of each school district and learning community in which school land or saline land is located and the last appraised value of such school land, which value shall be the same percentage of the appraised value as the percentage of the assessed value is of market value in subsection (2) of section 77-201 for the purpose of applying the applicable tax levies for each district and learning community in determining the distribution to the districts of such amounts. The school board of any school district and the learning community coordinating council of any learning community in which there is located any leased or undeeded school land or saline land subject to this section may appeal to the Board of Educational Lands and Funds for a reappraisal of such school land if such school board or learning community coordinating council deems the land not appraised in proportion to the value of adjoining land of the same or similar value. The Board of Educational Lands and Funds shall proceed to investigate the facts involved in such appeal and, if the contention of the school board or learning community coordinating council is correct, make the proper reappraisal. The value calculation in this subsection shall be used by the Commissioner of Education for making distributions in each school fiscal year.

Source: Laws 1881, c. 78, subdivision VIII, § 9, p. 364; R.S.1913, § 6906; Laws 1921, c. 82, § 1, p. 296; C.S.1922, § 6482; Laws 1929, c. 187, § 1, p. 651; C.S.1929, § 79-1609; Laws 1933, c. 144, § 2, p. 557; C.S.Supp.,1941, § 79-1609; Laws 1943, c. 200, § 1, p. 670; R.S.1943, § 79-1612; Laws 1947, c. 282, § 1, p. 890; Laws 1949, c. 256, § 378, p. 818; Laws 1957, c. 359, § 2, p. 1218; Laws 1979, LB 187, § 246; Laws 1982, LB 572, § 1; Laws 1983, LB 39, § 1; Laws 1990, LB 1090, § 23; Laws 1991, LB 511, § 61; Laws 1992,

LB 245, § 66; Laws 1993, LB 839, § 5; Laws 1994, LB 858, § 11; R.S.1943, (1994), § 79-1303; Laws 1996, LB 900, § 682; Laws 1997, LB 270, § 104; Laws 1998, Spec. Sess., LB 1, § 37; Laws 1999, LB 272, § 96; Laws 2001, LB 797, § 32; Laws 2003, LB 394, § 8; Laws 2010, LB1070, § 8.

Effective date April 6, 2010.

79-1041 County treasurer; distribute school funds; when.

Each county treasurer of a county with territory in a learning community shall distribute any funds collected by such county treasurer from the common general fund levy and the common building fund levy of such learning community to each member school district pursuant to sections 79-1073 and 79-1073.01 at least once each month.

Each county treasurer shall, upon request of a majority of the members of the school board or board of education in any school district, at least once each month distribute to the district any funds collected by such county treasurer for school purposes.

Source: Laws 1976, LB 803, § 1; R.S.1943, (1994), § 79-1307.01; Laws 1996, LB 900, § 687; Laws 2009, LB392, § 13.

79-1065.01 Financial support to school districts; lump-sum payments.

If the adjustment under section 79-1065 results in a school district being entitled to the payment of additional funds, the district may apply to the State Department of Education for a lump-sum payment for any amount up to one hundred percent of the adjustment, except that when a school district is to receive a lump-sum payment pursuant to section 79-1022, one hundred percent of the adjustment shall be paid as one lump-sum payment on the last business day of December during the ensuing school fiscal year. The department shall notify the Director of Administrative Services of the amount of funds to be paid in a lump sum and the reduced amount of the monthly payments pursuant to section 79-1022. The department shall make such payment in a lump sum not later than the last business day of September of the year in which the final determination under this section is made.

Source: Laws 2000, LB 1213, § 2; Laws 2009, LB549, § 34.

(c) SCHOOL TAXATION

79-1073 General fund property tax receipts; learning community coordinating council; certification; division; distribution; property tax refund or in lieu of property tax reimbursement; proportionality.

On or before September 1 for each year, each learning community coordinating council shall determine the expected amounts to be distributed by the county treasurers to each member school district from general fund property tax receipts pursuant to subdivision (2)(b) of section 77-3442 and shall certify such amounts to each member school district, the county treasurer for each county containing territory in the learning community, and the State Department of Education. Such property tax receipts shall be divided among member school districts proportionally based on the difference of the school district's formula need calculated pursuant to section 79-1007.11 minus the sum of the state aid certified pursuant to section 79-1022 and the other actual receipts

included in local system formula resources pursuant to section 79-1018.01 for the school fiscal year for which the distribution is being made.

Each time the county treasurer distributes property tax receipts from the common general fund levy to member school districts, the amount to be distributed to each district shall be proportional based on the total amounts to be distributed to each member school district for the school fiscal year. Each time the county treasurer certifies a property tax refund pursuant to section 77-1736.06 based on the common general fund levy for member school districts or any entity issues an in lieu of property tax reimbursement based on the common general fund levy for member school districts, including amounts paid pursuant to sections 70-651.01 and 79-1036, the amount to be certified or reimbursed to each district shall be proportional on the same basis as property tax receipts from such levy are distributed to member school districts.

Source: Laws 2006, LB 1024, § 93; Laws 2007, LB641, § 29; Laws 2008, LB988, § 49; Laws 2008, LB1154, § 11; Laws 2009, LB392, § 14; Laws 2009, LB545, § 23; Laws 2010, LB1070, § 9.
Effective date April 6, 2010.

79-1073.01 Learning communities; special building funds; distribution; property tax refund or in lieu of property tax reimbursement; proportionality.

Amounts levied by learning communities for special building funds for member school districts pursuant to subdivision (2)(g) of section 77-3442 shall be distributed by the county treasurer collecting such levy proceeds to all member school districts proportionally based on the formula students used in the most recent certification of state aid pursuant to section 79-1022. Each time the county treasurer certifies a property tax refund pursuant to section 77-1736.06 based on the levy of a learning community for special building funds for members school districts or any entity issues an in lieu of property tax reimbursement based on the levy of a learning community for special building funds for member school districts, including amounts paid pursuant to sections 70-651.01 and 79-1036, the amount to be certified or reimbursed to each district shall be proportional on the same basis as property tax receipts from such levy are distributed to member school districts.

Any amounts distributed pursuant to this section shall be used by the member school districts for special building funds.

Source: Laws 2006, LB 1024, § 94; Laws 2007, LB641, § 30; Laws 2009, LB392, § 15; Laws 2010, LB1070, § 10.
Effective date April 6, 2010.

(d) SCHOOL BUDGETS AND ACCOUNTING

79-1084 Class III school district; school board; budget; tax; levy; publication of expenditures; violation; penalty; duty of county board.

The school board of a Class III school district shall annually, on or before September 20, report in writing to the county board and the learning community coordinating council if the school district is a member of a learning community the entire revenue raised by taxation and all other sources and received by the school board for the previous school fiscal year and a budget for the ensuing school fiscal year broken down generally as follows: (1) The amount of funds required for the support of the schools during the ensuing

school fiscal year; (2) the amount of funds required for the purchase of school sites; (3) the amount of funds required for the erection of school buildings; (4) the amount of funds required for the payment of interest upon all bonds issued for school purposes; and (5) the amount of funds required for the creation of a sinking fund for the payment of such indebtedness. The secretary shall publish, within ten days after the filing of such budget, a copy of the fund summary pages of the budget one time at the legal rate prescribed for the publication of legal notices in a legal newspaper published in and of general circulation in such city or village or, if none is published in such city or village, in a legal newspaper of general circulation in the city or village. The secretary of the school board failing or neglecting to comply with this section shall be deemed guilty of a Class V misdemeanor and, in the discretion of the court, the judgment of conviction may provide for the removal from office of such secretary for such failure or neglect. For Class III school districts that are not members of a learning community, the county board shall levy and collect such taxes as are necessary to provide the amount of revenue from property taxes as indicated by all the data contained in the budget and the certificate prescribed by this section, at the time and in the manner provided in section 77-1601.

Source: Laws 1881, c. 78, subdivision XIV, § 23, p. 385; Laws 1885, c. 80, § 1, p. 329; Laws 1893, c. 31, § 2, p. 358; R.S.1913, § 6670; C.S.1922, § 6604; C.S.1929, § 79-2522; R.S.1943, § 79-2527; Laws 1947, c. 292, § 1, p. 904; Laws 1949, c. 256, § 243, p. 771; Laws 1959, c. 404, § 1, p. 1366; Laws 1972, LB 1070, § 2; Laws 1986, LB 960, § 42; Laws 1988, LB 1193, § 1; Laws 1993, LB 734, § 51; Laws 1995, LB 452, § 32; R.S.Supp.,1995, § 79-810; Laws 1996, LB 900, § 730; Laws 1997, LB 710, § 22; Laws 1998, Spec. Sess., LB 1, § 43; Laws 2006, LB 1024, § 98; Laws 2009, LB549, § 35.

Cross References

For legal rate for publications, see section 33-141.

79-1086 Class V school district; board of education; budget; how prepared; certification of levy; levy of taxes.

(1) The board of education of a Class V school district that is not a member of a learning community shall annually during the month of July estimate the amount of resources likely to be received for school purposes, including the amounts available from fines, licenses, and other sources. Before the county board of equalization makes its levy each year, the board of education shall report to the county clerk the rate of tax deemed necessary to be levied upon the taxable value of all the taxable property of the district subject to taxation during the fiscal year next ensuing for (a) the support of the schools, (b) the purchase of school sites, (c) the erection, alteration, equipping, and furnishing of school buildings and additions to school buildings, (d) the payment of interest upon all bonds issued for school purposes, and (e) the creation of a sinking fund for the payment of such indebtedness. The county board of equalization shall levy the rate of tax so reported and demanded by the board of education and collect the tax in the same manner as other taxes are levied and collected.

(2) The school board of a Class V school district that is a member of a learning community shall annually, on or before September 20, report in

writing to the county board and the learning community coordinating council the entire revenue raised by taxation and all other sources and received by the school board for the previous school fiscal year and a budget for the ensuing school fiscal year broken down generally as follows: (a) The amount of funds required for the support of the schools during the ensuing school fiscal year; (b) the amount of funds required for the purchase of school sites; (c) the amount of funds required for the erection of school buildings; (d) the amount of funds required for the payment of interest upon all bonds issued for school purposes; and (e) the amount of funds required for the creation of a sinking fund for the payment of such indebtedness. The secretary shall publish, within ten days after the filing of such budget, a copy of the fund summary pages of the budget one time at the legal rate prescribed for the publication of legal notices in a legal newspaper published in and of general circulation in such city or village or, if none is published in such city or village, in a legal newspaper of general circulation in the city or village. The secretary of the school board failing or neglecting to comply with this section shall be deemed guilty of a Class V misdemeanor and, in the discretion of the court, the judgment of conviction may provide for the removal from office of such secretary for such failure or neglect.

Source: Laws 1891, c. 45, § 21, p. 325; Laws 1899, c. 68, § 1, p. 299; R.S.1913, § 7027; C.S.1922, § 6658; C.S.1929, § 79-2721; Laws 1931, c. 146, § 1, p. 400; Laws 1937, c. 183, § 1, p. 722; C.S.Supp.,1941, § 79-2721; R.S.1943, § 79-2722; Laws 1945, c. 214, § 1, p. 628; Laws 1947, c. 298, § 1, p. 913; Laws 1949, c. 271, § 4, p. 889; Laws 1949, c. 256, § 264, p. 780; Laws 1955, c. 320, § 1, p. 989; Laws 1976, LB 757, § 2; Laws 1979, LB 187, § 240; Laws 1992, LB 1063, § 198; Laws 1992, Second Spec. Sess., LB 1, § 169; R.S.1943, (1994), § 79-1007; Laws 1996, LB 900, § 732; Laws 2006, LB 1024, § 99; Laws 2009, LB549, § 36.

(e) SITE AND FACILITIES ACQUISITION,
MAINTENANCE, AND DISPOSITION

79-10,110 Health and safety modifications, qualified zone academy, or American Recovery and Reinvestment Act of 2009 purpose; school board; powers and duties; hearing; tax levy authorized; issuance of bonds authorized.

(1) After making a determination that an actual or potential environmental hazard or accessibility barrier exists, that a life safety code violation exists, or that expenditures are needed for indoor air quality or mold abatement and prevention within the school buildings or grounds under its control, a school board may make and deliver to the county clerk of such county in which any part of the school district is situated, not later than the date provided in section 13-508, an itemized estimate of the amounts necessary to be expended for the abatement of such environmental hazard, for accessibility barrier elimination, or for modifications for life safety code violations, indoor air quality, or mold abatement and prevention in such school buildings or grounds. The board shall designate the particular environmental hazard abatement project, accessibility barrier elimination project, or modification for life safety code violations, indoor air quality, or mold abatement and prevention for which the tax levy provided for by this section will be expended, the period of years, which shall

not exceed ten years, for which the tax will be levied for such project, and the amount of the levy for each year of the period.

(2) After a public hearing, a school board may undertake any qualified capital purpose in any qualified zone academy under its control and may levy a tax as provided in this section to repay a qualified zone academy bond issued for such undertaking. The board shall designate: (a) The particular qualified capital purpose for which the qualified zone academy bond was issued and for which the tax levy provided for by this section will be expended; (b) the period of years for which the tax will be levied to repay such qualified zone academy bond, not exceeding the maximum term for such qualified zone academy bond established pursuant to federal law or, for any such bond issued prior to May 20, 2009, fifteen years; and (c) the amount of the levy for each year of the period. The hearing required by this subsection shall be held only after notice of such hearing has been published for three consecutive weeks prior to the hearing in a legal newspaper published or of general circulation in the school district.

(3) After a public hearing, a school board may undertake construction of a new public school facility or the acquisition of land on which such a facility is to be constructed or any expansion, rehabilitation, modernization, renovation, or repair of any existing school facilities under its control and may levy a tax to repay any American Recovery and Reinvestment Act of 2009 bond. The board shall designate: (a) The particular project or projects for which the bond will be issued and for which the tax levy provided by this section will be expended; (b) the period of years for which the tax will be levied to repay such bond, not exceeding the maximum term established pursuant to federal law for the type of bond as permitted by the federal American Recovery and Reinvestment Act of 2009 or, if no such term is established, thirty years; and (c) the amount of the levy for each year of such period. Prior to the public hearing, the school board shall prepare an itemized estimate of the amounts necessary to be expended for the project or projects. The hearing required by this subsection shall be held only after notice of such hearing has been published for three consecutive weeks prior to the hearing in a legal newspaper published or of general circulation in the school district. The bond to be issued under this subsection may consist of any type or form of bond permitted by the federal American Recovery and Reinvestment Act of 2009 except qualified zone academy bonds, the use of which is authorized pursuant to subsection (2) of this section.

(4) The board may designate more than one project under subsection (1) of this section, more than one qualified capital purpose under subsection (2) of this section, or more than one American Recovery and Reinvestment Act of 2009 purpose under subsection (3) of this section and levy a tax pursuant to this section for each such project, qualified capital purpose, or American Recovery and Reinvestment Act of 2009 purpose, concurrently or consecutively, as the case may be, if the aggregate levy in each year and the duration of each such levy will not exceed the limitations specified in this section. Each levy for a project, a qualified capital purpose, or an American Recovery and Reinvestment Act of 2009 purpose which is authorized by this section may be imposed for such duration as the board specifies, notwithstanding the contemporaneous existence or subsequent imposition of any other levy for another project, qualified capital purpose, or American Recovery and Reinvestment Act of 2009 purpose imposed pursuant to this section and notwithstanding the subsequent

issuance by the district of bonded indebtedness payable from its general fund levy.

(5) The county clerk shall levy such taxes, not to exceed five and one-fifth cents per one hundred dollars of taxable valuation for Class II, III, IV, V, and VI districts, and not to exceed the limits set for Class I districts in section 79-10,124, on the taxable property of the district necessary to (a) cover the environmental hazard abatement or accessibility barrier elimination project costs or costs for modification for life safety code violations, indoor air quality, or mold abatement and prevention itemized by the board pursuant to subsection (1) of this section and (b) repay any qualified zone academy bonds or American Recovery and Reinvestment Act of 2009 bonds pursuant to subsection (2) or (3) of this section. Such taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and when collected shall be paid to the treasurer of the district and used to cover the project costs.

(6) If such board operates grades nine through twelve as part of an affiliated school system, it shall designate the fraction of the project or undertaking to be conducted for the benefit of grades nine through twelve. Such fraction shall be raised by a levy placed upon all of the taxable value of all taxable property in the affiliated school system pursuant to subsection (2) of section 79-1075. The balance of the project or undertaking to be conducted for the benefit of grades kindergarten through eight shall be raised by a levy placed upon all of the taxable value of all taxable property in the district which is governed by such board. The combined rate for both levies in the high school district, to be determined by such board, shall not exceed five and one-fifth cents on each one hundred dollars of taxable value.

(7) Each board which submits an itemized estimate shall establish an environmental hazard abatement and accessibility barrier elimination project account, a life safety code modification project account, an indoor air quality project account, or a mold abatement and prevention project account, each board which undertakes a qualified capital purpose shall establish a qualified capital purpose undertaking account, within the qualified capital purpose undertaking fund, and each board which undertakes an American Recovery and Reinvestment Act of 2009 purpose shall establish an American Recovery and Reinvestment Act of 2009 purpose undertaking account. Taxes collected pursuant to this section shall be credited to the appropriate account to cover the project or undertaking costs. Such estimates may be presented to the county clerk and taxes levied accordingly.

(8) For purposes of this section:

(a) Abatement includes, but is not limited to, any inspection and testing regarding environmental hazards, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate environmental hazards, any removal or encapsulation of environmentally hazardous material or property, any restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate environmental hazards in the school buildings or on the school grounds under the board's control, except that abatement does not include the encapsulation of any material containing more than one percent friable asbestos;

(b) Accessibility barrier means anything which impedes entry into, exit from, or use of any building or facility by all people;

(c) Accessibility barrier elimination includes, but is not limited to, inspection for and removal of accessibility barriers, maintenance to reduce, lessen, put an end to, diminish, control, dispose of, or eliminate accessibility barriers, related restoration or replacement of facilities or property, any related architectural and engineering services, and any other action to eliminate accessibility barriers in the school buildings or grounds under the board's control;

(d) American Recovery and Reinvestment Act of 2009 bond means any type or form of bond permitted by the federal American Recovery and Reinvestment Act of 2009, as such act or bond may be amended and supplemented, including the Hiring Incentives to Restore Employment Act, as amended and supplemented, for use by schools, except qualified zone academy bonds;

(e) American Recovery and Reinvestment Act of 2009 purpose means any construction of a new public school facility or the acquisition of land on which such a facility is to be constructed or any expansion, rehabilitation, modernization, renovation, or repair of any existing school facilities financed in whole or in part with an American Recovery and Reinvestment Act of 2009 bond;

(f) Environmental hazard means any contamination of the air, water, or land surface or subsurface caused by any substance adversely affecting human health or safety if such substance has been declared hazardous by a federal or state statute, rule, or regulation;

(g) Modification for indoor air quality includes, but is not limited to, any inspection and testing regarding indoor air quality, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate indoor air quality problems, any restoration or replacement of material or related architectural and engineering services, and any other action to reduce or eliminate indoor air quality problems or to enhance air quality conditions in new or existing school buildings or on school grounds under the control of a school board;

(h) Modification for life safety code violation includes, but is not limited to, any inspection and testing regarding life safety codes, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate life safety hazards, any restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate life safety hazards in new or existing school buildings or on school grounds under the control of a school board;

(i) Modification for mold abatement and prevention includes, but is not limited to, any inspection and testing regarding mold abatement and prevention, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate mold problems, any restoration or replacement of material or related architectural and engineering services, and any other action to reduce or eliminate mold problems or to enhance air quality conditions in new or existing school buildings or on school grounds under the control of a school board;

(j) Qualified capital purpose means (i) rehabilitating or repairing the public school facility in which the qualified zone academy is established or (ii) providing equipment for use at such qualified zone academy;

(k) Qualified zone academy has the meaning found in (i) 26 U.S.C. 1397E(d)(4), as such section existed on October 3, 2008, for qualified zone academy bonds issued on or before such date, and (ii) 26 U.S.C. 54E(d)(1), as such section existed on October 4, 2008, for qualified zone academy bonds issued on or after such date;

(l) Qualified zone academy allocation means the allocation of the qualified zone academy bond limitation by the State Department of Education to the qualified zone academies pursuant to (i) 26 U.S.C. 1397E(e)(2), as such section existed on October 3, 2008, for allocations relating to qualified zone academy bonds issued on or before such date, and (ii) 26 U.S.C. 54E(c)(2), as such section existed on October 4, 2008, for allocations relating to qualified zone academy bonds issued on or after such date; and

(m) Qualified zone academy bond has the meaning found in (i) 26 U.S.C. 1397E(d)(1), as such section existed on October 3, 2008, for such bonds issued on or before such date, and (ii) 26 U.S.C. 54E(a), as such section existed on and after October 4, 2008, for such bonds issued on or after such date, as such section or bonds may be amended or supplemented.

(9) Accessibility barrier elimination project costs includes, but is not limited to, inspection, maintenance, accounting, emergency services, consultation, or any other action to reduce or eliminate accessibility barriers.

(10) For the purpose of paying amounts necessary for the abatement of environmental hazards, accessibility barrier elimination, or modifications for life safety code violations, indoor air quality, mold abatement and prevention, or for an American Recovery and Reinvestment Act of 2009 purpose, the board may borrow money, establish a sinking fund, and issue bonds and other evidences of indebtedness of the district, which bonds and other evidences of indebtedness shall be secured by and payable from an irrevocable pledge by the district of amounts received in respect of the tax levy provided for by this section and any other funds of the district available therefor. Bonds and other evidences of indebtedness issued by a district pursuant to this subsection shall not constitute a general obligation of the district or be payable from any portion of its general fund levy.

(11) The total principal amount of bonds for modifications to correct life safety code violations, for indoor air quality problems, for mold abatement and prevention, or for an American Recovery and Reinvestment Act of 2009 purpose which may be issued pursuant to this section shall not exceed the total amount specified in the itemized estimate described in subsections (1) and (3) of this section.

(12) The total principal amount of qualified zone academy bonds which may be issued pursuant to this section for qualified capital purposes with respect to a qualified zone academy shall not exceed the qualified zone academy allocation granted to the board by the department. The total amount that may be financed by qualified zone academy bonds pursuant to this section for qualified purposes with respect to a qualified zone academy shall not exceed seven and one-half million dollars statewide in a single year. In any year that the Nebraska qualified zone academy allocations exceed seven and one-half million dollars for qualified capital purposes to be financed with qualified zone academy bonds issued pursuant to this section, (a) the department shall reduce such allocations proportionally such that the statewide total for such allocations equals seven and one-half million dollars and (b) the difference between the

Nebraska allocation and seven and one-half million dollars shall be available to qualified zone academies for requests that will be financed with qualified zone academy bonds issued without the benefit of this section.

Nothing in this section directs the State Department of Education to give any preference to allocation requests that will be financed with qualified zone academy bonds issued pursuant to this section.

(13) The State Department of Education shall establish procedures for allocating bond authority to school boards as may be necessary pursuant to an American Recovery and Reinvestment Act of 2009 bond.

Source: Laws 1983, LB 624, § 2; Laws 1985, LB 405, § 1; Laws 1987, LB 212, § 1; Laws 1988, LB 1073, § 19; Laws 1989, LB 487, § 8; Laws 1989, LB 706, § 9; Laws 1992, LB 1001, § 19; Laws 1993, LB 348, § 22; Laws 1994, LB 1310, § 6; R.S.1943, (1994), § 79-4,207; Laws 1996, LB 900, § 756; Laws 1996, LB 1044, § 817; Laws 1997, LB 710, § 24; Laws 1999, LB 813, § 34; Laws 2001, LB 240, § 1; Laws 2001, LB 797, § 42; Laws 2002, LB 568, § 10; Laws 2003, LB 67, § 23; Laws 2003, LB 540, § 10; Laws 2009, LB545, § 24; Laws 2009, LB549, § 37; Laws 2010, LB1071, § 25.

Operative date July 15, 2010.

ARTICLE 11

SPECIAL POPULATIONS AND SERVICES

(a) EARLY CHILDHOOD EDUCATION

Section

- 79-1102.01. Early childhood education program; enrollment of kindergarten age children authorized.
- 79-1103. Early Childhood Education Grant Program; established; administration; priorities; programs; requirements; report; endowment agreement; effect.
- 79-1104.01. Nebraska Early Childhood Education Endowment; endowment provider; requirements; endowment agreement; Early Childhood Education Endowment Fund; Early Childhood Education Endowment Cash Fund; created; investment.
- 79-1104.05. Early Childhood Education Endowment Fund; funding.

(c) SPECIAL EDUCATION

SUBPART (i)—SPECIAL EDUCATION ACT

- 79-1110. Act, how cited.
- 79-1113. Definitions, where found.
- 79-1119.01. Interim-program school, defined.
- 79-1124. Service agency, defined.
- 79-1125.01. Support services, defined.
- 79-1127. Special education; board; duties.
- 79-1142. State Department of Education; reimbursement for special education programs and support services; to whom; manner; limitations.
- 79-1148. Children with disabilities; regional networks, schools, or centers; authorized.
- 79-1149. Regional network, school, or center; admission; rules and regulations.
- 79-1150. Regional network, school, or center; remittance of money.
- 79-1161. Child with a disability; school district; protect rights of child; assignment of surrogate parent.
- 79-1168. Repealed. Laws 2009, LB 549, § 53.
- 79-1169. Repealed. Laws 2009, LB 549, § 53.
- 79-1170. Repealed. Laws 2009, LB 549, § 53.

§ 79-1102.01**SCHOOLS**

Section

- 79-1171. Repealed. Laws 2009, LB 549, § 53.
- 79-1172. Repealed. Laws 2009, LB 549, § 53.
- 79-1173. Repealed. Laws 2009, LB 549, § 53.
- 79-1174. Repealed. Laws 2009, LB 549, § 53.
- 79-1175. Repealed. Laws 2009, LB 549, § 53.
- 79-1176. Repealed. Laws 2009, LB 549, § 53.
- 79-1177. Repealed. Laws 2009, LB 549, § 53.
- 79-1178. Repealed. Laws 2009, LB 549, § 53.

(i) SEAMLESS DELIVERY SYSTEM PILOT PROJECT

- 79-11,136. Repealed. Laws 2009, LB 549, § 53.
- 79-11,137. Repealed. Laws 2009, LB 549, § 53.
- 79-11,138. Repealed. Laws 2009, LB 549, § 53.
- 79-11,139. Repealed. Laws 2009, LB 549, § 53.
- 79-11,140. Repealed. Laws 2009, LB 549, § 53.
- 79-11,141. Repealed. Laws 2009, LB 549, § 53.

(l) SPECIAL EDUCATION SERVICES TASK FORCE

- 79-11,151. Repealed. Laws 2009, LB 154, § 27.
- 79-11,152. Repealed. Laws 2009, LB 154, § 27.
- 79-11,153. Repealed. Laws 2009, LB 154, § 27.
- 79-11,154. Repealed. Laws 2009, LB 154, § 27.

(a) EARLY CHILDHOOD EDUCATION**79-1102.01 Early childhood education program; enrollment of kindergarten age children authorized.**

For school years 2008-09 and 2009-10, any early childhood education program as defined in section 79-1101 established by a school board or an educational service unit that is not receiving a grant pursuant to section 79-1103 or funding through the Tax Equity and Educational Opportunities Support Act may enroll children who meet the age requirements to be enrolled in kindergarten pursuant to section 79-214, but who are not then enrolled in kindergarten and who are not of mandatory attendance age pursuant to section 79-201.

Source: Laws 2008, LB1153, § 2; Laws 2009, LB549, § 38.

Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

79-1103 Early Childhood Education Grant Program; established; administration; priorities; programs; requirements; report; endowment agreement; effect.

(1)(a) The State Department of Education shall establish and administer the Early Childhood Education Grant Program. Upon the effective date of an endowment agreement, administration of the Early Childhood Education Grant Program with respect to programs for children from birth to age three shall transfer to the board of trustees. If there is no endowment agreement in effect, the department shall request proposals in accordance with this section for all early childhood education programs from school districts, individually or in cooperation with other school districts or educational service units, working in cooperation with existing nonpublic programs which meet the requirements of subsection (2) of section 79-1104. If there is an endowment agreement in effect, the board of trustees shall administer the Early Childhood Education Grant Program with respect to programs for children from birth to age three pursuant to section 79-1104.02 and the department shall continue to administer the

Early Childhood Education Grant Program with respect to other prekindergarten programs pursuant to sections 79-1101 to 79-1104.05. All administrative procedures of the board of trustees, including, but not limited to, rules, grant applications, and funding mechanisms, shall harmonize with those established by the department for other prekindergarten programs.

(b) The first priority shall be for (i) continuation grants for programs that received grants in the prior school fiscal year and for which the state aid calculation pursuant to the Tax Equity and Educational Opportunities Support Act does not include early childhood education students, in an amount equal to the amount of such grant, except that if the grant was a first-year grant the amount shall be reduced by thirty-three percent, (ii) continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, in an amount equal to the amount of the grant for the school fiscal year prior to the first school fiscal year for which early childhood education students were included in the state aid calculation for the school district's local system minus the calculated state aid amount, and (iii) for school fiscal year 2007-08, continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, but such state aid calculation does not result in the school district receiving any equalization aid, in an amount equal to the amount of the grant received in school fiscal year 2006-07. The calculated state aid amount shall be calculated by multiplying the basic funding per formula student for the school district by the formula students attributed to the early childhood education programs pursuant to the Tax Equity and Educational Opportunities Support Act.

(c) The second priority shall be for new grants and expansion grants for programs that will serve at-risk children who will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half of the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half of the budget for expanding the capacity of the program to serve additional children.

(d) The third priority shall be for new grants, expansion grants, and continuation grants for programs serving children younger than those who will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half the budget for expanding the capacity of the program to serve additional children. Continuation grants under this priority may be given annually in an amount up to one-half the total budget of the program per year minus any continuation grants received under the first priority.

(e) Programs serving children who will be eligible to attend kindergarten the following school year shall be accounted for separately for grant purposes from programs serving younger children, but the two types of programs may be combined within the same classroom to serve multi-age children. Programs that receive grants for school fiscal years prior to school fiscal year 2005-06 to serve both children who will be eligible to attend kindergarten the following school year and younger children shall account for the two types of programs separately for grant purposes beginning with school year 2005-06 and shall be deemed to have received grants prior to school fiscal year 2005-06 for each year that grants were received for the types of programs representing the age groups of the children served.

(2) Each program proposal which is approved by the department shall include (a) a planning period, (b) an agreement to participate in periodic evaluations of the program to be specified by the department, (c) evidence that the program will be coordinated or contracted with existing programs, including those listed in subdivision (d) of this subsection and nonpublic programs which meet the requirements of subsection (2) of section 79-1104, (d) a plan to coordinate and use a combination of local, state, and federal funding sources, including, but not limited to, programs for children with disabilities below five years of age funded through the Special Education Act, the Early Intervention Act, funds available through the flexible funding provisions under the Special Education Act, the federal Head Start program, 42 U.S.C. 9831 et seq., the federal Even Start Family Literacy Program, 20 U.S.C. 6361 et seq., Title I of the federal Improving America's Schools Act of 1994, 20 U.S.C. 6301 et seq., and child care assistance through the Department of Health and Human Services, (e) a plan to use sliding fee scales and the funding sources included in subdivision (d) of this subsection to maximize the participation of economically and categorically diverse groups and to ensure that participating children and families have access to comprehensive services, (f) the establishment of an advisory body which includes families and community members, (g) the utilization of appropriately qualified staff, (h) an appropriate child-to-staff ratio, (i) appropriate group size, (j) compliance with minimum health and safety standards, (k) appropriate facility size and equipment, (l) a strong family development and support component recognizing the central role of parents in their children's development, (m) developmentally and culturally appropriate curriculum, practices, and assessment, (n) sensitivity to the economic and logistical needs and circumstances of families in the provision of services, (o) integration of children of diverse social and economic characteristics, (p) a sound evaluation component, including at least one objective measure of child performance and progress, (q) continuity with programs in kindergarten and elementary grades, (r) instructional hours that are similar to or less than the instructional hours for kindergarten, (s) well-defined language development and early literacy emphasis, including the involvement of parents in family literacy activities, (t) a plan for ongoing professional development of staff, and (u) inclusion of children with disabilities as defined in the Special Education Act, all as specified by rules and regulations of the department in accordance with sound early childhood educational practice.

(3) The department shall make an effort to fund programs widely distributed across the state in both rural and urban areas.

(4) A report evaluating the programs shall be made to the State Board of Education and the Legislature by January 1 of each odd-numbered year. Up to five percent of the total appropriation for the Early Childhood Education Grant Program may be reserved by the department for evaluation and technical assistance for the programs.

(5) Early childhood education programs, whether established pursuant to this section or section 79-1104, may be approved for purposes of the Tax Equity and Educational Opportunities Support Act, expansion grants, and continuation grants on the submission of a continuation plan demonstrating that the program will meet the requirements of subsection (2) of this section and a proposed operating budget demonstrating that the program will receive resources from other sources equal to or greater than the sum of any grant received pursuant to this section for the prior school year plus any calculated

state aid as calculated pursuant to subsection (1) of this section for the prior school year.

(6) The State Board of Education may adopt and promulgate rules and regulations to implement the Early Childhood Education Grant Program, except that if there is an endowment agreement in effect, the board of trustees shall recommend any rules and regulations relating specifically to the Early Childhood Education Grant Program with respect to programs for children from birth to age three. It is the intent of the Legislature that the rules and regulations for programs for children from birth to age three be consistent to the greatest extent possible with those established for other prekindergarten programs.

Source: Laws 1990, LB 567, § 3; Laws 1991, LB 511, § 70; Laws 1992, LB 245, § 75; Laws 1993, LB 348, § 70; R.S.1943, (1994), § 79-3703; Laws 1996, LB 900, § 785; Laws 1997, LB 346, § 8; Laws 2001, LB 759, § 2; Laws 2005, LB 577, § 5; Laws 2006, LB 1256, § 2; Laws 2007, LB603, § 7; Laws 2008, LB1153, § 3; Laws 2010, LB1071, § 26.

Operative date July 15, 2010.

Cross References

Early Intervention Act, see section 43-2501.

Special Education Act, see section 79-1110.

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

79-1104.01 Nebraska Early Childhood Education Endowment; endowment provider; requirements; endowment agreement; Early Childhood Education Endowment Fund; Early Childhood Education Endowment Cash Fund; created; investment.

(1) Within ninety days after July 14, 2006, the State Department of Education shall request proposals from private endowments with experience in managing public and private funds for the benefit of children and families in multiple locations in Nebraska to be the endowment provider for the Nebraska Early Childhood Education Endowment upon the terms set forth in this section.

(2) An endowment seeking to become the endowment provider for the Nebraska Early Childhood Education Endowment shall agree to:

(a) Irrevocably commit, subject to subdivision (4)(a) of this section, no less than twenty million dollars in a private endowment to be used solely as part of the Nebraska Early Childhood Education Endowment within five years after the effective date of the endowment agreement, of which no less than five million dollars shall be pledged on the effective date of the endowment agreement. A minimum of one million dollars shall be placed in the private endowment prior to December 31, 2006, and a minimum of five million dollars shall be placed in the private endowment prior to June 30, 2007;

(b) Commit all earnings deposited from such private endowment for deposit into the Early Childhood Education Endowment Cash Fund;

(c) Permit the board of trustees to determine the allocation of funds from the Early Childhood Education Endowment Cash Fund pursuant to section 79-1104.02; and

(d) Submit to the State Department of Education an annual financial statement of the private endowment, audited by an independent auditor and complying with all applicable Internal Revenue Service requirements. The

financial statement shall report details on the private endowment, including the current value of the corpus and the annual receipts to the private endowment categorized by donations and interests, together with a report listing the amount and purpose of expenditures from the private endowment.

(3) Upon selection of an endowment provider, the State Department of Education and such endowment provider shall enter into an endowment agreement pursuant to which the state and the endowment provider will agree to deposit funds as provided in subsection (4) of this section.

(4)(a) Upon the effective date of an endowment agreement, the state shall provide for the Early Childhood Education Endowment Fund, which is hereby created, in accordance with section 79-1104.05. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(b) All interest, earnings, and proceeds from the Early Childhood Education Endowment Fund shall be deposited in the Early Childhood Education Endowment Cash 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. All interest, earnings, and proceeds from the Early Childhood Education Endowment Cash Fund shall be retained in such fund.

(c) Upon the effective date of an endowment agreement, the endowment provider shall deposit the amounts set forth in the endowment agreement into a private endowment for the sole benefit of the Early Childhood Education Endowment Fund. Money in the private endowment shall be managed by the endowment provider in accordance with sound, professional, fiduciary practices and in accordance with the endowment agreement.

(d) Earnings deposited from the private endowment shall be deposited into the Early Childhood Education Endowment Cash Fund at least annually or as the endowment agreement provides.

Source: Laws 2006, LB 1256, § 4; Laws 2008, LB1153, § 4; Laws 2009, LB456, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

79-1104.05 Early Childhood Education Endowment Fund; funding.

The Early Childhood Education Endowment Fund shall consist of any funds allocated to the Early Childhood Education Endowment Fund from funds belonging to the state for educational purposes described in Article VII, section 7, of the Constitution of Nebraska.

Source: Laws 2006, LB 1256, § 8; Laws 2009, LB456, § 2.

(c) SPECIAL EDUCATION

SUBPART (i)—SPECIAL EDUCATION ACT

79-1110 Act, how cited.

Sections 79-1110 to 79-1167 shall be known and may be cited as the Special Education Act.

Source: Laws 1987, LB 367, § 1; Laws 1989, LB 487, § 14; Laws 1993, LB 520, § 22; Laws 1995, LB 742, § 4; R.S.Supp.,1995, § 79-3301; Laws 1996, LB 900, § 792; Laws 1997, LB 346, § 9; Laws 1997, LB 865, § 3; Laws 1998, Spec. Sess., LB 1, § 46; Laws 1999, LB 813, § 36; Laws 2000, LB 1135, § 23; Laws 2009, LB549, § 39; Laws 2010, LB1087, § 2.
Operative date August 1, 2010.

79-1113 Definitions, where found.

For purposes of the Special Education Act, unless the context otherwise requires, the definitions found in sections 79-1114 to 79-1125.01 shall be used.

Source: Laws 1987, LB 367, § 3; Laws 1993, LB 520, § 23; R.S.1943, (1994), § 79-3303; Laws 1996, LB 900, § 795; Laws 1997, LB 865, § 4; Laws 1999, LB 813, § 37; Laws 2010, LB1087, § 3.
Operative date August 1, 2010.

79-1119.01 Interim-program school, defined.

Interim-program school means a school approved by the State Board of Education and located in or operated by (1) a county detention home established under section 43-2,110, (2) a juvenile emergency shelter, or (3) any institution which is a public or private facility, not owned or operated by a school district, which provides a residential program and regular educational or special education services with a special education rate approved by the State Department of Education.

Source: Laws 2010, LB1087, § 4.
Operative date August 1, 2010.

79-1124 Service agency, defined.

Service agency means the school district, educational service unit, local or regional office of mental retardation, interim-program school, or some combination thereof or such other agency as may provide a special education program approved by the State Department of Education, including an institution not wholly owned or controlled by the state or any political subdivision to the extent that it provides educational or other services for the benefit of children from the age of five to the age of twenty-one years with disabilities if such services are nonsectarian in nature.

Source: Laws 1987, LB 367, § 14; R.S.1943, (1994), § 79-3313; Laws 1996, LB 900, § 806; Laws 1997, LB 346, § 14; Laws 2010, LB1087, § 5.
Operative date August 1, 2010.

79-1125.01 Support services, defined.

Support services means preventive services for those children from birth to age twenty-one years and, if the child's twenty-first birthday occurs during the school year, until the end of that school year, not identified or verified as children with disabilities pursuant to sections 79-1118.01, 79-1138, and 79-1139 but demonstrating a need for specially designed assistance in order to

benefit from the school district's general education curriculum and to avoid the need for potentially expensive special education placement and services. Support services include the educational services provided to a child pursuant to subdivision (10)(c) of section 79-215 by an interim-program school or an approved or accredited school maintained by a residential setting if such child has not been identified or verified as a child with a disability pursuant to sections 79-1118.01 and 79-1138 but demonstrates a need for specially designed assistance by residing in a residential setting described in subdivision (10)(a) of section 79-215.

Source: Laws 1995, LB 742, § 3; R.S.Supp.,1995, § 79-348; Laws 1996, LB 900, § 867; Laws 1997, LB 346, § 49; Laws 1998, Spec. Sess., LB 1, § 49; R.S.Supp.,1998, § 79-1185; Laws 1999, LB 813, § 51; Laws 2000, LB 1243, § 6; Laws 2010, LB1087, § 6.
Operative date August 1, 2010.

79-1127 Special education; board; duties.

The board of education of every school district shall provide or contract for special education programs and transportation for all resident children with disabilities who would benefit from such programs in accordance with the Special Education Act and all applicable requirements of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1401 et seq., as such sections existed on January 1, 2009, and the regulations adopted thereunder.

Source: Laws 1973, LB 403, § 1; Laws 1986, LB 1093, § 2; R.S.Supp.,1986, § 43-641; Laws 1987, LB 367, § 20; R.S.1943, (1994), § 79-3320; Laws 1996, LB 900, § 809; Laws 1997, LB 346, § 17; Laws 2009, LB549, § 40.

Cross References

Option students, how treated, see section 79-235.

79-1142 State Department of Education; reimbursement for special education programs and support services; to whom; manner; limitations.

(1) Level I services refers to services provided to children with disabilities who require an aggregate of not more than three hours per week of special education services and support services and includes all administrative, diagnostic, consultative, and vocational-adjustment counselor services.

(2) The total allowable reimbursable cost for support services shall not exceed a percentage, established by the State Board of Education, of the school district's or approved cooperative's total allowable reimbursable cost for all special education programs and support services. The percentage established by the State Board of Education for support services shall not exceed the difference of ten percent minus the percentage of the appropriations for special education approved by the Legislature set aside for reimbursements for support services pursuant to subsection (5) of this section.

(3) For special education and support services provided in each school fiscal year, the State Department of Education shall reimburse each school district in the following school fiscal year a pro rata amount determined by the department. The reimbursement percentage shall be the ratio of the difference of the appropriations for special education approved by the Legislature minus the

amounts set aside pursuant to subsection (5) of this section divided by the total allowable excess costs for all special education programs and support services.

(4) Cooperatives of school districts or educational service units shall also be eligible for reimbursement for cooperative programs pursuant to this section if such cooperatives or educational service units have complied with the reporting and approval requirements of section 79-1155 for cooperative programs which were offered the preceding year. The payments shall be made by the department to the school district of residence, cooperative of school districts, or educational service unit each year in a minimum of seven payments between the fifth and twentieth day of each month beginning in December. Additional payments may be made based upon additional valid claims submitted. The State Treasurer shall, between the fifth and twentieth day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The director shall, upon receiving such certification, draw warrants against funds appropriated.

(5) On and after August 1, 2010, residential settings described in subdivision (10)(c) of section 79-215 shall be reimbursed for the educational services, including special education services and support services, provided pursuant to such subdivision on or after August 1, 2010, in an amount determined pursuant to the average per pupil cost of the service agency. Reimbursements pursuant to this section shall be made from funds set aside for such purpose within sixty days after receipt of a reimbursement request submitted in the manner required by the department and including any documentation required by the department for educational services that have been provided, except that if there are not any funds available for the remainder of the state fiscal year for such reimbursements, the reimbursement shall occur within thirty days after the beginning of the immediately following state fiscal year. The department may audit any required documentation and subtract any payments made in error from future reimbursements. The State Board of Education shall set aside separate amounts from the appropriations for special education approved by the Legislature for reimbursements pursuant to this subsection for students receiving special education services and for students receiving support services for each state fiscal year. The amounts set aside for each purpose shall be based on estimates of the reimbursements to be requested during the state fiscal year and shall not be less than the total amount of reimbursements requested in the prior state fiscal year plus any unpaid requests from the prior state fiscal year.

Source: Laws 1973, LB 403, § 8; Laws 1975, LB 555, § 4; Laws 1975, Spec. Sess., LB 3, § 1; Laws 1976, LB 903, § 1; Laws 1986, LB 929, § 1; Laws 1986, LB 942, § 10; Laws 1986, Fourth Spec. Sess., LB 2, § 2; R.S.Supp., 1986, § 43-648; Laws 1987, LB 367, § 32; Laws 1987, LB 413, § 1; Laws 1995, LB 742, § 6; R.S.Supp., 1995, § 79-3332; Laws 1996, LB 900, § 824; Laws 1997, LB 346, § 30; Laws 1997, LB 865, § 8; Laws 1998, Spec. Sess., LB 1, § 48; Laws 1999, LB 813, § 43; Laws 2000, LB 1243, § 7; Laws 2001, LB 797, § 45; Laws 2010, LB1087, § 7.
Operative date August 1, 2010.

Cross References

Option enrollment program, determination of reimbursement, see section 79-246.

79-1148 Children with disabilities; regional networks, schools, or centers; authorized.

The State Department of Education is authorized to set up one or more statewide regional networks, approved schools, or centers for children with disabilities. Any such regional network, school, or center may offer residential facilities or services for such children, and such services shall be under the control and supervision of the State Department of Education.

Source: Laws 1957, c. 388, § 1, p. 1347; R.R.S.1943, § 83-246; Laws 1961, c. 209, § 1, p. 624; Laws 1972, LB 690, § 9; Laws 1978, LB 871, § 28; R.S.1943, (1984), § 43-617; Laws 1987, LB 367, § 37; R.S.1943, (1994), § 79-3337; Laws 1996, LB 900, § 830; Laws 1997, LB 346, § 34; Laws 1999, LB 813, § 46; Laws 2009, LB549, § 41.

79-1149 Regional network, school, or center; admission; rules and regulations.

The admission to any regional network, school, or center, as provided by section 79-1148, shall be by rules and regulations to be adopted, promulgated, and administered by the State Department of Education.

Source: Laws 1957, c. 388, § 2, p. 1347; R.R.S.1943, § 83-247; Laws 1961, c. 209, § 2, p. 624; R.S.1943, (1984), § 43-618; Laws 1987, LB 367, § 38; R.S.1943, (1994), § 79-3338; Laws 1996, LB 900, § 831; Laws 2009, LB549, § 42.

79-1150 Regional network, school, or center; remittance of money.

All money derived from any source other than General Fund appropriations by any regional network, school, or center as provided in sections 79-1148 and 79-1149 shall be remitted to the State Treasurer for credit to the State Department of Education Cash Fund, and such money shall be made available to any such regional network, school, or center for purposes of education, training, or maintenance of students.

Source: Laws 1965, c. 382, § 2, p. 1234; Laws 1972, LB 1000, § 3; Laws 1978, LB 871, § 29; R.S.1943, (1984), § 43-619; Laws 1987, LB 367, § 39; R.S.1943, (1994), § 79-3339; Laws 1996, LB 900, § 832; Laws 2009, LB549, § 43.

79-1161 Child with a disability; school district; protect rights of child; assignment of surrogate parent.

(1) School districts shall establish and maintain procedures to protect the rights of a child with a disability whenever (a) no parents of the child can be identified, (b) the school district cannot, after reasonable efforts, locate a parent of the child, (c) the child is a ward of the state, or (d) the child is an unaccompanied homeless youth as defined in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(6), as such section existed on January 1, 2009. Such procedures shall include the assignment of an individual to act as a surrogate for the parents. The school district shall make reasonable efforts to ensure the assignment of a surrogate not more than thirty days after there is a determination by the district that the child needs a surrogate. In the case of a child who is a ward of the state, such surrogate may alternatively be appointed

by the judge overseeing the child's care if the surrogate meets the requirements of subdivision (2)(c) of this section.

(2) The surrogate parent shall (a) have no interest which conflicts with the interest of the child, (b) have knowledge and skills that insure adequate representation, and (c) not be an employee of any agency involved in the care or education of the child. A person otherwise qualified to be a surrogate parent under this subsection is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent. The surrogate parent appointed under this section may represent the child in all matters relating to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child.

(3) The services of the surrogate parent shall be terminated when (a) the child is no longer eligible under subsection (1) of this section, (b) a conflict of interest develops between the interest of the child and the interest of the surrogate parent, or (c) the surrogate parent fails to fulfill his or her duties as a surrogate parent. Issues arising from the selection, appointment, or removal of a surrogate parent by a school district shall be resolved through hearings established under sections 79-1162 to 79-1167. The surrogate parent and the school district which appointed the surrogate parent shall not be liable in civil actions for damages for acts of the surrogate parent unless such acts constitute willful and wanton misconduct.

Source: Laws 1988, LB 165, § 1; R.S.1943, (1994), § 79-4,147; Laws 1996, LB 900, § 843; Laws 1997, LB 346, § 42; Laws 2009, LB549, § 44.

79-1168 Repealed. Laws 2009, LB 549, § 53.

79-1169 Repealed. Laws 2009, LB 549, § 53.

79-1170 Repealed. Laws 2009, LB 549, § 53.

79-1171 Repealed. Laws 2009, LB 549, § 53.

79-1172 Repealed. Laws 2009, LB 549, § 53.

79-1173 Repealed. Laws 2009, LB 549, § 53.

79-1174 Repealed. Laws 2009, LB 549, § 53.

79-1175 Repealed. Laws 2009, LB 549, § 53.

79-1176 Repealed. Laws 2009, LB 549, § 53.

79-1177 Repealed. Laws 2009, LB 549, § 53.

79-1178 Repealed. Laws 2009, LB 549, § 53.

(i) SEAMLESS DELIVERY SYSTEM PILOT PROJECT

79-11,136 Repealed. Laws 2009, LB 549, § 53.

79-11,137 Repealed. Laws 2009, LB 549, § 53.

79-11,138 Repealed. Laws 2009, LB 549, § 53.

79-11,139 Repealed. Laws 2009, LB 549, § 53.

79-11,140 Repealed. Laws 2009, LB 549, § 53.

79-11,141 Repealed. Laws 2009, LB 549, § 53.

(l) SPECIAL EDUCATION SERVICES TASK FORCE

79-11,151 Repealed. Laws 2009, LB 154, § 27.

79-11,152 Repealed. Laws 2009, LB 154, § 27.

79-11,153 Repealed. Laws 2009, LB 154, § 27.

79-11,154 Repealed. Laws 2009, LB 154, § 27.

ARTICLE 12

EDUCATIONAL SERVICE UNITS ACT

Section

79-1204.	Role and mission.
79-1212.	Reorganized units; board members.
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79-1218.	Board; meetings; organization; duties.
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79-1241.01.	Core services; appropriation; legislative intent.
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79-1245.	Educational Service Unit Coordinating Council; created; composition; funding; powers.
79-1247.	Educational Service Unit Coordinating Council; appoint distance education director; council director authorized; salaries; expenses; duties; contract authorized; other appointments authorized.
79-1248.	Educational Service Unit Coordinating Council; powers and duties.
79-1249.	Educational Service Unit Coordinating Council; assistance provided.

79-1204 Role and mission.

(1) The role and mission of the educational service units is to serve as educational service providers in the state's system of elementary and secondary education.

(2) Educational service units shall:

(a) Act primarily as service agencies in providing core services and services identified and requested by member school districts;

(b) Provide for economy, efficiency, and cost-effectiveness in the cooperative delivery of educational services;

(c) Provide educational services through leadership, research, and development in elementary and secondary education;

(d) Act in a cooperative and supportive role with the State Department of Education and school districts in development and implementation of long-

range plans, strategies, and goals for the enhancement of educational opportunities in elementary and secondary education; and

(e) Serve, when appropriate and as funds become available, as a repository, clearinghouse, and administrator of federal, state, and private funds on behalf of school districts which choose to participate in special programs, projects, or grants in order to enhance the quality of education in Nebraska schools.

(3) Core services shall be provided by educational service units to all member school districts. Core services shall be defined by each educational service unit as follows:

(a) Core services shall be within the following service areas in order of priority: (i) Staff development which shall include access to staff development related to improving the achievement of students in poverty and students with diverse backgrounds; (ii) technology, including distance education services; and (iii) instructional materials services;

(b) Core services shall improve teaching and student learning by focusing on enhancing school improvement efforts, meeting statewide requirements, and achieving statewide goals in the state's system of elementary and secondary education;

(c) Core services shall provide schools with access to services that:

(i) The educational service unit and its member school districts have identified as necessary services;

(ii) Are difficult, if not impossible, for most individual school districts to effectively and efficiently provide with their own personnel and financial resources;

(iii) Can be efficiently provided by each educational service unit to its member school districts; and

(iv) Can be adequately funded to ensure that the service is provided equitably to the state's public school districts;

(d) Core services shall be designed so that the effectiveness and efficiency of the service can be evaluated on a statewide basis; and

(e) Core services shall be provided by the educational service unit in a manner that minimizes the costs of administration or service delivery to member school districts.

(4) Educational service units shall meet minimum accreditation standards set by the State Board of Education that will:

(a) Provide for accountability to taxpayers;

(b) Assure that educational service units are assisting and cooperating with school districts to provide for equitable and adequate educational opportunities statewide; and

(c) Assure a level of quality in educational programs and services provided to school districts by the educational service units.

(5) Educational service units may contract to provide services to:

(a) Nonmember public school districts;

(b) Nonpublic school systems;

(c) Other educational service units; and

(d) Other political subdivisions, under the Interlocal Cooperation Act and the Joint Public Agency Act.

(6) Educational service units shall not regulate school districts unless specifically provided pursuant to another section of law.

Source: Laws 1987, LB 688, § 1; R.S.1943, (1994), § 79-2201.02; Laws 1996, LB 900, § 921; Laws 1997, LB 806, § 57; Laws 1999, LB 87, § 89; Laws 2006, LB 1208, § 8; Laws 2007, LB641, § 34; Laws 2009, LB549, § 45.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

79-1212 Reorganized units; board members.

Members of boards of educational service units existing prior to approval of any plan of reorganization shall serve as board members of educational service units which are reorganized pursuant to sections 79-1206 to 79-1211 until the expiration of their original terms. Such persons shall be members of the board of the reorganized educational service unit in which they reside. Within thirty days after approval of any plan of reorganization by the State Board of Education, the president of the board of each educational service unit being reorganized shall call a meeting of board members of such educational service unit. At such meeting, members of each such board shall appoint one member from each election district to be created pursuant to the plan of reorganization not having representation on such board to serve until the next general election. The board shall take all necessary action to prepare for operation of the reorganized educational service unit following approval of any plan of reorganization by the State Board of Education. Expenses incurred by such board prior to such times shall be prorated between the counties comprising the educational service unit on the basis of the assessed valuation of such counties.

Source: Laws 1969, c. 746, § 3, p. 2810; Laws 1987, LB 688, § 18; R.S.1943, (1994), § 79-2203.02; Laws 1996, LB 900, § 929; Laws 1998, Spec. Sess., LB 1, § 51; Laws 2007, LB603, § 13; Laws 2009, LB549, § 46.

79-1217 Governing board; name; members; election; qualification; vacancy; expenses; membership.

(1) All educational service units shall be governed by a board to be known as the Board of Educational Service Unit No. Until the first Thursday after the first Tuesday in January 2009, the educational service unit board, except the board of an educational service unit with only one member school district, shall be composed of one member from each county and four members at large, all of whom shall reside within the geographical boundaries of the educational service unit, but no more than two of the members at large shall be appointed or elected from the same county unless any one county within the educational service unit has a population in excess of one hundred fifty thousand inhabitants or the educational service unit consists of only one county. Beginning on the first Thursday after the first Tuesday in January 2009, the educational service unit board, except the board of an educational service unit with only one member school district, shall be composed of one member elected to represent each election district established pursuant to section 79-1217.01.

Successors to the members initially appointed pursuant to section 79-1212 shall be elected pursuant to section 32-515.

(2) Vacancies in office shall occur as set forth in section 32-560, except as otherwise provided in section 79-1212 regarding the requirement to live in the district represented, or in the case of absences, unless excused by a majority of the remaining members of the board, when a member is absent from the geographical boundaries of the educational service unit for a continuous period of sixty days at one time or from more than two consecutive regular meetings of the board. Whenever any vacancy occurs on the board, the remaining members of such board shall appoint an individual residing within the election district of the educational service unit for which the vacancy exists and meeting the qualifications for the office to fill such vacancy for the balance of the unexpired term.

(3) Members of the board shall receive no compensation for their services but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties under the Educational Service Units Act as provided in sections 81-1174 to 81-1177.

(4) Except as provided in subsection (5) of this section, any joint school district located in two or more counties shall be considered a part of the educational service unit in which the greater number of school-age children of such joint school district reside.

(5) Any Class I district which is part of a Class VI district shall be considered a part of the educational service unit of which the Class VI district is a member. If the Class VI district has removed itself from an educational service unit, each Class I district which is part of such Class VI district may continue its existing membership in an educational service unit or may change its status relative to membership in an educational service unit in accordance with section 79-1209. The patrons of a Class I district maintaining membership in an educational service unit pursuant to this subsection shall have the same rights and privileges as other patrons of the educational service unit, and the taxable valuation of the taxable property within the geographic boundaries of such Class I district shall be subject to the educational service unit's tax levy established pursuant to section 79-1225.

(6) The administrator of each educational service unit, prior to July 1 of each year in which a statewide primary election is to be held, shall certify to the election commissioner or county clerk of each county located within the unit the corporate name of each school district, as described in section 79-405, located within the county. If a school district is a joint school district located in two or more counties, the administrator shall certify to each election commissioner or county clerk the educational service unit of which the school district is considered to be a part.

(7) Educational service units with only one member school district shall be governed by the school board of such school district.

Source: Laws 1965, c. 504, § 3, p. 1608; Laws 1967, c. 560, § 1, p. 1844; Laws 1969, c. 747, § 2, p. 2818; Laws 1969, c. 746, § 8, p. 2814; Laws 1977, LB 201, § 17; Laws 1978, LB 632, § 10; Laws 1981, LB 204, § 163; Laws 1987, LB 688, § 16; Laws 1988, LB 1142, § 12; Laws 1991, LB 511, § 65; Laws 1992, LB 245, § 70; Laws 1992, LB 1063, § 200; Laws 1992, Second Spec. Sess., LB 1, § 171; Laws 1994, LB 76, § 607; R.S.1943, (1994), § 79-2203;

Laws 1996, LB 900, § 934; Laws 1997, LB 345, § 47; Laws 1997, LB 347, § 47; Laws 2001, LB 797, § 49; Laws 2002, LB 647, § 2; Laws 2007, LB603, § 14; Laws 2010, LB965, § 2.
Effective date July 15, 2010.

79-1218 Board; meetings; organization; duties.

The board of each educational service unit shall meet and organize by naming one of its members as president, one as vice president, and one as secretary. The board shall employ a treasurer who shall be paid a salary to be fixed by the board.

The board of the educational service unit shall determine the participation of the educational service unit in providing supplementary educational services. If the board of the educational service unit does not provide supplementary educational services, it shall meet during each succeeding January to determine the participation in providing supplementary educational services for that calendar year. Meetings may be held by means of videoconferencing or telephone conference in accordance with subsections (2) and (3) of section 84-1411.

Source: Laws 1965, c. 504, § 4, p. 1610; Laws 1969, c. 748, § 1, p. 2822; Laws 1969, c. 746, § 5, p. 2811; Laws 1987, LB 688, § 20; R.S.1943, (1994), § 79-2204; Laws 1996, LB 900, § 935; Laws 2009, LB361, § 1.

79-1233 Access to telecomputing resources; powers and duties.

Each educational service unit shall provide access for all school districts within the geographical area served by the unit to telecomputing resources, which shall include the capacity to receive and transmit distance education courses on at least a regional basis beginning on or before August 1, 2007, through the installation of necessary equipment at each educational service unit location or through interlocal agreements with other educational service units and shall provide support for training users to meet their specific telecomputing and distance education needs. School districts may annually elect prior to a date determined by the educational service unit not to connect to such telecomputing resources. Each educational service unit shall also develop, with the State Department of Education, a plan which provides for connecting the telecomputing and distance education equipment of such school districts with the telecomputing and distance education equipment of the unit.

Educational service units may enter into agreements pursuant to the Interlocal Cooperation Act and the Joint Public Agency Act to carry out this section. Such agreements may include, but need not be limited to, provisions requiring any school district having telecomputing or distance education equipment connected to the educational service unit's telecomputing or distance education equipment to pay periodic fees necessary to cover the cost of such usage.

Source: Laws 1993, LB 348, § 49; Laws 1993, LB 452, § 2; Laws 1995, LB 860, § 3; R.S.Supp.,1995, § 79-2225; Laws 1996, LB 900, § 950; Laws 1999, LB 87, § 90; Laws 1999, LB 141, § 15; Laws 1999, LB 386, § 5; Laws 2006, LB 1208, § 10; Laws 2007, LB603, § 22; Laws 2010, LB1071, § 27.
Operative date April 15, 2010.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

79-1241 Repealed. Laws 2009, LB 549, § 53.**79-1241.01 Core services; appropriation; legislative intent.**

To carry out section 79-1241.03, it is the intent of the Legislature to appropriate for each fiscal year the amount appropriated in the prior year increased by the percentage growth in the fall membership of member districts plus the basic allowable growth rate described in section 79-1025. For purposes of this section, fall membership has the same meaning as in section 79-1003. Fall membership data used to compute growth shall be from the two most recently available fall membership reports.

Source: Laws 1998, LB 1110, § 3; Laws 1999, LB 386, § 6; Laws 2006, LB 1208, § 11; Laws 2007, LB603, § 25; Laws 2009, LB549, § 47; Laws 2010, LB1071, § 28.
Operative date April 15, 2010.

79-1241.02 Repealed. Laws 2010, LB 1071, § 48.

Operative date April 15, 2010.

79-1241.03 Distribution of funds; certification by department to educational service unit and learning community; distribution.

(1) Two percent of the funds appropriated for core services and technology infrastructure shall be transferred to the Educational Service Unit Coordinating Council. The remainder of such funds shall be distributed pursuant to subsections (2) through (6) of this section.

(2)(a) The distance education and telecommunications allowance for each educational service unit shall equal eighty-five percent of the difference of the costs for telecommunications services, for access to data transmission networks that transmit data to and from the educational service unit, and for the transmission of data on such networks paid by the educational service unit as reported on the annual financial report for the most recently available complete data year minus the receipts from the federal Universal Service Fund pursuant to 47 U.S.C. 254, as such section existed on January 1, 2007, for the educational service unit as reported on the annual financial report for the most recently available complete data year and minus any receipts from school districts or other educational entities for payment of such costs as reported on the annual financial report of the educational service unit.

(b) The base allocation of each educational service unit shall equal two and one-half percent of the funds appropriated for distribution pursuant to this section.

(c) The satellite office allocation for each educational service unit shall equal one percent of the funds appropriated for distribution pursuant to this section for each office of the educational service unit, except the educational service unit headquarters, up to the maximum number of satellite offices. The maximum number of satellite offices used for the calculation of the satellite office allocation for any educational service unit shall equal the difference of the ratio of the number of square miles within the boundaries of the educational service

unit divided by four thousand minus one with the result rounded to the closest whole number.

(d) The statewide adjusted valuation shall equal the total adjusted valuation for all member districts of educational service units pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the Tax Equity and Educational Opportunities Support Act for the school fiscal year for which the distribution is being calculated pursuant to this section.

(e) The adjusted valuation for each educational service unit shall equal the total adjusted valuation of the member school districts pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the act for the school fiscal year for which the distribution is being calculated pursuant to this section, except that such adjusted valuation for member school districts that are also member districts of a learning community shall be reduced by fifty percent for school fiscal years 2008-09 and 2009-10, thirty percent for school fiscal year 2010-11, and ten percent for each school fiscal year thereafter. The adjusted valuation for each learning community shall equal fifty percent, for school fiscal years 2008-09 and 2009-10, thirty percent, for school fiscal year 2010-11, and ten percent, for each school fiscal year thereafter, of the total adjusted valuation of the member school districts pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the act for the school fiscal year for which the distribution is being calculated pursuant to this section.

(f) The local effort rate shall equal \$0.0135 per one hundred dollars of adjusted valuation.

(g) The statewide student allocation shall equal the difference of the sum of the amount appropriated for distribution pursuant to this section plus the product of the statewide adjusted valuation multiplied by the local effort rate minus the distance education and telecommunications allowance, base allocation, and satellite office allocation for all educational service units and minus any adjustments required by subsection (5) of this section.

(h) The sparsity adjustment for each educational service unit and learning community shall equal the sum of one plus one-tenth of the ratio of the square miles within the boundaries of the educational service unit divided by the fall membership of the member school districts for the school fiscal year immediately preceding the school fiscal year for which the distribution is being calculated pursuant to this section.

(i) The adjusted students for each educational service unit shall equal the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated of the member school districts that will not be members of a learning community and fifty percent, for school fiscal years 2008-09 and 2009-10, seventy percent, for school fiscal year 2010-11, and ninety percent, for each school fiscal year thereafter, of the fall membership for such school fiscal year of the member school districts that will be members of a learning community pursuant to this section multiplied by the sparsity adjustment for the educational service unit, and the adjusted students for each learning community shall equal fifty percent, for school fiscal years 2008-09 and 2009-10, thirty percent, for school fiscal year 2010-11, and ten percent, for each school fiscal year thereafter, of the fall membership for such school fiscal year of the member school districts multiplied by the sparsity adjustment for the learning community.

(j) The per student allocation shall equal the statewide student allocation divided by the total adjusted students for all educational service units and learning communities.

(k) The student allocation for each educational service unit and learning community shall equal the per student allocation multiplied by the adjusted students for the educational service unit or learning community.

(l) The needs for each educational service unit shall equal the sum of the distance education and telecommunications allowance, base allocation, satellite office allocation, and student allocation for the educational service unit and the needs for each learning community shall equal the student allocation for the learning community.

(m) The distribution of core services and technology infrastructure funds for each educational service unit and learning community shall equal the needs for each educational service unit or learning community minus the product of the adjusted valuation for the educational service unit or learning community multiplied by the local effort rate.

(3) If an educational service unit is the result of a merger or received new member school districts from another educational service unit, the educational service unit shall be considered a new educational service unit for purposes of this section. For each new educational service unit, the needs minus the distance education and telecommunications allowance for such new educational service unit shall, for each of the three fiscal years following the fiscal year in which the merger takes place or the new member school districts are received, equal an amount not less than the needs minus the distance education and telecommunications allowance for the portions of the educational service units transferred to the new educational service unit for the fiscal year immediately preceding the merger or receipt of new member school districts, except that if the total amount available to be distributed pursuant to subsections (2) through (6) of this section for the year for which needs are being calculated is less than the total amount distributed pursuant to such subsections for the fiscal year immediately preceding the merger or receipt of new member school districts, the minimum needs minus the distance education and telecommunications allowance for each educational service unit pursuant to this subsection shall be reduced by a percentage equal to the ratio of such difference divided by the total amount distributed pursuant to subsections (2) through (6) of this section for the fiscal year immediately preceding the merger or receipt of new member school districts. The needs minus the distance education and telecommunications allowance for the portions of educational service units transferred to the new educational service unit for the fiscal year immediately preceding a merger or receipt of new member school districts shall equal the needs minus the distance education and telecommunications allowance calculated for such fiscal year pursuant to subsections (2) through (6) of this section for any educational service unit affected by the merger or the transfer of school districts multiplied by a ratio equal to the valuation that was transferred to the new educational service unit for which the minimum is being calculated divided by the total valuation of the educational service unit transferring the territory.

(4) For fiscal years 2010-11 through 2013-14, each educational service unit shall have needs minus the distance education and telecommunications allowance equal to an amount not less than ninety-five percent of the needs minus

the distance education and telecommunications allowance for the immediately preceding fiscal year, except that if the total amount available to be distributed pursuant to subsections (2) through (6) of this section for the year for which needs are being calculated is less than the total amount distributed pursuant to such subsections for the immediately preceding fiscal year, the minimum needs minus the distance education and telecommunications allowance for each educational service unit pursuant to this subsection shall be reduced by a percentage equal to the ratio of such difference divided by the total amount distributed pursuant to subsections (2) through (6) of this section.

(5) If the minimum needs minus the distance education and telecommunications allowance pursuant to subsection (3) or (4) of this section for any educational service unit exceeds the amount that would otherwise be calculated for such educational service unit pursuant to subsection (2) of this section, the statewide student allocation shall be reduced such that the total amount to be distributed pursuant to this section equals the appropriation for core services and technology infrastructure funds and no educational service unit has needs minus the distance education and telecommunications allowance less than the greater of any minimum amounts calculated for such educational service unit pursuant to subsections (3) and (4) of this section.

(6) The State Department of Education shall certify the distribution of core services and technology infrastructure funds pursuant to subsections (2) through (6) of this section to each educational service unit and learning community on or before July 1 of each year for the following school fiscal year. Except as otherwise provided in this subsection, any funds appropriated for distribution pursuant to this section shall be distributed in ten as nearly as possible equal payments on the first business day of each month beginning in September of each school fiscal year and ending in June. Funds to be distributed to a learning community in school fiscal year 2010-11 shall be distributed in ten payments on the first business day of each month beginning in September 2010 and ending in June 2011, with each of the first five payments equal as nearly as possible to seventeen percent of the amount to be distributed and with each of the last five payments equal as nearly as possible to three percent of the amount to be distributed. Funds distributed to educational service units pursuant to this section shall be used for core services and technology infrastructure with the approval of representatives of two-thirds of the member school districts of the educational service unit, representing a majority of the adjusted students in the member school districts used in calculations pursuant to this section for such funds. The valuation of individual school districts shall not be considered in the utilization of such core services or technology infrastructure funds by member school districts for funds received after July 1, 2010. Funds distributed to learning communities on or before January 15, 2011, shall be used for learning community purposes with the approval of the learning community coordinating council. Funds distributed to learning communities after January 15, 2011, shall be used for evaluation and research pursuant to section 79-2104.02 with the approval of the learning community coordinating council.

(7) For purposes of this section, the determination of whether or not a school district will be a member of an educational service unit or a learning communi-

ty shall be based on the information available May 1 for the following school fiscal year.

Source: Laws 2007, LB603, § 24; Laws 2008, LB1154, § 15; Laws 2009, LB549, § 48; Laws 2010, LB1070, § 11.

Effective date April 6, 2010.

Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

79-1242 Property tax funds; use.

Funds generated from the property tax levy shall only be used for purposes approved by representatives of two-thirds of the member school districts in an educational service unit, representing a majority of the students in the member school districts. The valuation of individual school districts shall not be considered in the utilization of such funds received after July 1, 2010. Each educational service unit shall prepare and transmit a written proposal of core services offerings and use of the property tax levy to all member school districts. The member school districts through their designated representatives shall indicate their approval or disapproval of the proposal within thirty calendar days after receipt of the proposal, and failure to so indicate within such time period shall be deemed approval of the proposal.

Source: Laws 1997, LB 806, § 62; Laws 1999, LB 363, § 1; Laws 2010, LB1070, § 12.

Effective date April 6, 2010.

79-1243 Repealed. Laws 2010, LB 1071, § 48.

Operative date April 15, 2010.

79-1245 Educational Service Unit Coordinating Council; created; composition; funding; powers.

(1) The Educational Service Unit Coordinating Council is created as of July 1, 2008. On such date the assets and liabilities of the Distance Education Council shall be transferred to the Educational Service Unit Coordinating Council. The council shall be composed of one administrator from each educational service unit. The council shall be funded from two percent of the core services and technology infrastructure funding appropriated pursuant to section 79-1241.03, appropriations by the Legislature for distance education, and fees established for services provided to educational entities.

(2) The council is a political subdivision and a public body corporate and politic of this state, exercising public powers separate from the participating educational service units. The council shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a political subdivision and a public body corporate and politic but shall not have taxing power.

(3) The council shall have power (a) to sue and be sued, (b) to have a seal and alter the same at will or to dispense with the necessity thereof, (c) to make and execute contracts and other instruments, (d) to receive, hold, and use money and real and personal property, (e) to hire and compensate employees, including certificated employees, (f) to act as a fiscal agent for statewide initiatives being implemented by employees of one or more educational service units, and

(g) from time to time, to make, amend, and repeal bylaws, rules, and regulations not inconsistent with sections 79-1245 to 79-1249. Such power shall only be used as necessary or convenient to carry out and effectuate the powers and purposes of the council.

Source: Laws 2007, LB603, § 16; Laws 2010, LB1071, § 29.
Operative date April 15, 2010.

79-1247 Educational Service Unit Coordinating Council; appoint distance education director; council director authorized; salaries; expenses; duties; contract authorized; other appointments authorized.

The Educational Service Unit Coordinating Council shall appoint a distance education director and may appoint a council director, both of whom shall hold office at the pleasure of the council. The council director and the distance education director shall receive such salaries as the council determines and shall be reimbursed for their actual expenses incurred in the performance of their duties. The council may contract with individual educational service units for the employment of the council director or the distance education director, except that the supervisory responsibilities for such employees shall remain with the council.

The council director and the distance education director shall perform duties as the council directs and shall not be members of the council. The council may also appoint or retain such other persons as it may deem necessary for the performance of its functions and shall prescribe their duties, fix their compensation, and provide for reimbursement of their actual and necessary expenses within the amounts available in the budget of the council.

Source: Laws 2007, LB603, § 18; Laws 2010, LB1071, § 30.
Operative date April 15, 2010.

79-1248 Educational Service Unit Coordinating Council; powers and duties.

The powers and duties of the Educational Service Unit Coordinating Council include, but are not limited to:

- (1) Providing public access to lists of qualified distance education courses;
- (2) Collecting and providing school schedules for participating educational entities;
- (3) Facilitation of scheduling for qualified distance education courses;
- (4) Brokering of qualified distance education courses to be purchased by educational entities;
- (5) Assessment of distance education needs and evaluation of distance education services;
- (6) Compliance with technical standards as set forth by the Nebraska Information Technology Commission and academic standards as set forth by the State Department of Education related to distance education;
- (7) Establishment of a system for scheduling courses brokered by the council and for choosing receiving educational entities when the demand for a course exceeds the capacity as determined by either the technology available or the course provider;

(8) Administration of learning management systems, either through the staff of the council or by delegation to an appropriate educational entity, with the funding for such systems provided by participating educational entities; and

(9) Coordination with educational service units and postsecondary educational institutions to provide assistance for instructional design for both two-way interactive video distance education courses and the offering of graduate credit courses in distance education.

Source: Laws 2006, LB 1208, § 20; R.S.Supp.,2006, § 79-1334; Laws 2007, LB603, § 19; Laws 2010, LB1071, § 31.
Operative date April 15, 2010.

79-1249 Educational Service Unit Coordinating Council; assistance provided.

The Educational Service Unit Coordinating Council shall only provide assistance in brokering or scheduling courses to educational entities that have access to Network Nebraska. All costs to the council associated with assisting private, denominational, or parochial schools and private postsecondary educational institutions shall be paid by such private, denominational, or parochial school or private postsecondary educational institution. Any services of the council may also be offered to other public entities with access to Network Nebraska on a contractual basis.

Source: Laws 2006, LB 1208, § 21; R.S.Supp.,2006, § 79-1335; Laws 2007, LB603, § 20; Laws 2010, LB1071, § 32.
Operative date April 15, 2010.

ARTICLE 13

EDUCATIONAL TECHNOLOGY AND TELECOMMUNICATIONS

(b) EDUCATIONAL TELECOMMUNICATIONS

Section

79-1320. State Educational Telecommunications Fund; created; use; investment.

(c) DISTANCE EDUCATION

79-1331. Repealed. Laws 2010, LB 1071, § 48.

(b) EDUCATIONAL TELECOMMUNICATIONS

79-1320 State Educational Telecommunications Fund; created; use; investment.

The State Educational Telecommunications Fund is created. The fund shall be used by the Nebraska Educational Telecommunications Commission for the purposes of carrying out the provisions of the Nebraska Educational Telecommunications Act, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. The State Educational Telecommunications Fund shall consist of such sums as the Legislature may appropriate. 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 1963, c. 467, § 1, p. 1496; Laws 1969, c. 584, § 91, p. 2402; Laws 1984, LB 645, § 8; Laws 1995, LB 7, § 92; R.S.Supp.,1995, § 79-2107; Laws 1996, LB 900, § 976; Laws 2009, First Spec. Sess., LB3, § 60.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(c) DISTANCE EDUCATION

79-1331 Repealed. Laws 2010, LB 1071, § 48.

Operative date April 15, 2010.

ARTICLE 16

PRIVATE, DENOMINATIONAL, OR PAROCHIAL SCHOOLS

Section

79-1601. Private, denominational, or parochial schools, teachers, and other individuals; laws applicable; election not to meet accreditation or approval requirements.

79-1606. Private, denominational, or parochial schools; nonconformity with school law; penalty.

79-1601 Private, denominational, or parochial schools, teachers, and other individuals; laws applicable; election not to meet accreditation or approval requirements.

(1) Except as provided in subsections (2) through (6) of this section, all private, denominational, and parochial schools in the State of Nebraska and all teachers employed or giving instruction in such schools shall be subject to and governed by the provisions of the general school laws of the state so far as the same apply to grades, qualifications, and certification of teachers and promotion of students. All private, denominational, and parochial schools shall have adequate equipment and supplies, shall be graded the same, and shall have courses of study for each grade conducted in such schools substantially the same as those given in the public schools which the students would attend in the absence of such private, denominational, or parochial schools.

(2) All private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in section 79-318 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in section 79-318 and subsections (2) through (6) of this section. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through (6) of this section, not to meet state accreditation or approval requirements shall be based upon evidence that such schools offer a program of instruction leading to the acquisition of basic skills in the language arts, mathematics, science, social studies, and health. Such rules and regulations may include a provision for the visitation of such schools and regular achievement testing of students attending such schools in order to insure that such schools are offering instruction in the basic skills listed in this subsection. Any arrangements for visitation or testing shall be made through a parent representative of each such school. The results of such testing may be

used as evidence that such schools are offering instruction in such basic skills but shall not be used to measure, compare, or evaluate the competency of students at such schools.

(3) The provisions of subsections (3) through (6) of this section shall apply to any private, denominational, or parochial school in the State of Nebraska which elects not to meet state accreditation or approval requirements. Elections pursuant to such subsections shall be effective when a statement is received by the Commissioner of Education signed by the parents or legal guardians of all students attending such private, denominational, or parochial school, stating that (a) either specifically (i) the requirements for approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education violate sincerely held religious beliefs of the parents or legal guardians or (ii) the requirements for approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education interfere with the decisions of the parents or legal guardians in directing the student's education, (b) an authorized representative of such parents or legal guardians will at least annually submit to the Commissioner of Education the information necessary to prove that the requirements of subdivisions (4)(a) through (c) of this section are satisfied, (c) the school offers the courses of instruction required by subsections (2), (3), and (4) of this section, and (d) the parents or legal guardians have satisfied themselves that individuals monitoring instruction at such school are qualified to monitor instruction in the basic skills as required by subsections (2), (3), and (4) of this section and that such individuals have demonstrated an alternative competency to monitor instruction or supervise students pursuant to subsections (3) through (6) of this section.

(4) Each such private, denominational, or parochial school shall (a) meet minimum requirements relating to health, fire, and safety standards prescribed by state law and the rules and regulations of the State Fire Marshal, (b) report attendance pursuant to section 79-201, (c) maintain a sequential program of instruction designed to lead to basic skills in the language arts, mathematics, science, social studies, and health, and (d) comply with the immunization requirements in section 79-217 if the statement signed by the parents or legal guardians indicate a nonreligious reason pursuant to subdivision (3)(a)(ii) of this section for the student attending a private, denominational, or parochial school which elects not to meet state accreditation or approval requirements. The State Board of Education shall establish procedures for receiving information and reports required by subsections (3) through (6) of this section from authorized parent representatives who may act as agents for parents or legal guardians of students attending such school and for individuals monitoring instruction in the basic skills required by subsections (2), (3), and (4) of this section.

(5) Individuals employed or utilized by schools which elect not to meet state accreditation or approval requirements shall not be required to meet the certification requirements prescribed in sections 79-801 to 79-815 but shall either (a) take appropriate subject matter components of a nationally recognized teacher competency examination designated by the State Board of Education as (i) including the appropriate subject matter areas for purposes of satisfying the requirements of subsections (3) and (4) of this section and (ii) a nationally recognized examination or (b) offer evidence of competence to provide instruction in the basic skills required by subsections (3) and (4) of this

section pursuant to informal methods of evaluation which shall be developed by the State Board of Education. Such evidence may include educational transcripts, diplomas, and other information regarding the formal educational background of such individuals. Information concerning test results, transcripts, diplomas, and other evidence of formal education may be transmitted to the State Department of Education by authorized representatives of parents or legal guardians. The results of such testing or alternative evaluation of individuals who monitor the instruction of students attending such schools may be used as evidence of whether or not such schools are offering adequate instruction in the basic skills prescribed in subsections (2), (3), and (4) of this section but shall not be used to prohibit any such school from employing such individuals. Failure of a monitor, who is tested for the purpose of satisfying in whole or in part the requirements of subsections (3) through (6) of this section, to attain a score equal to or exceeding both the state or national average score or rating on appropriate subject matter components of recognized teacher competency examinations designated by the State Board of Education may be by itself sufficient proof that such school does not offer adequate instruction in the basic skills prescribed in subsections (3) and (4) of this section.

(6) The demonstration of competency to monitor instruction in a private, denominational, or parochial school which has elected not to meet state accreditation or approval requirements shall in no way constitute or be construed to grant a license, permit, or certificate to teach in the State of Nebraska. Any school which elects not to meet state accreditation or approval requirements and does not meet the requirements of subsections (2) through (6) of this section shall not be deemed a school for purposes of section 79-201, and the parents or legal guardians of any students attending such school shall be subject to prosecution pursuant to such section or any statutes relating to habitual truancy.

Source: Laws 1919, c. 155, § 1, p. 346; Laws 1921, c. 53, § 1(h), p. 230; C.S.1922, § 6508f; C.S.1929, § 79-1906; R.S.1943, § 79-1913; Laws 1949, c. 256, § 506, p. 864; Laws 1984, LB 928, § 3; R.S.1943, (1994), § 79-1701; Laws 1996, LB 900, § 1004; Laws 1999, LB 268, § 1; Laws 1999, LB 813, § 55; Laws 2003, LB 685, § 25; Laws 2009, LB549, § 49.

Cross References

Admission to public college or university, see section 85-607.

Identification of students, home school duties, see section 43-2007.

Religious beliefs, conflict with required immunizations, see section 79-221.

Sales and use tax exemption, see section 77-2704.12.

Student transfer, access to student files or records, see section 79-2,105.

79-1606 Private, denominational, or parochial schools; nonconformity with school law; penalty.

In case any private, denominational, or parochial school, after a final determination by the proper authorities under sections 79-1601 to 79-1607, fails, refuses, or neglects to conform to and comply with such sections, no person shall be granted or allowed a certificate to teach in such school and the students attending such school shall be required to attend the public school of the proper district as provided by law in like manner as though there were no such private, denominational, or parochial school. Full credit for certification under the law shall be given all teachers who have taught in private, denomina-

tional, or parochial schools the same as though they had taught in public schools.

Source: Laws 1919, c. 155, § 7, p. 349; Laws 1921, c. 53, § 1(n), p. 231; C.S.1922, § 6508l; C.S.1929, § 79-1912; R.S.1943, § 79-1919; Laws 1949, c. 256, § 511, p. 865; R.S.1943, (1994), § 79-1706; Laws 1996, LB 900, § 1009; Laws 2009, LB549, § 50.

ARTICLE 21

LEARNING COMMUNITY

Section

- 79-2104. Learning community coordinating council; powers.
 79-2104.02. Learning community coordinating council; use of funds; report.
 79-2110. Diversity plan; limitations; school building maximum capacity; attendance areas; school board; duties; application to attend school outside attendance area; procedure; continuing student; notice.
 79-2110.01. Open enrollment students; how treated; disability; transportation services.
 79-2111. Elementary learning center facilities; focus school or program capital projects; tax levy; repayment of funds; interest; waiver.
 79-2112. Elementary learning center; elementary learning center executive director; qualifications; assistants and employees.
 79-2113. Elementary learning center; establishment; achievement subcouncil; plan; powers and duties; location of facilities.
 79-2115. Learning community funds; use; learning community coordinating council; powers and duties; pilot project; audits.
 79-2117. Learning community coordinating council; achievement subcouncil; membership; meeting; hearing; duties.
 79-2118. Diversity plan; contents; approval; report.
 79-2120. State Department of Education; certification of students qualifying for free or reduced-price lunches.

79-2104 Learning community coordinating council; powers.

A learning community coordinating council shall have the authority to:

- (1) Levy a common levy for the general funds of member school districts pursuant to sections 77-3442 and 79-1073;
- (2) Levy a common levy for the special building funds of member school districts pursuant to sections 77-3442 and 79-1073.01;
- (3) Levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to subdivision (2)(h) of section 77-3442 and section 79-2111;
- (4) Levy for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects pursuant to subdivision (2)(i) of section 77-3442, except that not more than ten percent of such levy may be used for elementary learning center employees;
- (5) Collect, analyze, and report data and information, including, but not limited to, information provided by a school district pursuant to subsection (5) of section 79-201;
- (6) Approve focus schools and focus programs to be operated by member school districts;

(7) Adopt, approve, and implement a diversity plan which shall include open enrollment and may include focus schools, focus programs, magnet schools, and pathways pursuant to section 79-2110;

(8) Administer the open enrollment provisions in section 79-2110 for the learning community as part of a diversity plan developed by the council to provide educational opportunities which will result in increased diversity in schools across the learning community;

(9) Annually conduct school fairs to provide students and parents the opportunity to explore the educational opportunities available at each school in the learning community and develop other methods for encouraging access to such information and promotional materials;

(10) Develop and approve reorganization plans for submission pursuant to the Learning Community Reorganization Act;

(11) Establish and administer elementary learning centers through achievement subcouncils pursuant to sections 79-2112 to 79-2114;

(12) Administer the learning community funds distributed to the learning community pursuant to section 79-2111;

(13) Approve or disapprove poverty plans and limited English proficiency plans for member school districts through achievement subcouncils established under section 79-2117;

(14) Establish a procedure for receiving community input and complaints regarding the learning community;

(15) Establish a procedure to assist parents, citizens, and member school districts in accessing an approved center pursuant to the Dispute Resolution Act to resolve disputes involving member school districts or the learning community. Such procedure may include payment by the learning community for some mediation services; and

(16) Establish and administer pilot projects related to enhancing the academic achievement of elementary students, particularly students who face challenges in the educational environment due to factors such as poverty, limited English skills, and mobility.

Source: Laws 2006, LB 1024, § 106; Laws 2007, LB641, § 40; Laws 2008, LB1154, § 18; Laws 2009, LB392, § 16; Laws 2010, LB1070, § 13.

Effective date April 6, 2010.

Cross References

Dispute Resolution Act, see section 25-2901.

Learning Community Reorganization Act, see section 79-4.117.

79-2104.02 Learning community coordinating council; use of funds; report.

Each learning community coordinating council shall use any funds received after January 15, 2011, pursuant to section 79-1241.03 for evaluation and research pursuant to plans developed by the learning community coordinating council with assistance from the educational service unit coordinating council and the student achievement coordinator and adjusted on an ongoing basis. The evaluation shall be conducted by one or more other entities or individuals who are not employees of the learning community and shall measure progress toward the goals and objectives of the learning community, which goals and objectives shall include closing academic achievement gaps based on socioeco-

conomic status, and the effectiveness of the approaches used by the learning community or pilot project to reach such goals and objectives. Any research conducted pursuant to this section shall also be related to such goals and objectives. After the first full year of operation, each learning community shall report evaluation and research results to the Education Committee of the Legislature on or before December 1 of each year.

Source: Laws 2010, LB1070, § 17.
Effective date April 6, 2010.

79-2110 Diversity plan; limitations; school building maximum capacity; attendance areas; school board; duties; application to attend school outside attendance area; procedure; continuing student; notice.

(1)(a) Each diversity plan shall provide for open enrollment in all school buildings in the learning community, subject to specific limitations necessary to bring about diverse enrollments in each school building in the learning community. Such limitations, for school buildings other than focus schools and programs other than focus programs, shall include giving preference at each school building first to siblings of students who will be enrolled as continuing students in such school building or program for the first school year for which enrollment is sought in such school building and then to students that contribute to the socioeconomic diversity of enrollment at each building and may include establishing zone limitations in which students may access several schools other than their home attendance area school. Notwithstanding the limitations necessary to bring about diversity, open enrollment shall include providing access to students who do not contribute to the socioeconomic diversity of a school building, if, subsequent to the open enrollment selection process that is subject to limitations necessary to bring about diverse enrollments, capacity remains in a school building. In such a case, students who have applied to attend such school building shall be selected to attend such school building on a random basis up to the remaining capacity of such building. A student who has otherwise been disqualified from the school building pursuant to the school district's code of conduct or related school discipline rules shall not be eligible for open enrollment pursuant to this section. Any student who attended a particular school building in the prior school year and who is seeking education in the grades offered in such school building shall be allowed to continue attending such school building as a continuing student.

(b) To facilitate the open enrollment provisions of this subsection, each school year each member school district in a learning community shall establish a maximum capacity for each school building under such district's control pursuant to procedures and criteria established by the learning community coordinating council. Each member school district shall also establish attendance areas for each school building under the district's control, except that the school board shall not establish attendance areas for focus schools or focus programs. The attendance areas shall be established such that all of the territory of the school district is within an attendance area for each grade. Students residing in a school district shall be allowed to attend a school building in such school district.

(c) For purposes of this section and sections 79-238 and 79-611, student who contributes to the socioeconomic diversity of enrollment means (i) a student who does not qualify for free or reduced-price lunches when, based upon the

certification pursuant to section 79-2120, the school building the student will attend has more students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community or (ii) a student who qualifies for free or reduced-price lunches when, based upon the certification pursuant to section 79-2120, the school building the student will attend has fewer students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community.

(2)(a) On or before March 15 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, a parent or guardian of a student residing in a member school district in a learning community may submit an application to any school district in the learning community on behalf of a student who is applying to attend a school building for the following school year that is not in an attendance area where the applicant resides or a focus school, focus program, or magnet school as such terms are defined in section 79-769. On or before April 1 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, the school district shall accept or reject such applications based on the capacity of the school building, the eligibility of the applicant for the school building or program, the number of such applicants that will be accepted for a given school building, and whether or not the applicant contributes to the socioeconomic diversity of the school or program to which he or she has applied and for which he or she is eligible. The school district shall notify such parent or guardian in writing of the acceptance or rejection.

(b) A parent or guardian may provide information on the application regarding the applicant's potential qualification for free or reduced-price lunches. Any such information provided shall be subject to verification and shall only be used for the purposes of this section. Nothing in this section requires a parent or guardian to provide such information. Determinations about an applicant's qualification for free or reduced-price lunches for purposes of this section shall be based on any verified information provided on the application. If no such information is provided the student shall be presumed not to qualify for free or reduced-price lunches for the purposes of this section.

(c) A student may not apply to attend a school building in the learning community for any grades that are offered by another school building for which the student had previously applied and been accepted pursuant to this section, absent a hardship exception as established by the individual school district. On or before September 1 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, each school district shall provide to the learning community coordinating council a complete and accurate report of all applications received, including the number of students who applied at each grade level at each building, the number of students accepted at each grade level at each building, the number of such students that contributed to the socioeconomic diversity that applied and were accepted, the number of applicants denied and the rationales for denial, and other such information as requested by the learning community coordinating council.

(3) Each diversity plan may also include establishment of one or more focus schools or focus programs and the involvement of every member school district in one or more pathways across member school districts. Enrollment in each

focus school or focus program shall be designed to reflect the socioeconomic diversity of the learning community as a whole. School district selection of students for focus schools or focus programs shall be on a random basis from two pools of applicants, those who qualify for free and reduced-price lunches and those who do not qualify for free and reduced-price lunches. The percentage of students selected for focus schools from the pool of applicants who qualify for free and reduced-price lunches shall be as nearly equal as possible to the percentage of the student body of the learning community who qualify for free and reduced-price lunches. The percentage of students selected for focus schools from the pool of applicants who do not qualify for free and reduced-price lunches shall be as nearly equal as possible to the percentage of the student body of the learning community who do not qualify for free and reduced-price lunches. If more capacity exists in a focus school or program than the number of applicants for such focus school or program that contribute to the socioeconomic diversity of the focus school or program, the school district shall randomly select applicants up to the number of applicants that will be accepted for such building. A student who will complete the grades offered at a focus program, focus school, or magnet school that is part of a pathway shall be allowed to attend the focus program, focus school, or magnet school offering the next grade level as part of the pathway as a continuing student. A student who completes the grades offered at a focus program, focus school, or magnet school shall be allowed to attend a school offering the next grade level in the school district responsible for the focus program, focus school, or magnet school as a continuing student. A student who attended a program or school in the school year immediately preceding the first school year for which the program or school will operate as a focus program or focus school approved by the learning community and meeting the requirements of section 79-769 and who has not completed the grades offered at the focus program or focus school shall be a continuing student in the program or school.

(4) On or before February 15 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, a parent or guardian of a student who is currently attending a school building or program, except a magnet school, focus school, or focus program, outside of the attendance area where the student resides and who will complete the grades offered at such school building prior to the following school year shall provide notice, on a form provided by the school district, to the school board of the school district containing such school building if such student will attend another school building within such district as a continuing student and which school building such student would prefer to attend. On or before March 1, such school board shall provide a notice to such parent or guardian stating which school building or buildings the student shall be allowed to attend in such school district as a continuing student for the following school year. If the student resides within the school district, the notice shall include the school building offering the grade the student will be entering for the following school year in the attendance area where the student resides. This subsection shall not apply to focus schools or programs.

(5) A parent or guardian of a student who moves to a new residence in the learning community after April 1 may apply directly to a school board within the learning community within ninety days after moving for the student to

attend a school building outside of the attendance area where the student resides. Such school board shall accept or reject such application within fifteen days after receiving the application, based on the number of applications and qualifications pursuant to subsection (2) or (3) of this section for all other students.

(6) A parent or guardian of a student who wishes to change school buildings for emergency or hardship reasons may apply directly to a school board within the learning community at any time for the student to attend a school building outside of the attendance area where the student resides. Such application shall state the emergency or hardship and shall be kept confidential by the school board. Such school board shall accept or reject such application within fifteen days after receiving the application. Applications shall only be accepted if an emergency or hardship was presented which justifies an exemption from the procedures in subsection (4) of this section based on the judgment of such school board, and such acceptance shall not exceed the number of applications that will be accepted for the school year pursuant to subsection (2) or (3) of this section for such building.

Source: Laws 2006, LB 1024, § 16; Laws 2007, LB641, § 42; Laws 2008, LB1154, § 21; Laws 2009, LB62, § 6; Laws 2010, LB1070, § 14. Effective date April 6, 2010.

79-2110.01 Open enrollment students; how treated; disability; transportation services.

(1) For purposes of all duties, entitlements, and rights established by law, including special education as provided in section 79-1127, open enrollment students shall be treated as resident students of the open enrollment school district. In determining eligibility for extracurricular activities as defined in section 79-2,126, the open enrollment student shall be treated similarly to other students who transfer into the school from another public, private, denominational, or parochial school.

(2) For open enrollment students verified as having a disability as defined in section 79-1118.01, the transportation services set forth in section 79-1129 shall be provided by the open enrollment school district. The State Department of Education shall reimburse each learning community school district for special education programs provided to open enrollment students in accordance with section 79-1142. The resident school district of an open enrollment student shall be exempted from the payment responsibility set forth in section 79-1140. For purposes of the calculation to determine reimbursement pursuant to section 79-1142, the open enrollment school district shall include the adjusted average per pupil cost as defined in section 79-1114 of the open enrollment school district.

(3) For purposes of the Tax Equity and Educational Opportunities Support Act, open enrollment students shall not be counted as formula students by the resident school district and shall be counted by the open enrollment school district.

Source: Laws 2010, LB1071, § 33.
Operative date July 15, 2010.

Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

79-2111 Elementary learning center facilities; focus school or program capital projects; tax levy; repayment of funds; interest; waiver.

(1) A learning community may levy a maximum levy pursuant to subdivision (2)(h) of section 77-3442 for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated costs for focus school or program capital projects approved pursuant to this section. The proceeds from such levy shall be used for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and to reduce the bonded indebtedness required for approved projects by up to fifty percent of the estimated cost of the approved project. The funds used for reductions of bonded indebtedness shall be transferred to the school district for which the project was approved and shall be deposited in such school district's special building fund for use on such project.

(2) The learning community may approve pursuant to this section funding for capital projects which will include the purchase, construction, or remodeling of facilities for a focus school or program designed to meet the requirements of section 79-769. Such approval shall include an estimated cost for the project and shall state the amount that will be provided by the learning community for such project.

(3) If, within the ten years following receipt of the funding for a capital project pursuant to this section, a school district receiving such funding uses the facility purchased, constructed, or remodeled with such funding for purposes other than those stated to qualify for the funds, the school district shall repay such funds to the learning community with interest at the rate prescribed in section 45-104.02 accruing from the date the funds were transferred to the school district's building fund as of the last date the facility was used for such purpose as determined by the learning community coordinating council or the date that the learning community coordinating council determines that the facility will not be used for such purpose or that such facility will not be purchased, constructed, or remodeled for such purpose. Interest shall continue to accrue on outstanding balances until the repayment has been completed. The remaining terms of repayment shall be determined by the learning community coordinating council. The learning community coordinating council may waive such repayment if the facility is used for a different focus school or program for a period of time that will result in the use of the facility for qualifying purposes for a total of at least ten years.

Source: Laws 2007, LB641, § 43; Laws 2008, LB1154, § 22; Laws 2010, LB1070, § 15.
Effective date April 6, 2010.

79-2112 Elementary learning center; elementary learning center executive director; qualifications; assistants and employees.

(1) Elementary learning centers shall serve as visionary resource centers for enhancing the academic success of elementary students, particularly those students who face challenges in the educational environment due to factors such as poverty, limited English skills, and mobility. Each learning community coordinating council shall provide for a system of elementary learning centers to be administered by an elementary learning center executive director.

(2) The elementary learning center executive director shall be appointed by the learning community coordinating council. The executive director shall be a person well equipped to work with populations in poverty and to analyze effective methods for assisting and encouraging such populations to access the programs offered by elementary learning centers. The elementary learning center executive director shall receive such salary as is set by the learning community coordinating council.

(3) The elementary learning center executive director may select, appoint, and compensate as he or she sees fit, within the amount provided by the learning community coordinating council, such noncertificated assistants and noncertificated employees as he or she deems necessary to discharge the responsibilities under sections 79-2112 to 79-2114. Such assistants and employees shall be subject to the control and supervision of the elementary learning center executive director.

Source: Laws 2007, LB641, § 44; Laws 2010, LB1070, § 16.
Effective date April 6, 2010.

79-2113 Elementary learning center; establishment; achievement subcouncil; plan; powers and duties; location of facilities.

(1) On or before the second June 1 immediately following the establishment of a new learning community, the learning community coordinating council shall establish at least one elementary learning center for each twenty-five elementary schools in which at least thirty-five percent of the students attending the school who reside in the attendance area of such school qualify for free or reduced-price lunches. The council shall determine how many of the initial elementary learning centers shall be located in each subcouncil district on or before September 1 immediately following the establishment of a new learning community.

(2) Each achievement subcouncil shall submit a plan to the learning community coordinating council for any elementary learning center in its subcouncil district and the services to be provided by such elementary learning center. In developing the plan, the achievement subcouncil shall seek input from community resources and collaborate with such resources in order to maximize the available opportunities and the participation of elementary students and their families. An achievement subcouncil may, as part of such plan, recommend services be provided through contracts with, or grants to, entities other than school districts to provide some or all of the services. Such entities may include collaborative groups which may include the participation of a school district. An achievement subcouncil may also, as part of such plan, recommend that the elementary learning center serve as a clearinghouse for recommending programs provided by school districts or other entities and that the elementary learning center assist students in accessing such programs. The plans for the initial elementary learning centers shall be submitted by the achievement subcouncils to the coordinating council on or before January 1 immediately following the establishment of a new learning community.

(3) Each elementary learning center shall have at least one facility that is located in an area with a high concentration of poverty. Such facility may be owned or leased by the learning community, or the use of the facility may be donated to the learning community. Programs offered by the elementary

learning center may be offered in such facility or in other facilities, including school buildings.

Source: Laws 2007, LB641, § 45; Laws 2008, LB1154, § 23; Laws 2009, LB392, § 17.

79-2115 Learning community funds; use; learning community coordinating council; powers and duties; pilot project; audits.

(1) Learning community funds distributed pursuant to section 79-2103 may be used by the learning community coordinating council receiving the funds for:

- (a) The administration and operation of the learning community;
- (b) The administration, operations, and programs of elementary learning centers pursuant to sections 79-2112 to 79-2114;
- (c) Supplements for extended hours to teachers in elementary schools in which at least thirty-five percent of the students attending the school who reside in the attendance area of such school qualify for free or reduced-price lunches;
- (d) Transportation for parents of elementary students who qualify for free or reduced-price lunches to school functions of such students in elementary schools;
- (e) Up to six social workers to provide services through the elementary learning centers; and
- (f) Pilot projects authorized pursuant to section 79-2104.

(2) Each learning community coordinating council shall adopt policies and procedures for granting supplements for extended hours and for providing transportation for parents if any such funds are to be used for such purposes. An example of a pilot project that could receive such funds would be a school designated as Jump Start Center focused on providing intensive literacy services for elementary students with low reading scores.

(3) Each learning community coordinating council shall provide for financial audits of elementary learning centers and pilot projects. A learning community coordinating council shall serve as the recipient of private funds donated to support any elementary learning center or pilot project receiving funds from such learning community coordinating council and shall assure that the use of such private funds is included in the financial audits required pursuant to this section.

Source: Laws 2007, LB641, § 47; Laws 2008, LB1154, § 24; Laws 2010, LB1070, § 18.
Effective date April 6, 2010.

79-2117 Learning community coordinating council; achievement subcouncil; membership; meeting; hearing; duties.

Each learning community coordinating council shall have an achievement subcouncil for each subcouncil district. Each achievement subcouncil shall consist of the three voting coordinating council members representing the subcouncil district plus any nonvoting coordinating council members choosing to participate who represent a school district that has territory within the subcouncil district. The voting coordinating council members shall also be the voting members on the achievement subcouncil. Each achievement subcouncil

shall meet as necessary but shall meet and conduct a public hearing within its subcouncil district at least once each school year. Each achievement subcouncil shall:

- (1) Develop a diversity plan recommendation for the territory in its subcouncil district that will provide educational opportunities which will result in increased diversity in schools in the subcouncil district;
- (2) Administer elementary learning centers in cooperation with the elementary learning center executive director;
- (3) Review and approve or disapprove of the poverty plans and limited English proficiency plans for the schools located in its subcouncil district;
- (4) Receive community input and complaints regarding the learning community and academic achievement in the subcouncil district; and
- (5) Hold public hearings at its discretion in its subcouncil district in response to issues raised by residents of the subcouncil district regarding the learning community, a member school district, and academic achievement in the subcouncil district.

Source: Laws 2007, LB641, § 50; Laws 2008, LB1154, § 25; Laws 2009, LB392, § 18.

79-2118 Diversity plan; contents; approval; report.

(1) Each learning community, together with its member school districts, shall develop a diversity plan to provide educational opportunities pursuant to sections 79-769 and 79-2110 in each subcouncil district designed to attract students from diverse backgrounds, which plan may be revised from time to time. The initial diversity plan shall be completed by December 31 of the year the initial learning community coordinating council for the learning community takes office. The goal of the diversity plan shall be to annually increase the socioeconomic diversity of enrollment at each grade level in each school building within the learning community until such enrollment reflects the average socioeconomic diversity of the entire enrollment of the learning community.

(2) Each diversity plan for a learning community shall include specific provisions relating to each subcouncil district within such learning community. The specific provisions relating to each subcouncil district shall be approved by both the achievement subcouncil for such district and by the learning community coordinating council.

(3) The learning community coordinating council shall report to the Education Committee of the Legislature on or before December 1 of each even-numbered year on the diversity and changes in diversity at each grade level in each school building within the learning community and on the academic achievement for different demographic groups in each school building within the learning community.

Source: Laws 2007, LB641, § 51; Laws 2008, LB1154, § 26; Laws 2009, LB392, § 19.

79-2120 State Department of Education; certification of students qualifying for free or reduced-price lunches.

On or before March 1, 2009, and February 1 of each year thereafter, for purposes of subsection (3) of section 79-238 and sections 79-611 and 79-2110,

the State Department of Education shall certify to each learning community and each member school district the average percentage of students qualifying for free or reduced-price lunches in each school building in each member school district and in the aggregate for all school buildings in the learning community based on the most current information available to the department on the immediately preceding January 1. The State Board of Education may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2009, LB62, § 5.



CHAPTER 80

SOLDIERS AND SAILORS

Article.

3. Nebraska Veterans Homes. 80-316.
4. Veterans Aid. 80-401.01, 80-410.

ARTICLE 3

NEBRASKA VETERANS HOMES

Section

80-316. Division of Veterans' Homes; purpose; admission; requirements.

80-316 Division of Veterans' Homes; purpose; admission; requirements.

(1) The purpose of the Division of Veterans' Homes of the Department of Health and Human Services is to provide domiciliary and nursing home care and subsistence to:

(a) All persons who served on active duty in the armed forces of the United States other than active duty for training and who were discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) if, at the time of making an application for admission to one of the Nebraska veterans homes:

(i) The applicant has been a bona fide resident of the State of Nebraska for at least two years;

(ii) The applicant has become disabled due to service, old age, or otherwise to an extent that it would prevent such applicant from earning a livelihood; and

(iii) The applicant's income from all sources is such that the applicant would be dependent wholly or partially upon public charities for support or the type of care needed is available only at a state institution;

(b) The spouse of any such person admitted to one of the homes who has attained the age of fifty years and has been married to such member for at least two years before his or her entrance into the home;

(c) Subject to subsection (2) of this section, the surviving spouses and parents of eligible servicemen and servicewomen as defined in subdivision (a) of this subsection who died while in the service of the United States or who have since died of a service-connected disability as determined by the United States Department of Veterans Affairs; and

(d) Subject to subsection (2) of this section, the surviving spouses of eligible servicemen or servicewomen as defined in subdivision (a) of this subsection who have since died.

(2) The surviving spouses and parents referred to in subdivision (1)(c) or (d) of this section shall be eligible for such care and subsistence if, at the time of applying, they:

(a) Have been bona fide residents of the State of Nebraska for at least two years;

- (b) Have attained the age of fifty years;
- (c) Are unable to earn a livelihood; and
- (d) Are dependent wholly or partially upon public charities or the type of care needed is available only at a state institution.

(3) No one admitted to one of the Nebraska veterans homes under conditions enumerated in this section shall have a vested right to continued residence in such home if such person ceases to meet any of the eligibility requirements of this section, except that no person who has been regularly admitted shall be denied continued residence solely because of his or her marriage to a member of one of the homes.

Source: Laws 1997, LB 396, § 5; Laws 2005, LB 54, § 26; Laws 2007, LB296, § 719; Laws 2009, LB488, § 1.

ARTICLE 4 VETERANS AID

Section

80-401.01. Terms, defined.

80-410. Director; Veterans' Advisory Commission; state and county veterans service officers; employees; qualifications.

80-401.01 Terms, defined.

For purposes of sections 80-401 to 80-412, unless the context otherwise requires:

(1) Recognized veterans organization means the American Legion, the American Ex-Prisoners of War, the Disabled American Veterans, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Veterans of Foreign Wars of the United States, the Vietnam Veterans of America, and any other veterans organization which the Director of Veterans' Affairs determines (a) is recognized by the United States Department of Veterans Affairs for claims representation, (b) has a presence in each of this state's congressional districts, and (c) maintains a state headquarters sanctioned by its national organization;

(2) Veteran of the Spanish-American War means a person who served on active duty in the armed forces of the United States between April 21, 1898, and July 4, 1902, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(3) Veteran of World War I means a person who served on active duty in the armed forces of the United States between April 6, 1917, and November 11, 1918, or who, being a resident of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(4) Veteran of World War II means a person who served on active duty in the armed forces of the United States between December 7, 1941, and December 31, 1946, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(5) Veteran of the Korean War means a person who served on active duty in the armed forces of the United States between June 25, 1950, and January 31, 1955, or who, being a citizen of the United States at the time of his or her entry

into such service, served with the military forces of any government allied with the United States in that war;

(6) Veteran of the Vietnam War means a person (a) who served on active duty in the armed forces of the United States (i) between August 5, 1964, and May 7, 1975, or (ii) in the Republic of Vietnam between February 28, 1961, and May 7, 1975, and (b) who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(7) Veteran of Lebanon means a person who served on active duty in the armed forces of the United States between August 25, 1982, and February 26, 1984, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(8) Veteran of Grenada means a person who served on active duty in the armed forces of the United States between October 23, 1983, and November 23, 1983, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(9) Veteran of Panama means a person who served on active duty in the armed forces of the United States between December 20, 1989, and January 31, 1990, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(10) Veteran of the Persian Gulf War means a person who served on active duty in the armed forces of the United States beginning on August 2, 1990, and ending on the date thereafter prescribed by presidential proclamation or by law, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(11) Veteran of the Global War on Terror means a person who served on active duty in the armed forces of the United States beginning on September 14, 2001, and ending on the date thereafter prescribed by presidential proclamation or by law, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(12) Active duty means full-time duty in the armed forces other than active duty for training; and

(13) Active duty for training means full-time duty in the armed forces performed by reserves for training purposes.

Source: Laws 1947, c. 306, § 2, p. 927; Laws 1951, c. 302, § 1, p. 993; Laws 1955, c. 328, § 1, p. 1024; Laws 1967, c. 562, § 1, p. 1853; Laws 1967, c. 561, § 2, p. 1849; Laws 1969, c. 754, § 1, p. 2835; Laws 1974, LB 621, § 1; Laws 1975, LB 90, § 3; Laws 1978, LB 571, § 1; Laws 1981, LB 221, § 1; Laws 1985, LB 49, § 1; Laws 1987, LB 626, § 2; Laws 1990, LB 857, § 1; Laws 1991, LB 720, § 1; Laws 1992, LB 835, § 4; Laws 1993, LB 2, § 1; Laws 1994, LB 241, § 1; Laws 2001, LB 368, § 2; Laws 2003, LB 799, § 1; Laws 2005, LB 54, § 29; Laws 2009, LB422, § 1.

80-410 Director; Veterans' Advisory Commission; state and county veterans service officers; employees; qualifications.

(1) The Director of Veterans' Affairs, all members of the Veterans' Advisory Commission, all state service officers, all assistant state service officers, and all personnel, except certain special and clerical help, of the state veterans service offices shall have served in the armed forces of the United States during the dates set forth in section 80-401.01, shall have been discharged or otherwise separated with a characterization of honorable from such service, and shall have been bona fide residents of the State of Nebraska continuously for at least five years immediately prior to their assuming a position in any of the offices mentioned.

(2) All county veterans service officers shall have served on active duty in the armed forces of the United States, other than active duty for training, shall have been discharged or otherwise separated with a characterization of honorable from the service, and shall have been bona fide residents of the State of Nebraska continuously for at least five years immediately prior to assuming any such position.

(3) All members of the county veterans service committees and all personnel, except certain special and clerical help, of the county veterans service offices shall have all of the qualifications described in subsection (2) of this section, except that such persons may have been discharged or otherwise separated with a characterization of general (under honorable conditions).

Source: Laws 1947, c. 306, § 18, p. 934; Laws 1953, c. 326, § 4, p. 1080; Laws 1967, c. 563, § 3, p. 1857; Laws 1969, c. 754, § 9, p. 2842; Laws 2005, LB 54, § 33; Laws 2009, LB52, § 1.

Cross References

Director, qualifications of, see section 80-401.02.

Veterans' Advisory Commission, qualifications of members, see section 80-401.06.

STATE ADMINISTRATIVE DEPARTMENTS

CHAPTER 81
STATE ADMINISTRATIVE DEPARTMENTS

Article.

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ARTICLE 1

THE GOVERNOR AND ADMINISTRATIVE DEPARTMENTS

(a) GENERAL PROVISIONS

Section

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- 81-188.04. University Building Renewal Assessment Fund; capital improvement project; depreciation charges.
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(a) GENERAL PROVISIONS

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 on any public advisory or policymaking board, commission, committee, or council.

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.

(d) MATERIEL DIVISION OF ADMINISTRATIVE SERVICES

81-161 Competitive bids; award to lowest responsible bidder; elements considered; energy star certified appliances.

(1) All purchases, leases, or contracts which by law are required to be based on competitive bids shall be made to the lowest responsible bidder, taking into consideration the best interests of the state, the quality or performance of the personal 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:

(a) The ability, capacity, and skill of the bidder to perform the contract required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts;

(e) The previous and existing compliance by the bidder with laws relating to the contract;

(f) The life-cycle costs of the personal property in relation to the purchase price and specific use of the item;

(g) The performance of the personal property, taking into consideration any commonly accepted tests and standards of product usability and user requirements;

(h) Energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment;

(i) The information furnished by each bidder concerning life-cycle costs between alternatives for all classes of equipment, evidence of expected life, repair and maintenance costs, and energy consumption on a per-year basis;

(j) The results of the United States Environmental Protection Agency tests on fleet performance of motor vehicles. Each bidder shall furnish information relating to such results; and

(k) Such other information as may be secured having a bearing on the decision to award the contract.

(2) Any appliance purchased or leased pursuant to this section shall be energy star certified, except that the materiel administrator may exempt the purchase or lease of an appliance from this subsection if he or she determines that the cost of compliance would exceed the projected energy cost savings.

(3) 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.

(4) For purposes of this section, energy star certified means approval of energy usage by the United States Environmental Protection Agency and the

United States Department of Energy. Such approval may be signified by the display of the energy star label.

Source: Laws 1943, c. 215, § 17, p. 709; R.S.1943, § 81-161; Laws 1963, c. 508, § 9, p. 1619; Laws 1969, c. 780, § 3, p. 2955; Laws 1975, LB 359, § 8; Laws 1980, LB 954, § 60; Laws 1992, LB 1241, § 17; Laws 2000, LB 654, § 13; Laws 2010, LB978, § 1.
Effective date July 15, 2010.

(f) DEFERRED BUILDING RENEWAL AND MAINTENANCE

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, depreciation charges remitted pursuant to section 81-188.02, 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, 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 Aeronautics, (iv) Department of Roads, (v) Game and Parks Commission, or (vi) 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. For each fiscal year, task force allocations from amounts accruing to the fund pursuant to section 81-188.02 shall not exceed the total of such revenue credited to the fund in the preceding fiscal year, except that if no revenue from depreciation charge assessments was credited to the fund in the preceding fiscal year, allocations shall not exceed fifty percent of revenue credited to the fund in the last preceding fiscal year in which depreciation charge assessments were credited to the fund.

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

Source: Laws 1998, LB 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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-188.02 State Building Renewal Assessment Fund; capital improvement project; depreciation charges.

(1) For purposes of this section, capital improvement project means (a) construction of a new facility, structure, or building, (b) construction of additions to an existing facility, structure, or building, (c) renovation of an existing facility, structure, or building if the total project cost of such renovation represents not less than fifteen percent of the value of the existing facility, structure, or building as determined by the Department of Administrative Services, (d) purchase of an existing facility, structure, or building, and (e) acquisition of a facility, structure, or building through means of conveyance other than sale and purchase.

(2) Beginning with the fiscal year that commences subsequent to the calendar year in which has occurred substantial completion of a capital improvement project as defined in subdivisions (1)(a) through (1)(c) of this section or acquisition of a capital improvement project as defined in subdivisions (1)(d) and (1)(e) of this section, the department shall assess a capital improvement depreciation charge to the agency maintaining ownership or control of the related facility, structure, or building and shall assess such charge for each fiscal year thereafter, except that no depreciation charges shall be assessed or paid pursuant to this section for the period beginning July 1, 2009, and ending June 30, 2011.

(3) The annual depreciation charge for a capital improvement project as defined in subdivisions (1)(a) through (1)(c) of this section shall be computed as one percent of the total project cost of the capital improvement project. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(d) of this section shall be computed as one percent of the greater of the purchase price or the value, as determined by the department, of the capital improvement project at the time of acquisition. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(e) of this section shall be computed as one percent of the value, as determined by the department, of the capital improvement project at the time of acquisition. The department may assess the charge annually or in monthly, quarterly, or semiannual installments.

(4) Depreciation charges shall not be assessed pursuant to this section for 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 Aeronautics; (iv) Department of Roads; (v) Game and Parks Commission; or (vi) Board of Educational Lands and Funds or

to other buildings or grounds owned, leased, or operated by the State of Nebraska which are specifically exempted by the Department of Administrative Services because the assessment of such depreciation charges 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. Depreciation charges shall not be assessed pursuant to this section for capital improvement projects relating to facilities, structures, or buildings of which the department is custodian pursuant to section 81-1108.17 and for which charges are assessed pursuant to subdivision (4)(b) of such section.

(5) Payment of depreciation charges assessed pursuant to this section shall be remitted to the State Treasurer for credit to the State Building Renewal Assessment Fund.

Source: Laws 1998, LB 1100, § 9; Laws 2001, LB 666, § 1; Laws 2002, LB 1310, § 14; Laws 2003, LB 410, § 5; Laws 2004, LB 439, § 16; Laws 2004, LB 1092, § 3; Laws 2007, LB322, § 21; Laws 2009, LB318, § 1.

81-188.04 University Building Renewal Assessment Fund; capital improvement project; depreciation charges.

(1) For purposes of this section, capital improvement project means (a) construction of a new facility, structure, or building, (b) construction of additions to an existing facility, structure, or building, (c) renovation of an existing facility, structure, or building if the total project cost of such renovation represents not less than fifteen percent of the value of the existing facility, structure, or building as determined by the Department of Administrative Services, (d) purchase of an existing facility, structure, or building, and (e) acquisition of a facility, structure, or building through means of conveyance other than sale and purchase.

(2) Beginning with the fiscal year that commences subsequent to the calendar year in which has occurred substantial completion of a capital improvement project by the University of Nebraska as defined in subdivisions (1)(a) through (1)(c) of this section or acquisition of a capital improvement project by the University of Nebraska as defined in subdivisions (1)(d) and (1)(e) of this section, the department shall assess a capital improvement depreciation charge to the Board of Regents of the University of Nebraska and shall assess such charge for each fiscal year thereafter, except that no depreciation charges shall be assessed or paid pursuant to this section for the period beginning July 1, 2009, and ending June 30, 2011.

(3) The annual depreciation charge for a capital improvement project as defined in subdivisions (1)(a) through (1)(c) of this section shall be computed as one percent of the total project cost of the capital improvement project. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(d) of this section shall be computed as one percent of the greater of the purchase price or the value, as determined by the department, of the capital improvement project at the time of acquisition. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(e) of this section shall be computed as one percent of the value, as determined by the department, of the capital improvement project at the time of acquisition. The department may assess the charge annually or in monthly, quarterly, or semiannual installments.

(4) Depreciation charges shall not be assessed pursuant to this section 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.

(5) Payment of depreciation charges assessed pursuant to this section shall be remitted to the State Treasurer for credit to the University Building Renewal Assessment Fund.

Source: Laws 1998, LB 1100, § 11; Laws 2002, LB 1310, § 16; Laws 2003, LB 410, § 7; Laws 2004, LB 1092, § 5; Laws 2007, LB322, § 22; Laws 2009, LB318, § 2.

81-188.06 State College Building Renewal Assessment Fund; capital improvement project; depreciation charges.

(1) For purposes of this section, capital improvement project means (a) construction of a new facility, structure, or building, (b) construction of additions to an existing facility, structure, or building, (c) renovation of an existing facility, structure, or building if the total project cost of such renovation represents not less than fifteen percent of the value of the existing facility, structure, or building as determined by the Department of Administrative Services, (d) purchase of an existing facility, structure, or building, and (e) acquisition of a facility, structure, or building through means of conveyance other than sale and purchase.

(2) Beginning with the fiscal year that commences subsequent to the calendar year in which has occurred substantial completion of a capital improvement project by the Nebraska state colleges as defined in subdivisions (1)(a) through (1)(c) of this section or acquisition of a capital improvement project by the Nebraska state colleges as defined in subdivisions (1)(d) and (1)(e) of this section, the department shall assess a depreciation charge to the Board of Trustees of the Nebraska State Colleges and shall assess such charge for each fiscal year thereafter, except that no depreciation charges shall be assessed or paid pursuant to this section for the period beginning July 1, 2009, and ending June 30, 2011.

(3) The annual depreciation charge for a capital improvement project as defined in subdivisions (1)(a) through (1)(c) of this section shall be computed as one percent of the total project cost of the capital improvement project. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(d) of this section shall be computed as one percent of the greater of the purchase price or the value, as determined by the department, of the capital improvement project at the time of acquisition. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(e) of this section shall be computed as one percent of the value, as determined by the department, of the capital improvement project at the time of acquisition. The department may assess the charge annually or in monthly, quarterly, or semiannual installments.

(4) Depreciation charges shall not be assessed pursuant to this section 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.

(5) Payment of depreciation charges assessed pursuant to this section shall be remitted to the State Treasurer for credit to the State College Building Renewal Assessment Fund.

Source: Laws 1998, LB 1100, § 13; Laws 2002, LB 1310, § 18; Laws 2003, LB 410, § 9; Laws 2004, LB 1092, § 7; Laws 2007, LB322, § 23; Laws 2009, LB318, § 3.

ARTICLE 2

DEPARTMENT OF AGRICULTURE

(a) GENERAL POWERS

Section

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

(m) SEEDS

81-2,147. Law, how cited.

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

81-2,147.12. Preemption of local law.

(n) COMMERCIAL FERTILIZER AND SOIL CONDITIONER

81-2,162.22. Act, how cited.

81-2,162.28. Preemption of local law.

(x) NEBRASKA PURE FOOD ACT

81-2,291. Pure Food Cash Fund; created; use; investment.

(a) GENERAL POWERS

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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(m) SEEDS

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.

81-2,147.11 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.
Effective date November 21, 2009.

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.

(n) COMMERCIAL FERTILIZER AND SOIL CONDITIONER

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.

81-2,162.28 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, notification 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.

(x) NEBRASKA PURE FOOD ACT

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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 5

STATE FIRE MARSHAL

(b) GENERAL PROVISIONS

Section

81-528. State Fire Marshal Cash Fund; created; use; investment.

(c) NATURAL GAS PIPELINE SAFETY

81-550. Nebraska Natural Gas Pipeline Safety Cash Fund; created; use; investment; assessments.

(i) TRAINING DIVISION

81-5,153. Training Division Cash Fund; created; use; investment.

(b) GENERAL PROVISIONS

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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(c) NATURAL GAS PIPELINE SAFETY

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. Transfers may be made from the fund to the General Fund at the direction of the Legislature through June 30, 2010. 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 twenty 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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(i) TRAINING DIVISION

81-5,153 Training Division Cash Fund; created; use; investment.

The Training Division Cash Fund is created. Money collected pursuant to section 81-5,152 shall be remitted to the State Treasurer for credit to the fund. 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 the fund to the General Fund at the direction of the Legislature. The Training Division 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.

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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 6

HEALTH AND HUMAN SERVICES

(p) TRANSPORTATION SERVICES

Section

81-6,120. Transportation services; restrictions on providers; criminal history record information check required; fingerprinting; costs; release of results; violation; penalty.

(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.

ARTICLE 7

DEPARTMENT OF ROADS

(a) GENERAL POWERS

Section

81-701.03. Department of Roads; assume highway safety program of Department of Motor Vehicles.

(a) GENERAL POWERS

81-701.03 Department of Roads; assume highway safety program of Department of Motor Vehicles.

Beginning on July 1, 2009, the Department of Roads 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.

Source: Laws 2009, LB219, § 2.

Cross References

Motorcycle Safety Education Act, see section 60-2120.

ARTICLE 8

INDEPENDENT BOARDS AND COMMISSIONS

(g) REAL ESTATE COMMISSION

Section

- 81-885. Act, how cited.
- 81-885.01. Terms, defined.
- 81-885.02. Broker, associate broker, real estate salesperson; license required; exemption.
- 81-885.03. Broker, associate broker, salesperson, defined; license required; cease and desist order; violation; fine; procedure.
- 81-885.05. Railroads; public utilities; applicability of act.
- 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.
- 81-885.14. Fees; license; annual 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.
- 81-885.19. License; form; pocket cards; issuance; broker's branch office; license; fee.
- 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.
- 81-885.29. Findings and determination by commission; license revoked or suspended; when; censure; civil fine; stay of execution; probation.
- 81-885.31. Civil fines; distribution; collection procedure.
- 81-885.43. Violations; Attorney General; maintain action.
- 81-885.44. Complaint for violations of act.
- 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.
- 81-887.03. Auctioneers; nonresident; additional requirements.

(i) LAND SURVEYING

81-8,110.07. Examining board; secretary; duties; Land Surveyor Examiner's Fund; created; purpose; investment.

INDEPENDENT BOARDS AND COMMISSIONS

§ 81-885.01

Section

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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.

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81-8,307. Repealed. Laws 2009, LB 154, § 27.

81-8,308. Repealed. Laws 2009, LB 154, § 27.

(g) REAL ESTATE COMMISSION

81-885 Act, how cited.

Sections 81-885 to 81-885.55 shall be known and may be cited as the Nebraska Real Estate License Act.

Source: Laws 2009, LB30, § 1; Laws 2010, LB931, § 26.

Effective date April 15, 2010.

81-885.01 Terms, defined.

For purposes of the Nebraska Real Estate License Act, unless the context otherwise requires:

(1) 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;

(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) 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;

(4) 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;

(5) 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;

(6) 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;

(7) 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;

(8) 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;

(9) Subdivision or subdivided land means any real estate offered for sale and which has been registered under the Interstate Land Sales Full Disclosure Act, 82 Stat. 590 and following, 15 U.S.C. 1701 and following, 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;

(10) 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;

(11) Purchaser means a person who acquires or attempts to acquire or succeeds to an interest in land;

(12) Commission means the State Real Estate Commission;

(13) 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 or (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction;

(14) 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 or (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction;

(15) 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;

(16) 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;

(17) 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 Office of Thrift Supervision, (e) the National Credit Union Administration, or (f) the successors of any of those agencies; and

(18) 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.

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. Effective date April 15, 2010.

81-885.02 Broker, associate broker, real estate salesperson; license required; exemption.

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.

Source: Laws 1973, LB 68, § 2; Laws 1983, LB 182, § 2; Laws 2009, LB30, § 2.

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.
Effective date July 15, 2010.

Cross References

Administrative Procedure Act, see section 84-920.

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.

81-885.09 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.

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, except that the total fine for such violations shall not exceed two thousand five hundred dollars per complaint. The commission may also impose a civil fine on violators of section 81-885.03 subject to the limits in such section.

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.
Effective date July 15, 2010.

81-885.14 Fees; license; annual 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. An applicant who is granted a license under section 81-885.17 without being required to take an examination shall not be required to pay the examination and application fees. 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. After the original issuance of a license, a renewal application and an annual fee to be established by the commission of not more than two hundred fifty dollars for each broker, and not more than two hundred dollars for each salesperson, shall be due and payable on or before the last day of November of each year. Failure to remit annual fees when due shall automatically cancel such license on December 31 of that 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. 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.

(2) 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.

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, 2011. 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.

Source: Laws 1973, LB 68, § 15; Laws 1983, LB 182, § 14; Laws 2009, LB30, § 6; Laws 2009, First Spec. Sess., LB3, § 68.
Effective date November 21, 2009.

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 or for lending purposes in a transaction other than a federally related transaction. 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.
Effective date April 15, 2010.

Cross References

Real Property Appraiser Act, see section 76-2201.

81-885.19 License; form; pocket cards; issuance; broker's branch office; license; fee.

The commission shall prescribe the form of license. Each license shall have placed thereon the seal of the commission. The license of each salesperson and associate broker shall be delivered or mailed to the broker by whom the salesperson or associate broker is employed and shall be kept in the custody and control of such broker. It is the duty of each broker to display his or her own license and those of his or her associate brokers and salespersons conspicuously in his or her place of business. The commission shall annually prepare

and deliver a pocket card certifying that the person whose name appears thereon is a licensed real estate broker or a licensed real estate associate broker or salesperson, as the case may be, stating the period of time for which fees have been paid and including, on salesperson's and associate broker's cards only, the name and address of the broker employing such salesperson or associate broker. If a broker maintains more than one place of business within the state, a branch office license shall be issued to such broker for each branch office so maintained by him or her upon the payment of an annual fee to be established by the commission of not more than fifty dollars and the branch office license shall be displayed conspicuously in each branch office. The broker or an associate broker shall be the manager of a branch office.

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.

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 non-interest-bearing checking 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; or

(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.

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.

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 certified mail 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 or certified mail 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.
Effective date July 15, 2010.

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.
Effective date July 15, 2010.

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.

81-885.43 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.

81-885.46 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.

81-887.03 Auctioneers; nonresident; additional requirements.

Nothing contained in sections 81-887.01 to 81-887.03 shall be construed to permit any person to conduct a sale of real estate without first complying with the requirements of the Nebraska Real Estate License Act.

Source: Laws 1953, c. 339, § 3, p. 1112; Laws 2009, LB30, § 15.

Cross References

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

(i) LAND SURVEYING

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 sections 81-8,108 to 81-8,127 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 sections 81-8,108 to 81-8,127. 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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(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 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 1967, c. 591, § 1, p. 2011; Laws 1978, LB 653, § 33; Laws 1993, LB 397, § 2; Laws 2004, LB 884, § 41; Laws 2006, LB 941, § 1; Laws 2010, LB879, § 21.
Operative date July 1, 2010.

(o) PROFESSIONAL LANDSCAPE ARCHITECTS

81-8,194 Board; fees; disposition; State Board of Landscape Architects Cash Fund; created; investment.

(1) The board shall establish fees of not less than one hundred nor more than three hundred dollars for applications for registration, examinations, certificates of registration, reciprocal registrations, and renewals based on the administration costs incurred by the board. The board shall collect and account for such fees and pay the same into the state treasury and which, by the State Treasurer, shall be credited to the State Board of Landscape Architects Cash Fund which is hereby created.

(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.

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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(p) TORT CLAIMS, STATE CLAIMS BOARD,
AND RISK MANAGEMENT PROGRAM

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.

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.

(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.

(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.
Effective date July 15, 2010.

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.

Effective date July 15, 2010.

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.

Effective date July 15, 2010.

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-Americans 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.

Effective date July 15, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(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.

ARTICLE 10

STATE-OWNED MOTOR VEHICLES

Section

81-1017. Sections; exceptions.

81-1017 Sections; exceptions.

The provisions of sections 81-1008 to 81-1017 shall not apply to any court or the motor vehicles thereof, but 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.
Effective date July 15, 2010.

ARTICLE 11

DEPARTMENT OF ADMINISTRATIVE SERVICES

(a) GENERAL PROVISIONS

Section

- 81-1108.12. State Building Administrator; qualifications.
81-1108.17. Department of Administrative Services; custodian of state property; director; administrator; powers and duties; Capitol Buildings Parking Revolving Fund; created; purpose; use.
81-1108.40. Repealed. Laws 2009, LB 207, § 5.
81-1117.05. State employee; payment of wages; methods authorized.
81-1118.07. State purchasing bureau; use reverse auction; powers and duties.
81-1120.23. Communications Cash Fund; established; purpose; investment.
81-1120.27. Telecommunications system; uses; member of Legislature; long-distance calls; how made.

(e) PAYMENT OF EXPENSES

- 81-1174. Reimbursement for expenses; contents; automobile; airplane; statement required; receipts; limitation.

(a) GENERAL PROVISIONS

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.
Effective date July 15, 2010.

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 state-owned vehicles, (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.

Cross References

Deferred Building Renewal Act, see section 81-190.

Nebraska State Capitol Preservation and Restoration Act, see section 72-2201.

81-1108.40 Repealed. Laws 2009, LB 207, § 5.

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.

81-1118.07 State purchasing bureau; use reverse auction; powers and duties.

(1) Notwithstanding any other provision of law, the state purchasing bureau created by section 81-1118 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.

81-1120.23 Communications Cash Fund; established; purpose; investment.

There is hereby established a cash fund to be known as the Communications Cash Fund. 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. All funds received under such sections and all funds received for communications services provided to any agency, department, 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. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Communications 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 1967, c. 572, § 9, p. 1883; Laws 1971, LB 675, § 6; Laws 1973, LB 431, § 2; R.R.S.1943, § 81-1120.09; Laws 1975, LB 427, § 14; Laws 1984, LB 1125, § 7; Laws 1986, LB 965, § 24; Laws 1992, LB 858, § 3; Laws 1994, LB 1066, § 103; Laws 2006, LB 921, § 9; Laws 2009, First Spec. Sess., LB3, § 71.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1120.27 Telecommunications system; uses; member of Legislature; long-distance calls; how made.

(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. A state employee or official shall be responsible for payment or reimbursement of charges, if any, that directly result from any such communication. The Department of Administrative Services may establish procedures for reimbursement of charges pursuant to this section.

(2) A member of the Legislature, while engaged in legislative business, may make personal long-distance calls on the state telecommunications system or by using his or her state credit card. At the end of every month upon the member's

receipt of his or her long-distance call record, the personal long-distance calls shall be designated by the member and the member billed for such calls. Reimbursement to the state for such personal long-distance calls by the member shall be made within thirty days from the date of designation.

(3) 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 and the cost of the call. 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 the amount of the call and 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.

(e) PAYMENT OF EXPENSES

81-1174 Reimbursement for expenses; contents; automobile; airplane; statement required; receipts; limitation.

Whenever any state officer, state employee, or member of any commission, council, committee, or board of the state is seeking reimbursement for actual 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. Each request shall be fully itemized, including the amount, date, place, and essential character of the expense incurred.

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.

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.

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.

The statement of expenses shall be duly verified and supported by receipts for all of such expenditures, except immaterial items identified by the director, for which reimbursement is requested.

No charge for mileage shall be allowed when such mileage accrues while using an automobile owned by the State of Nebraska.

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 town 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.

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.

ARTICLE 12

DEPARTMENT OF ECONOMIC DEVELOPMENT

(a) GENERAL PROVISIONS

Section	
81-1201.04.	Commission; members; qualifications; chairperson; coordination.
81-1201.08.	Repealed. Laws 2010, LB 947, § 4.
81-1201.18.	Department; administer Community Development Block Grant Program.
81-1201.21.	Job Training Cash Fund; created; use; investment.
81-1201.22.	Administrative Cash Fund; created; use; investment.
81-1203.	Job training grant; business plan; project criteria; training grant; partners; training grants for rural areas or high-poverty areas; audit; report.
81-1205.	Job training grant or training grant; reports required; department; duties.
81-1207.	Job training grant; repayment required; when; training grant; repayment required; when.
81-1212.	Lead-Based Paint Hazard Control Program; created; department; duties.

§ 81-1201.04

STATE ADMINISTRATIVE DEPARTMENTS

Section

(i) AGRICULTURAL PRODUCTS RESEARCH

81-1278. Nebraska Agricultural Products Research Fund; created; investment.

(m) MICROENTERPRISE DEVELOPMENT ACT

81-12,105.01. Microenterprise Development Cash Fund; created; use; investment.

(n) NEBRASKA VENTURE CAPITAL FORUM ACT

81-12,106. Repealed. Laws 2009, LB 3, § 1.

81-12,107. Repealed. Laws 2009, LB 3, § 1.

81-12,108. Repealed. Laws 2009, LB 3, § 1.

81-12,109. Repealed. Laws 2009, LB 3, § 1.

81-12,110. Repealed. Laws 2009, LB 3, § 1.

81-12,111. Repealed. Laws 2009, LB 3, § 1.

81-12,112. Repealed. Laws 2009, LB 3, § 1.

81-12,113. Repealed. Laws 2009, LB 3, § 1.

81-12,114. Repealed. Laws 2009, LB 3, § 1.

81-12,115. Repealed. Laws 2009, LB 3, § 1.

81-12,116. Repealed. Laws 2009, LB 3, § 1.

(p) BUILDING ENTREPRENEURIAL COMMUNITIES ACT

81-12,125. Act, how cited.

(a) GENERAL PROVISIONS

81-1201.04 Commission; members; qualifications; chairperson; coordination.

The commission shall consist of nine voting members appointed by the Governor. The chairperson of the commission shall be one of the appointed members and shall be chosen by the commission. Each congressional district in Nebraska shall be represented by three members, and the Governor shall solicit nominations for appointments to the commission from recognized economic development groups in Nebraska. The members of the commission shall be representative, to the extent possible, of the various geographic areas of the state and of both the urban and rural population. The director shall serve as an ad hoc nonvoting member of the commission. In appointing the members, the Governor shall seek to create a broad-based commission representative of the Nebraska economy. To achieve this objective the Governor shall appoint individuals from the following private industry sectors:

- (1) Production agriculture;
- (2) At least two individuals from manufacturing, one such individual shall represent a company with no more than seventy-five employees;
- (3) Transportation and logistics;
- (4) Travel and tourism;
- (5) Financial services and insurance;
- (6) Information technology and communications;
- (7) Biotechnology; and
- (8) Community development.

The commission and department are encouraged to involve other essential groups in the work of the commission, including, but not limited to, the (a) University of Nebraska, (b) Department of Agriculture, (c) State Energy Office, (d) educational institutions, (e) Department of Labor, and (f) Nebraska Investment Finance Authority. No more than five voting members of the commission shall belong to the same political party.

The commission shall provide programmatic policy guidance and oversight to the Nebraska Manufacturing Extension Partnership and shall provide regular consultation to the Community Development Block Grant Program.

Source: Laws 1986, LB 965, § 4; Laws 2007, LB388, § 1; Laws 2010, LB947, § 1.
Effective date July 15, 2010.

81-1201.08 Repealed. Laws 2010, LB 947, § 4.

81-1201.18 Department; administer Community Development Block Grant Program.

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: (1) The status of the project for which such grant was awarded; (2) the grant amount; (3) the local government contribution; (4) the private financial contribution; (5) the goals and objectives of the grant; and (6) the impact of the grant relative to the goals and objectives of the grant. The department, in consultation with the commission, 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 as selected by the commission; and

(b) Require that grant applicants submit evidence of a community assessment process for the project, which assessment process the commission shall design. 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.
Effective date July 15, 2010.

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)(iv) of section 48-621 and from the Cash Reserve Fund at the direction of the Legislature. The department shall establish a subaccount for all money transferred from the Cash Reserve Fund to the Job Training Cash Fund on or after July 1, 2005.

(2) The department shall use the Job Training Cash Fund or the subaccount established in subsection (1) of this section 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, or to provide upgrade skills training of the existing labor force necessary to adapt to new technology or the introduction of new product lines.

(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.

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

Source: Laws 1989, LB 305, § 3; Laws 1994, LB 1066, § 107; Laws 1995, LB 1, § 15; Laws 2000, LB 953, § 11; Laws 2005, LB 427, § 1; Laws 2007, LB322, § 27; Laws 2008, LB956, § 1; Laws 2009, LB316, § 22; Laws 2009, First Spec. Sess., LB3, § 72; Laws 2010, LB961, § 1; Laws 2010, LB1081, § 12.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB961, section 1, with LB1081, section 12, to reflect all amendments.

Note: Changes made by LB1081 became effective April 8, 2010. Changes made by LB961 became effective July 15, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

Teleworker Job Creation Act, see section 48-3001.

81-1201.22 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, including travel and tourism;

(c) Deposits charged for the temporary use of Nebraska items promoting economic development of the state, including travel and tourism;

(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, including travel and tourism, 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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

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 organiza-

tion. 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.
Effective date July 15, 2010.

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 an annual report by December 1 of each year to the Appropriations Committee of the Legislature. The 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 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 department 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 department shall provide information regarding the name of the private or inhouse training service and the qualifications of the training service.

Source: Laws 1995, LB 326, § 4; Laws 2008, LB956, § 4; Laws 2010, LB961, § 3.
Effective date July 15, 2010.

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.
Effective date July 15, 2010.

81-1212 Lead-Based Paint Hazard Control Program; created; department; duties.

(1) The Lead-Based Paint Hazard Control Program is created. The Department of Economic Development shall award a grant to a city of the metropolitan class in the amount of two hundred thousand dollars, 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, Title X, Section 1011, Public Law 102-550, as such act existed on July 15, 2010.

(2) It is the intent of the Legislature to provide a one-time appropriation for the Lead-Based Paint Hazard Control Program with lapsed funding from the Legislative Council from the Nebraska Health Care Cash Fund.

(3) This section terminates on June 30, 2011.

Source: Laws 2010, LB987, § 1.
Effective date July 15, 2010.
Termination date June 30, 2011.

(i) AGRICULTURAL PRODUCTS RESEARCH

81-1278 Nebraska Agricultural Products Research Fund; created; investment.

There is hereby created for the use of the Department of Economic Development a fund, to be known as the Nebraska Agricultural Products Research Fund, to consist of any funds appropriated by the Legislature and any funds received by gift or from the federal government to be used for the purpose provided in section 81-1279. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Agricultural Products Research 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 1959, c. 10, § 1, p. 117; Laws 1963, c. 14, § 1, p. 92; Laws 1965, c. 478, § 1, p. 1539; Laws 1967, c. 11, § 1, p. 95; Laws 1969, c. 584, § 31, p. 2360; Laws 1979, LB 187, § 258; R.S.1943, (1987), § 2-2501; Laws 1989, LB 10, § 1; Laws 1994, LB 1066, § 108; Laws 2009, First Spec. Sess., LB3, § 74.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(m) MICROENTERPRISE DEVELOPMENT ACT

81-12,105.01 Microenterprise Development Cash Fund; created; use; investment.

(1) The Microenterprise Development Cash 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 State Treasurer shall credit to the fund 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, and (d) made available by any department or agency of the United States if so directed by such department or agency.

(3) The fund shall be used by the Department of Economic Development for the purpose of carrying out the Microenterprise Development Act.

(4) The unexpended balance in the fund on July 6, 2010, shall lapse to the General Fund on such date.

Source: Laws 2007, LB322, § 37; Laws 2010, LB1109, § 6.
Effective date April 13, 2010.

Cross References

Microenterprise Development Act, see section 81-1295.

Nebraska Capital Expansion Act, see section 72-1269.

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

(n) NEBRASKA VENTURE CAPITAL FORUM ACT

81-12,106 Repealed. Laws 2009, LB 3, § 1.

81-12,107 Repealed. Laws 2009, LB 3, § 1.

81-12,108 Repealed. Laws 2009, LB 3, § 1.

81-12,109 Repealed. Laws 2009, LB 3, § 1.

81-12,110 Repealed. Laws 2009, LB 3, § 1.

81-12,111 Repealed. Laws 2009, LB 3, § 1.

81-12,112 Repealed. Laws 2009, LB 3, § 1.

81-12,113 Repealed. Laws 2009, LB 3, § 1.

81-12,114 Repealed. Laws 2009, LB 3, § 1.

81-12,115 Repealed. Laws 2009, LB 3, § 1.

81-12,116 Repealed. Laws 2009, LB 3, § 1.

(p) BUILDING ENTREPRENEURIAL COMMUNITIES ACT

81-12,125 Act, how cited.

Sections 81-12,125 to 81-12,127 shall be known and may be cited as the Building Entrepreneurial Communities Act. The act terminates on January 1, 2015.

Source: Laws 2005, LB 90, § 1; Laws 2009, LB164, § 13.
Termination date January 1, 2015.

**ARTICLE 13
PERSONNEL**

(d) STATE EMPLOYEES

Section

81-1394. Participation in employee discount program; authorized.

(d) STATE EMPLOYEES

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.

**ARTICLE 14
LAW ENFORCEMENT**

(a) LAW ENFORCEMENT TRAINING

Section

81-1413. Training center; tuition, fees, and expenses; how paid.

81-1413.01. Nebraska Law Enforcement Training Center Cash Fund; created; purpose; investment.

(b) COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

81-1428. Law Enforcement Improvement Fund; created; use; investment.

81-1429. Law Enforcement Improvement Fund; how funded.

(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.

81-1450. Office of Violence Prevention; director; administration and supervision; responsibilities; advisory council; meetings; duties.

81-1451. Violence Prevention Cash Fund; created; administration; investment.

(a) LAW ENFORCEMENT TRAINING

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.
Effective date July 15, 2010.

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. Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(b) COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

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. Effective date November 21, 2009.

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.

(e) OFFICE OF VIOLENCE PREVENTION

81-1447 Office of Violence Prevention; established; director; advisory council; members; terms; vacancy.

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 Governor. 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. 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.

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 their actual and necessary expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

Source: Laws 2009, LB63, § 39.

81-1450 Office of Violence Prevention; director; administration and supervision; responsibilities; 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.

(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 and the reduction of homicides and injuries caused by firearms. 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.

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.

ARTICLE 15

ENVIRONMENTAL PROTECTION

(b) LITTER REDUCTION AND RECYCLING ACT

Section
81-1566.

Act; termination; extension; considerations.

**(g) PETROLEUM PRODUCTS AND HAZARDOUS
SUBSTANCES STORAGE AND HANDLING**

81-15,121.

Tanks; permit; when required; fees; application; Underground Storage Tank Fund; created; investment.

81-15,124.01.

Environmental Quality Council; rules and regulations.

(k) WASTEWATER TREATMENT FACILITIES CONSTRUCTION ASSISTANCE ACT

81-15,158.

Municipality or county; failure to make payment; effect.

(l) WASTE REDUCTION AND RECYCLING

81-15,160.

Waste Reduction and Recycling Incentive Fund; created; use; investment; grants; restrictions.

81-15,165.

Tax Commissioner; collection fee; Waste Reduction and Recycling Incentive Fees Collection Fund; created; investment.

Section

(p) SUPERFUND COST SHARE CASH FUND

81-15,180. Superfund Cost Share Cash Fund; created; use; investment.

(r) TECHNICAL ADVISORY COMMITTEE

81-15,189. Repealed. Laws 2009, LB 154, § 27.

81-15,190. Repealed. Laws 2009, LB 154, § 27.

(b) LITTER REDUCTION AND RECYCLING ACT

81-1566 Act; termination; extension; considerations.

The Nebraska Litter Reduction and Recycling Act shall terminate on October 30, 2015, 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.
Effective date July 15, 2010.
Termination date October 30, 2015.

(g) PETROLEUM PRODUCTS AND HAZARDOUS
SUBSTANCES STORAGE AND HANDLING**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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

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 Environmental Quality 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.

(k) WASTEWATER TREATMENT FACILITIES
CONSTRUCTION ASSISTANCE ACT

81-15,158 Municipality or county; failure to make payment; effect.

If a municipality or county fails to make any payment pursuant to a loan within sixty days of the date due, such payment shall be deducted from the amount of aid to municipalities or counties to which the municipality or county is entitled under sections 77-27,136 to 77-27,137.01 or section 77-27,137.03. Such amount shall be paid directly to the Wastewater Treatment Facilities Construction Loan Fund.

Source: Laws 1988, LB 766, § 12; Laws 1989, LB 623, § 4; Laws 1994, LB 1139, § 45; Laws 2009, LB218, § 9.
Operative date July 1, 2011.

(I) WASTE REDUCTION AND RECYCLING

81-15,160 Waste Reduction and Recycling Incentive Fund; created; use; investment; grants; restrictions.

(1) The Waste Reduction and Recycling Incentive Fund is created. The department shall deduct from the fund amounts sufficient to reimburse itself for its costs of administration of the fund. The fund shall be administered by the Department of Environmental Quality. The fund shall consist of proceeds from the fees imposed pursuant to the Waste Reduction and Recycling Incentive Act.

(2) The fund may be used for purposes which include, but are not limited to:

(a) Technical and financial assistance to political subdivisions for creation of recycling systems and for modification of present recycling systems;

(b) Recycling and waste reduction projects, including public education, planning, and technical assistance;

(c) Market development for recyclable materials separated by generators, including public education, planning, and technical assistance;

(d) Capital assistance for establishing private and public intermediate processing facilities for recyclable materials and facilities using recyclable materials in new products;

(e) Programs which develop and implement composting of yard waste and composting with sewage sludge;

(f) Technical assistance for waste reduction and waste exchange for waste generators;

(g) Programs to assist communities and counties to develop and implement household hazardous waste management programs;

(h) Capital assistance for establishing private and public facilities to manufacture combustible waste products and to incinerate combustible waste to generate and recover energy resources, except that no disbursements shall be made under this section for scrap tire processing related to tire-derived fuel; and

(i) Grants for reimbursement of costs to cities of the second class, villages, and counties of five thousand or fewer population for the deconstruction of abandoned buildings. Eligible deconstruction costs will be related to the recovery and processing of recyclable or reusable material from the abandoned buildings.

(3) Grants up to one million dollars annually shall be available until June 30, 2014, for new scrap tire projects only, if acceptable scrap tire project applications are received. Eligible categories of disbursement under section 81-15,161 may include, but are not limited to:

(a) Reimbursement for the purchase of crumb rubber generated and used in Nebraska, with disbursements not to exceed fifty percent of the cost of the crumb rubber;

(b) Reimbursement for the purchase of tire-derived product which utilizes a minimum of twenty-five percent recycled tire content, with disbursements not to exceed twenty-five percent of the product's retail cost, except that persons who applied for a grant between June 1, 1999, and May 31, 2001, for the purchase of tire-derived product which utilizes a minimum of twenty-five percent recycled tire content may apply for reimbursement on or before July 1, 2002. Reimbursement shall not exceed twenty-five percent of the product's retail cost and may be funded in fiscal years 2001-02 and 2002-03;

(c) Participation in the capital costs of building, equipment, and other capital improvement needs or startup costs for scrap tire processing or manufacturing of tire-derived product, with disbursements not to exceed fifty percent of such costs or five hundred thousand dollars, whichever is less;

(d) Participation in the capital costs of building, equipment, or other startup costs needed to establish collection sites or to collect and transport scrap tires, with disbursements not to exceed fifty percent of such costs;

(e) Cost-sharing for the manufacturing of tire-derived product, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(f) Cost-sharing for the processing of scrap tires, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(g) Cost-sharing for the use of scrap tires for civil engineering applications for specified projects, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually; and

(h) Disbursement to a political subdivision up to one hundred percent of costs incurred in cleaning up scrap tire collection and disposal sites.

The director shall give preference to projects which utilize scrap tires generated and used in Nebraska.

(4) Priority for grants made under section 81-15,161 shall be given to grant proposals demonstrating a formal public/private partnership except for grants awarded from fees collected under subsection (6) of section 13-2042.

(5) Grants awarded from fees collected under subsection (6) of section 13-2042 may be renewed for up to a five-year grant period. Such applications shall include an updated integrated solid waste management plan pursuant to section 13-2032. Annual disbursements are subject to available funds and the grantee meeting established grant conditions. Priority for such grants shall be given to grant proposals showing regional participation and programs which address the first integrated solid waste management hierarchy as stated in section 13-2018 which shall include toxicity reduction. Disbursements for any one year shall not exceed fifty percent of the total fees collected after rebates under subsection (6) of section 13-2042 during that year.

(6) Any person who stores waste tires in violation of section 13-2033, which storage is the subject of abatement or cleanup, shall be liable to the State of Nebraska for the reimbursement of expenses of such abatement or cleanup paid by the Department of Environmental Quality.

(7) The Department of Environmental Quality may receive gifts, bequests, and any other contributions for deposit in the Waste Reduction and Recycling Incentive Fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Waste Reduction and Recycling Incentive Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1990, LB 163, § 2; Laws 1992, LB 1257, § 95; Laws 1993, LB 203, § 20; Laws 1993, LB 444, § 1; Laws 1994, LB 1034, § 7; Laws 1994, LB 1066, § 122; Laws 1997, LB 495, § 9; Laws 1999, LB 592, § 3; Laws 2001, LB 461, § 16; Laws 2002, Second Spec. Sess., LB 1, § 7; Laws 2003, LB 143, § 11; Laws 2007, LB568, § 3; Laws 2009, LB180, § 2; Laws 2009, LB379, § 1; Laws 2009, First Spec. Sess., LB3, § 78.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(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 Environmental Quality 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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(r) TECHNICAL ADVISORY COMMITTEE

81-15,189 Repealed. Laws 2009, LB 154, § 27.

81-15,190 Repealed. Laws 2009, LB 154, § 27.

ARTICLE 16

STATE ENERGY OFFICE

(a) STATE ENERGY OFFICE

Section

81-1607.01. State Energy Office Cash Fund; created; use; investment.

(b) LIGHTING AND THERMAL EFFICIENCY STANDARDS

81-1623. Repealed. Laws 2009, LB 316, § 29.

(d) SCHOOL DISTRICT ENERGY EFFICIENCY LOANS AND GRANTS

81-1634. Repayment; use.

(a) STATE ENERGY OFFICE

81-1607.01 State Energy Office Cash Fund; created; use; investment.

The State Energy Office 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 sections 81-1601 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 Office 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 727, § 3; Laws 1994, LB 1066, § 126; Laws 2009, First Spec. Sess., LB3, § 81.
Effective date November 21, 2009.

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

81-1623 Repealed. Laws 2009, LB 316, § 29.

(d) SCHOOL DISTRICT ENERGY EFFICIENCY LOANS AND GRANTS

81-1634 Repayment; use.

Funds received in repayment for energy efficiency loans from the School Weatherization Fund shall be credited to the General Fund. For each fiscal year in which there are any outstanding loans, the Legislature shall designate a portion of the funds received in repayment for energy efficiency loans for use by the State Energy Office to cover the actual cost of administering outstanding loans. Transfers may be made from the School Weatherization Fund to the General Fund at the direction of the Legislature.

Source: Laws 1981, LB 257, § 7; Laws 1982, LB 799, § 16; Laws 1985, LB 6, § 6; Laws 1985, LB 126, § 4; Laws 1989, LB 727, § 5; Laws 1995, LB 860, § 4; Laws 1998, LB 892, § 1; Laws 2002, Second Spec. Sess., LB 6, § 2; Laws 2006, LB 1208, § 26; Laws 2009, First Spec. Sess., LB3, § 82.
Effective date November 21, 2009.

ARTICLE 18**CRIME VICTIMS AND WITNESSES**

(a) CRIME VICTIM'S REPARATIONS

Section

- 81-1801. Terms, defined.
81-1801.02. Community Trust; authorized; powers and duties; create separate funds; distribution committee.
81-1802. Crime Victim's Reparations Committee; created; members.
81-1803. Committee; members; appointment; terms.
81-1805. Committee; members; expenses.
81-1813. Committee; adopt rules and regulations; forms and materials; provide.
81-1818. Personal injury or death; situations for which compensation is permitted; natural disaster; distribution authorized.
81-1820. Hearing officer; emergency award of compensation; when; conditions; review.
81-1822. Compensation; situations when not awarded.
81-1823. Award; limitations; how paid.
81-1825. Committee; subrogation rights.
81-1833. Committee; report; contents.
81-1834. Award; payment.
81-1835. Victim's Compensation Fund; created; use; investment.
81-1839. Committee; payments for legal representation; when.
81-1840. Action to defeat purpose of sections; null and void.
81-1841. Act, how cited.

(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) Commission shall mean the Nebraska Commission on Law Enforcement and Criminal Justice;
- (2) Committee shall mean the Crime Victim's Reparations Committee;
- (3) 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;

(4) Executive director shall mean the executive director of the commission;

(5) Personal injury shall mean actual bodily harm;

(6) Relative shall mean spouse, parent, grandparent, stepparent, natural born child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse's parent; and

(7) Victim shall mean a person who is injured or killed as a result of conduct specified in section 81-1818 or as a result of a natural disaster.

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.

81-1801.02 Community Trust; authorized; powers and duties; 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 who 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. The Community Trust shall create a separate fund for each tragedy and shall begin accepting contributions immediately after a tragedy. A report of distributions shall be made within two weeks after the distribution, and contributions shall be acknowledged within two weeks after receipt.

(3) The procedures for applications, hearings, and compensation orders for victims shall follow the procedures in the Nebraska Crime Victim's Reparations Act, as applicable, unless the board of directors of the Community Trust creates an alternative procedure. In any alternative procedure, the Community Trust shall establish a distribution committee for the tragedy within one week after the tragedy, establish eligible recipient criteria and eligible uses of the fund, begin initial distribution of the fund within three weeks after the tragedy, make subsequent distributions within three months after the tragedy, and complete all distributions within six months after the tragedy.

Source: Laws 2009, LB598, § 1.

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 two public members to be appointed by the Governor subject to approval by the Legislature. One public member shall represent charitable organizations, and one public member shall represent businesses. 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.

81-1803 Committee; members; appointment; terms.

Members of the committee shall serve for terms of four years, except that of the public members first appointed one shall be appointed for a term of two years and one for a term of four years.

Source: Laws 1978, LB 910, § 3; Laws 1986, LB 540, § 4; Laws 2009, LB598, § 4.

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 actual and necessary 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.

81-1813 Committee; adopt rules and regulations; forms and materials; provide.

The committee may, subject to the approval of the commission, 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 committee 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 ten thousand dollars. 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.

81-1818 Personal injury or death; situations for which compensation is permitted; natural disaster; distribution authorized.

The committee or hearing officer may order:

(1) The payment of compensation from the Victim's Compensation Fund or a distribution from the Community Trust for personal injury or death which resulted from:

(a) 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

(b) 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; or

(2) A distribution from the Community Trust for loss resulting from a natural disaster.

Source: Laws 1978, LB 910, § 18; Laws 1986, LB 540, § 19; Laws 2009, LB598, § 7.

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.

81-1822 Compensation; situations when not awarded.

No compensation shall be awarded:

(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;

(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; or

(5) If the victim incurs an economic loss which does not exceed ten percent of his or her net financial resources. For purposes of this subdivision, a victim's net financial resources shall not include the present value of future earnings and shall be determined by the committee by deducting from the victim's total financial resources:

(a) One year's earnings;

(b) The victim's equity in his or her home, not exceeding thirty thousand dollars;

(c) One motor vehicle; and

(d) Any other property which would be exempt from execution under section 25-1552 or 40-101.

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. Subdivision (5) of this section shall not apply to distributions from the Community Trust.

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.

81-1823 Award; limitations; 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 ten thousand dollars for each applicant per incident unless expenses for job retraining or similar employment-related rehabilitative services for the victim are deemed necessary. In such case, amounts in excess of ten thousand dollars shall be used only for such purposes. 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.

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.

81-1833 Committee; report; contents.

(1) The committee shall prepare and submit to the commission a biennial report of its activities under the Nebraska Crime Victim's Reparations Act, including the name of each applicant, a brief description of the facts in each case, and the amount of compensation awarded, except that if the applicant was the victim of a sexual assault the victim's name shall not be included in the report, but shall be available to the Governor or a member of the Legislature upon request to the committee. Such report shall be submitted to the Governor and Clerk of the Legislature as part of the commission's report submitted pursuant to section 81-1423.

(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. If any questionable or improper actions or inactions on the part of the Communi-

ty 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.

81-1834 Award; payment.

Any award to a claimant and any judgment in favor of a claimant under the Nebraska Crime Victim's Reparations Act from the Victim's Compensation Fund shall be certified by the committee to the Director of Administrative Services who shall promptly issue a warrant for payment of such award of judgment out of the fund if sufficient money is available in such fund.

Source: Laws 1978, LB 910, § 34; Laws 1986, LB 540, § 32; Laws 2009, LB598, § 13.

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.
Effective date July 15, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

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.

81-1841 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.

ARTICLE 20

NEBRASKA STATE PATROL

(a) GENERAL PROVISIONS

Section

81-2004.01. Carrier Enforcement Cash Fund; created; use; investment.

(b) RETIREMENT SYSTEM

81-2016. Retirement system; membership; requirements; new employee; participation in another governmental plan; how treated; separate employment; effect.

81-2017. Retirement system; contributions; payment; funding of system.

81-2027.03. Benefits; adjustment.

(a) GENERAL PROVISIONS

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. Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(b) RETIREMENT SYSTEM

81-2016 Retirement system; membership; requirements; new employee; participation in another governmental plan; how treated; separate employment; effect.

(1) Every member of the Nebraska State Patrol who was employed by the State of Nebraska as such, on September 7, 1947, and every person employed as a member of such patrol thereafter, shall be a member of the system, except for those members of the Nebraska State Patrol who elected pursuant to section 60-1304 to remain members of the State Employees Retirement System of the State of Nebraska. On and after July 1, 2010, no employee shall be authorized to participate in the retirement system provided for in the Nebraska State Patrol Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(2) Within the first thirty days of employment, a member may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned.

(3) Any officer who qualifies for membership pursuant to subsection (1) of this section may not be disqualified from membership in the retirement system solely because such officer also maintains separate employment which qualifies the officer for membership in another public retirement system, nor may membership in this retirement system disqualify such an officer from membership in another public retirement system solely by reason of separate employment which qualifies such officer for membership in this retirement system.

(4) Information necessary to determine membership shall be provided by the Nebraska State Patrol.

(5) The board may adopt and promulgate rules and regulations governing the assessment and granting of eligibility and vesting credit.

Source: Laws 1947, c. 211, § 3, p. 687; R.S.1943, (1978), § 60-443; Laws 1995, LB 501, § 8; Laws 1996, LB 1076, § 33; Laws 1997, LB 624, § 29; Laws 1998, LB 1191, § 65; Laws 2000, LB 1192, § 20; Laws 2002, LB 407, § 49; Laws 2002, LB 470, § 8; Laws 2010, LB950, § 19.

Operative date July 1, 2010.

81-2017 Retirement system; contributions; payment; funding of system.

(1) Commencing July 1, 2005, and until July 1, 2009, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to thirteen percent of his or her monthly compensation. Commencing July 1, 2009, and until July 1, 2010, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to fifteen percent of his or her monthly compensation. Commencing July 1, 2010, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to sixteen percent of his or her monthly compensation. Such amounts shall be deducted monthly by the Di-

rector of Administrative Services who shall draw a warrant monthly in the amount of the total deductions from the compensation of members of the Nebraska State Patrol in accordance with subsection (4) of this section, and the State Treasurer shall credit the amount of such warrant to the State Patrol Retirement Fund. The director shall cause a detailed report of all monthly deductions to be made each month to the board.

(2) In addition, commencing July 1, 2005, and until July 1, 2010, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of fifteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. Commencing July 1, 2010, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of sixteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund.

(3) For the fiscal year beginning on July 1, 2002, and each fiscal year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. Beginning July 1, 2006, any existing unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a thirty-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board.

(4) The state shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the state shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. 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.

81-2027.03 Benefits; adjustment.

(1) Beginning July 1, 2000, and each July 1 thereafter, current benefits paid to a member or beneficiary 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 (2) of this section results in a benefit which would be less than sixty percent of the purchasing power of the initial benefit as calculated above, 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. In all other years, the adjustment provided under subsection (2) of this section shall be provided. The adjustment pursuant to this subsection shall not cause a current benefit to be reduced.

(2) Except as provided in subsection (1) of this section:

(a) Beginning July 1, 2000, and until July 1, 2001, the current benefit of a member or the beneficiary of such a member shall be increased annually by the lesser of (i) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (ii) two percent; and

(b) Beginning July 1, 2001, the current benefit of a member or the beneficiary of such a member shall be increased annually by the lesser of (i) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (ii) two and one-half percent.

(3) The state shall contribute to the State Patrol Retirement Fund an annual level dollar payment certified by the board. For the 1996-97 fiscal year through the 2012-13 fiscal year, the annual level dollar payment certified by the board shall equal 3.04888 percent of six million eight hundred ninety-five thousand dollars.

(4) The board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the percentage change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Source: Laws 1996, LB 700, § 14; Laws 1999, LB 674, § 8; Laws 2001, LB 711, § 19; Laws 2004, LB 1097, § 31; Laws 2008, LB1147, § 11; Laws 2010, LB950, § 20.
Operative date July 1, 2010.

ARTICLE 21

STATE ELECTRICAL DIVISION

Section

81-2104. State Electrical Board; powers enumerated.

81-2105. Electrical Division Fund; created; how funded; board; expenses.

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 in 2008, Publication Number 70-2008, which code shall be filed in the offices of the Secretary of State and the board 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.

Effective date July 15, 2010.

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 the actual and necessary 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.

Effective date November 21, 2009.

ARTICLE 22

AGING SERVICES

(d) PREADMISSION SCREENING

Section

81-2265. Repealed. Laws 2009, LB 288, § 54.

81-2267. Repealed. Laws 2009, LB 288, § 54.

81-2270. Purchase of services with state funds; sliding-fee scale.

81-2271. Rules and regulations.

(d) PREADMISSION SCREENING

81-2265 Repealed. Laws 2009, LB 288, § 54.

81-2267 Repealed. Laws 2009, LB 288, § 54.

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.

ARTICLE 24 PROMPT PAYMENT ACT

Section
81-2402. Terms, defined.

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.
Operative date October 1, 2010.

ARTICLE 25

COMMISSION ON INDIAN AFFAIRS

Section

- 81-2504. Commission; functions.
- 81-2509. State assistance to political subdivisions; terms, defined.
- 81-2510. State assistance to political subdivision; application; use.
- 81-2511. State assistance to political subdivision; application; contents; commission; duties.
- 81-2512. State assistance to political subdivision; commission; public hearing; notice.
- 81-2513. State assistance to political subdivision; commission; approval of application; quorum.
- 81-2514. State assistance to political subdivisions; Designated Collection Fund; created; use; investment; commission; seek and accept funds.
- 81-2515. State assistance to political subdivisions; sections; termination.

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.

Effective date July 15, 2010.

81-2509 State assistance to political subdivisions; terms, defined.

For purposes of sections 81-2509 to 81-2515:

- (1) Census-designated place means a concentration of population identified by the United States Department of Commerce, Bureau of the Census, that lacks a separate municipal government but otherwise physically resembles an incorporated city or village, that is associated with an Indian reservation, and that is in a county with fewer than six thousand four hundred inhabitants according to the most recent federal decennial census;
- (2) Commission means the Commission on Indian Affairs;
- (3) Indian reservation means a tract of land set apart by the federal government for the use of the Native American people; and

(4) Political subdivision means a city, village, or county within a thirty-mile radius of a census-designated place or a tribal government that owns land within such thirty-mile radius.

Source: Laws 2010, LB1002, § 1.
Effective date July 15, 2010.
Termination date June 30, 2018.

81-2510 State assistance to political subdivision; application; use.

Any political subdivision may annually apply to the commission for state assistance under sections 81-2509 to 81-2515. The state assistance shall be used for economic development, health care, and law enforcement needs in such political subdivision.

Source: Laws 2010, LB1002, § 2.
Effective date July 15, 2010.
Termination date June 30, 2018.

81-2511 State assistance to political subdivision; application; contents; commission; duties.

(1) All applications for state assistance under sections 81-2509 to 81-2515 shall be in writing, include a certified copy of the approving action of the governing body of the applicant describing the proposed use for the state assistance, and be of such form and contain the content as the commission shall prescribe and publish for distribution to a political subdivision 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.
Effective date July 15, 2010.
Termination date June 30, 2018.

81-2512 State assistance to political subdivision; commission; public hearing; notice.

(1) After reviewing an application submitted under section 81-2511 and upon reasonable notice to the applicant, the commission shall hold a public hearing on the application.

(2) The commission shall give notice of the time, place, and purpose of the public hearing by publication three times in a newspaper of statewide circulation. Such publication shall be not less than ten days prior to the hearing. The notice shall describe generally the use for which state assistance has been requested. The applicant shall pay the cost of the notice.

(3) At the public hearing, representatives of the applicant and any other interested persons may appear and present evidence and argument in support of or in opposition to the application or neutral testimony. The commission may seek expert testimony and may require testimony of persons whom the commis-

sion desires to comment on the application. The commission may provide for the acceptance of additional evidence after conclusion of the public hearing.

Source: Laws 2010, LB1002, § 4.
Effective date July 15, 2010.
Termination date June 30, 2018.

81-2513 State assistance to political subdivision; commission; approval of application; quorum.

(1) After consideration of the application and the evidence, 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) 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.
Effective date July 15, 2010.
Termination date June 30, 2018.

81-2514 State assistance to political subdivisions; 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.
Effective date July 15, 2010.
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; sections; termination.

Sections 81-2509 to 81-2515 terminate on June 30, 2018.

Source: Laws 2010, LB1002, § 7.
Effective date July 15, 2010.
Termination date June 30, 2018.

ARTICLE 31

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Section

81-3119. Health and Human Services Cash Fund; created; investment.

81-3119 Health and Human Services Cash Fund; created; investment.

The Health and Human Services Cash Fund is created and shall consist of funds from contracts, grants, gifts, or fees. Transfers may be made from the fund to the General Fund at the direction of the Legislature. 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.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 34

ENGINEERS AND ARCHITECTS REGULATION ACT

Section

81-3401. Act, how cited.

81-3432. Engineers and Architects Regulation Fund; created; use; investment.

81-3432.01. Repayment of qualified educational debt; authorized; eligibility.

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.

81-3432 Engineers and Architects Regulation Fund; created; use; investment.

The Engineers and Architects Regulation Fund is created. The secretary of 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. Loan 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. Transfers may be made from the fund to the General Fund at the direction of the Legislature through June 30, 2011. Any

money in the Engineers and Architects 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 1997, LB 622, § 32; Laws 2009, LB446, § 2; Laws 2009, First Spec. Sess., LB3, § 86.
Effective date November 21, 2009.

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 loan 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 loan repayment under this section.

Source: Laws 2009, LB446, § 3.

ARTICLE 35

GEOLOGISTS REGULATION ACT

Section

81-3524. Geologists Regulation Fund; created; use; investment.

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 invest-

ment 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.

Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 36

RURAL DEVELOPMENT COMMISSION

Section

81-3602. Rural Development Commission; members; terms; meetings; expenses.

81-3602 Rural Development Commission; members; terms; meetings; expenses.

(1)(a) The Rural Development Commission shall consist of members who represent a wide range of rural Nebraska interests.

(b) The Governor shall appoint five members to the commission. The Governor shall appoint a representative of his or her office and the Director of Economic Development or his or her designee, the Director of Agriculture or his or her designee, the chief executive officer of the Department of Health and Human Services or his or her designee, and the Director of the Nebraska State Historical Society or his or her designee.

(c) The Speaker of the Legislature shall appoint one member of the Legislature to the commission. Such member shall be a nonvoting member of the commission.

(d) Other members shall be appointed by the Governor to represent federal agencies, local governments, tribal governments, nonprofit organizations, regional economic development organizations, the private sector, postsecondary education, and youth.

(e) The chairperson and vice-chairperson of the commission shall be elected by a majority of the members of the commission at the first commission meeting in odd-numbered years and shall each serve a two-year term as chairperson and vice-chairperson, respectively.

(2) The commission shall meet at the call of the chairperson or a majority of the members. The chairperson shall call such meetings as he or she determines necessary to fulfill the duties of the commission. A quorum shall be one-half of the members.

(3) The members of the commission shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177 and pursuant to policies of the commission.

Source: Laws 1993, LB 190, § 2; R.S.1943, (1994), § 81-1283; Laws 1998, LB 1053, § 2; Laws 2003, LB 48, § 1; Laws 2003, LB 48, § 3; Laws 2007, LB296, § 777; Laws 2009, LB231, § 1.

CHAPTER 82

STATE CULTURE AND HISTORY

Article.

1. Nebraska State Historical Society. 82-108.02.
3. Nebraska Arts Council. 82-326 to 82-332.

ARTICLE 1

NEBRASKA STATE HISTORICAL SOCIETY

Section

82-108.02. Historical Society Fund; created; use; investment.

82-108.02 Historical Society Fund; created; use; investment.

All funds received by the Nebraska State Historical Society for services rendered shall be remitted to the State Treasurer for credit to the Historical Society Fund which is hereby established. Funds to the credit of the fund shall only be expended, as and when appropriated by the Legislature, by the Nebraska State Historical Society for the general purposes of such society, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Historical Society 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 1961, c. 439, § 1, p. 1357; Laws 1969, c. 584, § 110, p. 2416; Laws 1995, LB 7, § 138; Laws 2009, First Spec. Sess., LB3, § 88.

Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 3

NEBRASKA ARTS COUNCIL

Section

82-326. Appropriation; works of art; administration, and installation; limitation.

82-329. Works of art; Nebraska Arts Council; maintain inventory; inspect; recommend procedures.

82-331. Nebraska Cultural Preservation Endowment Fund; created; use; investment.

82-332. Nebraska Arts and Humanities Cash Fund; created; use; investment.

82-326 Appropriation; works of art; administration, and installation; limitation.

The amount of money made available from any appropriations under the provisions of sections 82-317 to 82-329, 85-106 to 85-106.03, and 85-304 to 85-304.03 shall be used, in addition to the cost of the works of art, to provide for the administration by the contracting agency, the architect, and the Nebras-

ka Arts Council, and for all costs of installation of the works of art. The Nebraska Arts Council may set aside up to ten percent of the amount appropriated for administration for an art maintenance fund which shall be used to repair or restore all works of art acquired under such sections.

Source: Laws 1978, LB 664, § 18; Laws 2010, LB1063, § 1.
Effective date July 15, 2010.

82-329 Works of art; Nebraska Arts Council; maintain inventory; inspect; recommend procedures.

The Nebraska Arts Council shall maintain an inventory of all works of art purchased under sections 82-317 to 82-329, 85-106 to 85-106.03, and 85-304 to 85-304.03 and shall inspect each work of art on a regular schedule to determine its condition. The Nebraska Arts Council may recommend procedures for regular maintenance, preservation, and security and for the repair of any damaged work of art.

Source: Laws 1978, LB 664, § 21; Laws 2010, LB1063, § 2.
Effective date July 15, 2010.

82-331 Nebraska Cultural Preservation Endowment Fund; created; use; investment.

(1) There is hereby established in the state treasury a trust fund to be known as the Nebraska Cultural Preservation Endowment Fund. The fund shall consist of funds appropriated or transferred by the Legislature, and only the earnings of the fund may be used as provided in this section.

(2) On August 1, 1998, the State Treasurer shall transfer five million dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund.

(3) Except as provided in subsection (4) of this section, it is the intent of the Legislature that the State Treasurer shall transfer (a) an amount not to exceed five hundred thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31 of 2009 and 2010 and (b) an amount not to exceed five hundred thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31 of 2011, 2012, 2013, 2014, 2015, and 2016.

(4) Prior to the transfer of funds from any state account into the Nebraska Cultural Preservation Endowment Fund, the Nebraska Arts Council shall provide documentation to the budget division of the Department of Administrative Services that qualified endowments have generated a dollar-for-dollar match of new money, up to the amount of state funds authorized by the Legislature to be transferred to the Nebraska Cultural Preservation Endowment Fund. The budget division of the Department of Administrative Services shall notify the State Treasurer to execute a transfer of state funds up to the amount specified by the Legislature, but only to the extent that the Nebraska Arts Council has provided documentation of a dollar-for-dollar match. Funds not transferred shall be carried forward to the succeeding year and be added to the funds authorized for a dollar-for-dollar match during that year.

(5) The Legislature shall not appropriate or transfer money from the Nebraska Cultural Preservation Endowment Fund for any purpose other than the purposes stated in sections 82-330 to 82-333, except that the Legislature may

appropriate or transfer money from the fund upon a finding that the purposes of such sections are not being accomplished by the fund.

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

(7) All investment earnings from the Nebraska Cultural Preservation Endowment Fund shall be credited to the Nebraska Arts and Humanities Cash Fund.

Source: Laws 1998, LB 799, § 2; Laws 2008, LB1165, § 1; Laws 2009, LB316, § 23; Laws 2010, LB1063, § 3.
Effective date July 15, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

82-332 Nebraska Arts and Humanities Cash Fund; created; use; investment.

(1) The Nebraska Arts and Humanities Cash Fund is created. The fund shall consist of all funds credited from the Nebraska Cultural Preservation Endowment Fund pursuant to section 82-331. The Nebraska Arts Council shall administer and distribute the Nebraska Arts and Humanities Cash Fund. All disbursements from the Nebraska Arts and Humanities Cash Fund shall be matched dollar-for-dollar by sources other than state funds. The match funds shall be new money generated for endowments established by the Nebraska Arts Council or Nebraska Humanities Council or qualified endowments of their constituent organizations, new money generated as a result of seed grants to recipients, or new money generated by the Nebraska Arts Council or Nebraska Humanities Council for arts or humanities education. Matching funds shall also include earnings generated by qualified private endowments formed in accordance with this section. New money used as a match shall not be limited to matching the Nebraska Arts and Humanities Cash Fund in the state fiscal year the new money is received, but it shall be used as a match no later than the subsequent fiscal year. For an endowment to be a qualified endowment (a) the endowment must meet the standards set by the Nebraska Arts Council or Nebraska Humanities Council, (b) the endowment must be intended for long-term stabilization of the organization, and (c) the funds of the endowment must be endowed and only the earnings thereon expended. An organization is a constituent organization if it receives funding from the Nebraska Arts Council or Nebraska Humanities Council and is tax exempt under section 501 of the Internal Revenue Code. The match funds required by this section shall not include in-kind contributions. The budget division of the Department of Administrative Services shall approve allotment and disbursement of funds from the Nebraska Arts and Humanities Cash Fund only to the extent the Nebraska Arts Council has provided documentation of the dollar-for-dollar match required by this section. Funds from the Nebraska Arts and Humanities Cash Fund may be used for the purpose of obtaining challenge grants from the National Endowment for the Humanities or the National Endowment for the Arts.

(2) Rules and regulations of the Nebraska Arts Council shall provide that the ultimate use of disbursements from the Nebraska Arts and Humanities Cash Fund shall be in a ratio of seventy percent to projects, endowments, or programs designated by the Nebraska Arts Council and thirty percent to

projects, endowments, or programs designated by the Nebraska Humanities Council.

(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 1998, LB 799, § 3; Laws 2009, LB316, § 24.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 83

STATE INSTITUTIONS

Article.

1. Management.
 - (a) General Provisions. 83-123.
 - (f) Correctional Services, Parole, and Pardons. 83-174.03 to 83-184.
3. Hospitals.
 - (d) Cost of Patient Care. 83-380.
4. Penal and Correctional Institutions.
 - (i) Criminal Detention Minimum Standards. 83-4,133.
 - (l) Incarceration Work Camps. 83-4,142, 83-4,143.
9. Department of Correctional Services.
 - (a) General Provisions. 83-913.01, 83-917.
 - (j) Lethal Injection. 83-964 to 83-972.
12. Developmental Disabilities Services. 83-1209 to 83-1224.

ARTICLE 1

MANAGEMENT

(a) GENERAL PROVISIONS

Section

- 83-123. Department of Correctional Services; license plates; materials; Department of Motor Vehicles; duties.
- (f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS
- 83-174.03. Certain sex offenders; supervision by Office of Parole Administration; notice prior to release; risk assessment and evaluation; conditions of community supervision.
- 83-183. Persons committed; employment; wages; use; rules and regulations.
- 83-184. Person committed; visit outside facility; work at paid employment; funds; disposal; withholding; use; violations; effect.

(a) GENERAL PROVISIONS

83-123 Department of Correctional Services; license plates; materials; Department of Motor Vehicles; duties.

Out of the fund appropriated by the Legislature, the Department of Correctional Services shall purchase the materials for, manufacture, and deliver the license plates each year to the various counties in the State of Nebraska. The Department of Motor Vehicles shall furnish the information concerning license plates, together with the number of plates to be manufactured for each county in the state for the current licensing year, to the Department of Correctional Services.

Source: Laws 1931, c. 22, § 2, p. 95; C.S.Supp.,1941, § 83-137; R.S.1943, § 83-123; Laws 1951, c. 319, § 2, p. 1091; Laws 1953, c. 207, § 14, p. 730; Laws 1959, c. 442, § 3, p. 1486; Laws 1959, c. 284, § 5, p. 1078; Laws 1969, c. 497, § 2, p. 2067; Laws 1993, LB 31, § 24; Laws 1993, LB 112, § 46; Laws 2009, LB49, § 9.

(f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS

83-174.03 Certain sex offenders; supervision by Office of Parole Administration; notice prior to release; risk assessment and evaluation; conditions of community supervision.

(1) Any individual who, on or after July 14, 2006, (a) is convicted of or completes a term of incarceration for a registrable offense under section 29-4003 and has a previous conviction for a registrable offense under such section, (b) is convicted of sexual assault of a child in the first degree pursuant to section 28-319.01, or (c) is convicted of or completes a term of incarceration for an aggravated offense as defined in section 29-4001.01, shall, upon completion of his or her term of incarceration or release from civil commitment, be supervised in the community by the Office of Parole Administration for the remainder of his or her life.

(2) Notice shall be provided to the Office of Parole Administration by an agency or political subdivision which has custody of an individual required to be supervised in the community pursuant to subsection (1) of this section at least sixty days prior to the release of such individual from custody.

(3) Individuals required to be supervised in the community pursuant to subsection (1) of this section shall undergo a risk assessment and evaluation by the Office of Parole Administration to determine the conditions of community supervision to be imposed to best protect the public from the risk that the individual will reoffend.

(4) Conditions of community supervision imposed on an individual by the Office of Parole Administration may include the following:

(a) Drug and alcohol testing if the conviction resulting in the imposition of community supervision involved the use of drugs or alcohol;

(b) Restrictions on employment and leisure activities necessary to minimize interaction with potential victims;

(c) Requirements to report regularly to the individual's community supervision officer;

(d) Requirements to reside at a specified location and notify the individual's community supervision officer of any change in address or employment;

(e) A requirement to allow the Office of Parole Administration access to medical records from the individual's current and former providers of treatment;

(f) A requirement that the individual submit himself or herself to available medical, psychological, psychiatric, or other treatment, including, but not limited to, polygraph examinations; or

(g) Any other conditions designed to minimize the risk of recidivism, including, but not limited to, the use of electronic monitoring, which are not unduly restrictive.

Source: Laws 2006, LB 1199, § 89; Laws 2009, LB285, § 13.

83-183 Persons committed; employment; wages; use; rules and regulations.

(1) To establish good habits of work and responsibility, to foster vocational training, and to reduce the cost of operating the facilities, persons committed to the department shall be employed, eight hours per day, so far as possible in constructive and diversified activities in the production of goods, services, and

foodstuffs to maintain the facilities, for state use, and for other purposes authorized by law. To accomplish these purposes, the director may establish and maintain industries and farms in appropriate facilities and may enter into arrangements with any other board or agency of the state, any natural resources district, or any other political subdivision, except that any arrangements entered into with school districts, educational service units, community colleges, state colleges, or universities shall include supervision provided by the department, for the employment of persons committed to the department for state or governmental purposes. Nothing in this subsection shall be construed to effect a reduction in the number of work release positions.

(2) The director shall make rules and regulations governing the hours, conditions of labor, and the rates of compensation of persons committed to the department. In determining the rates of compensation, such regulations may take into consideration the quantity and quality of the work performed by such person, whether or not such work was performed during regular working hours, the skill required for its performance, and the economic value of similar work outside of correctional facilities.

(3) Except as provided in section 83-183.01, wage payments to a person committed to the department shall be set aside by the chief executive officer of the facility in a separate fund. The fund shall enable such person committed to the department to contribute to the support of his or her dependents, if any, to make necessary purchases from the commissary, and to set aside sums to be paid to him or her at the time of his or her release from the facility.

(4) The director may authorize the chief executive officer to invest the earnings of a person committed to the department. Any accrued interest thereon shall be credited to such person's fund.

(5) The director may authorize the chief executive officer to reimburse the state from the wage fund of a person committed to the department for:

(a) The actual value of property belonging to the state or any other person intentionally or recklessly destroyed by such person committed to the department during his or her commitment;

(b) The actual value of the damage or loss incurred as a result of unauthorized use of property belonging to the state or any other person by such person committed to the department;

(c) The actual cost to the state for injuries or other damages caused by intentional acts of such person committed to the department; and

(d) The reasonable costs incurred in returning such person committed to the department to the facility to which he or she is committed in the event of his or her escape.

(6) No person committed to the department shall be required to engage in excessive labor, and no such person shall be required to perform any work for which he or she is declared unfit by a physician designated by the director. No person who performs labor or work pursuant to this section shall be required to wear manacles, shackles, or other restraints.

(7) The director may authorize that a portion of the earnings of a person committed to the department be retained by that person for personal use.

Source: Laws 1969, c. 817, § 14, p. 3080; Laws 1980, LB 319, § 10; Laws 1993, LB 31, § 32; Laws 1994, LB 889, § 1; Laws 1999, LB 865, § 7; Laws 2002, LB 112, § 1; Laws 2009, LB63, § 42.

83-184 Person committed; visit outside facility; work at paid employment; funds; disposal; withholding; use; violations; effect.

(1) When the conduct, behavior, mental attitude, and conditions indicate that a person committed to the department and the general society of the state will be benefited, and there is reason to believe that the best interests of the people of the state and the person committed to the department will be served thereby, in that order, and upon the recommendation of the board in the case of each committed offender, the director may authorize such person, under prescribed conditions, to:

(a) Visit a specifically designated place or places and return to the same or another facility. An extension of limits may be granted to permit a visit to a dying relative, attendance at the funeral of a relative, the obtaining of medical services, the contacting of prospective employers, or for any other reason consistent with the public interest; or

(b) Work at paid employment or participate in a training program in the community on a voluntary basis whenever:

(i) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

(ii) The rates of pay and other conditions of employment will not be less than those paid or provided for work of similar nature in the locality in which the work is to be performed.

(2) The wages earned by a person authorized to work at paid employment in the community under the provisions of this section shall be credited by the chief executive officer of the facility to such person's wage fund. The director shall authorize the chief executive officer to withhold up to five percent of such person's net wages. The funds withheld pursuant to this subsection shall be remitted to the State Treasurer for credit as provided in subsection (2) of section 33-157.

(3) A person authorized to work at paid employment in the community under the provisions of this section may be required to pay, and the director is authorized to collect, such costs incident to the person's confinement as the director deems appropriate and reasonable. Collections shall be deposited in the state treasury as miscellaneous receipts.

(4) The willful failure of a person to remain within the extended limits of his or her confinement or to return within the time prescribed to a facility designated by the director may be deemed an escape from custody punishable as provided in section 28-912.

(5) No person employed in the community under the provisions of this section or otherwise released shall, while working in such employment in the community or going to or from such employment or during the time of such release, be deemed to be an agent, employee, or servant of the state.

Source: Laws 1969, c. 817, § 15, p. 3081; Laws 1978, LB 748, § 46; Laws 1999, LB 106, § 1; Laws 2010, LB510, § 5.
Effective date July 15, 2010.

**ARTICLE 3
HOSPITALS**

(d) COST OF PATIENT CARE

Section

83-380. Cost of patient care; Director of Administrative Services; notify county clerk of amount due; levy; disbursement; withholding of funds by state.

(d) COST OF PATIENT CARE

83-380 Cost of patient care; Director of Administrative Services; notify county clerk of amount due; levy; disbursement; withholding of funds by state.

Within thirty days after June 30, 1971, and each year thereafter, the department shall certify to the Director of Administrative Services all amounts not previously certified due to each state institution from the several counties having patients chargeable thereto. The Director of Administrative Services shall thereupon notify the county clerk of each county of the amount each county owes. The county board shall add to its next levy an amount sufficient to raise the amount certified as due. The county shall pay the amount certified into the state treasury on or before the next June 1 following such certification.

From any county which fails to pay the total amount certified as due annually by the next June 1 following certification, there shall be withheld by the State Treasurer from the next allocation to such county due under the provisions of section 77-27,137.03 an amount sufficient to equal the amount unpaid from such county which amount shall be deducted from the county's portion and not the municipalities' under section 77-27,137.01. The State Treasurer shall credit the amount withheld the same as if the county had paid it when due as above provided.

Source: Laws 1969, c. 812, § 18, p. 3056; Laws 1971, LB 1012, § 2; Laws 1996, LB 1044, § 950; Laws 2007, LB296, § 797; Laws 2009, LB218, § 10.

Operative date July 1, 2011.

ARTICLE 4

PENAL AND CORRECTIONAL INSTITUTIONS

(i) CRIMINAL DETENTION MINIMUM STANDARDS

Section

83-4,133. Detention facility; governing body; failure to take corrective action; petition by Jail Standards Board; hearing; order; appeal.

(l) INCARCERATION WORK CAMPS

83-4,142. Department of Correctional Services; duties; legislative intent.

83-4,143. Eligibility for incarceration work camp; court, Board of Parole, or Director of Correctional Services; considerations; duration.

(i) CRIMINAL DETENTION MINIMUM STANDARDS

83-4,133 Detention facility; governing body; failure to take corrective action; petition by Jail Standards Board; hearing; order; appeal.

If the governing body of the juvenile detention facility or criminal detention facility fails to initiate corrective action within six months after the receipt of such inspection report, fails to correct the disclosed conditions, or fails to close

the criminal detention facility or juvenile detention facility or the objectionable portion thereof, the Jail Standards Board may petition the district court within the judicial district in which such facility is located to close the facility. Such petition shall include the inspection report regarding such facility. The local governing body shall then have thirty days to respond to such petition and shall serve a copy of the response on the Jail Standards Board by certified mail, return receipt requested. Thereafter, a hearing shall be held on the petition before the district court, and an order shall be rendered by such court which either:

- (1) Dismisses the petition of the Jail Standards Board;
- (2) Directs that corrective action be initiated in some form by the local governing body of the facility in question; or
- (3) Directs that the facility be closed. An appeal from the decision of the district court may be taken to the Court of Appeals.

Source: Laws 1975, LB 417, § 32; Laws 1978, LB 212, § 10; R.S.Supp.,1980, § 83-952; Laws 1991, LB 732, § 154; Laws 1992, LB 1184, § 22; Laws 1998, LB 695, § 6; Laws 2009, LB218, § 11.

Operative date July 1, 2011.

(l) INCARCERATION WORK CAMPS

83-4,142 Department of Correctional Services; duties; legislative intent.

The Department of Correctional Services shall develop and implement an incarceration work camp for placement of felony offenders as a condition of a sentence of intensive supervision probation, as a transitional phase prior to release on parole, or as assigned by the Director of Correctional Services pursuant to subsection (2) of section 83-176. As part of the incarceration work camp, an intensive residential drug treatment program may be developed and implemented for felony offenders.

It is the intent of the Legislature that the incarceration work camp serve to reduce prison overcrowding and to make prison bed space available for violent offenders. It is the further intent of the Legislature that the incarceration work camp serve the interests of society by addressing the criminogenic needs of certain designated offenders and by deterring such offenders from engaging in further criminal activity. To accomplish these goals, the incarceration work camp shall provide regimented, structured, disciplined programming, including all of the following: Work programs; vocational training; behavior management and modification; money management; substance abuse awareness, counseling, and treatment; and education, programming needs, and aftercare planning, which will increase the offender's abilities to lead a law-abiding, productive, and fulfilling life as a contributing member of a free society.

Source: Laws 1997, LB 882, § 2; Laws 2005, LB 538, § 27; Laws 2007, LB83, § 1; Laws 2009, LB274, § 1.

83-4,143 Eligibility for incarceration work camp; court, Board of Parole, or Director of Correctional Services; considerations; duration.

- (1) It is the intent of the Legislature that the court target the felony offender
 - (a) who is eligible and by virtue of his or her criminogenic needs is suitable to

be sentenced to intensive supervision probation with placement at the incarceration work camp, (b) for whom the court finds that other conditions of a sentence of intensive supervision probation, in and of themselves, are not suitable, and (c) who, without the existence of an incarceration work camp, would, in all likelihood, be sentenced to prison.

(2) When the court is of the opinion that imprisonment is appropriate, but that a brief and intensive period of regimented, structured, and disciplined programming within a secure facility may better serve the interests of society, the court may place an offender in an incarceration work camp for a period not to exceed one hundred eighty days as a condition of a sentence of intensive supervision probation. The court may consider such placement if the offender (a) is a male or female offender convicted of a felony offense in a district court, (b) is medically and mentally fit to participate, with allowances given for reasonable accommodation as determined by medical and mental health professionals, and (c) has not previously been incarcerated for a violent felony crime. Offenders convicted of a crime under sections 28-319 to 28-322.04 or of any capital crime are not eligible to be placed in an incarceration work camp.

(3) It is also the intent of the Legislature that the Board of Parole may recommend placement of felony offenders at the incarceration work camp. The offenders recommended by the board shall be offenders currently housed at other Department of Correctional Services adult correctional facilities and shall complete the incarceration work camp programming prior to release on parole.

(4) When the Board of Parole is of the opinion that a felony offender currently incarcerated in a Department of Correctional Services adult correctional facility may benefit from a brief and intensive period of regimented, structured, and disciplined programming immediately prior to release on parole, the board may direct placement of such an offender in an incarceration work camp for a period not to exceed one hundred eighty days as a condition of release on parole. The board may consider such placement if the felony offender (a) is medically and mentally fit to participate, with allowances given for reasonable accommodation as determined by medical and mental health professionals, and (b) has not previously been incarcerated for a violent felony crime. Offenders convicted of a crime under sections 28-319 to 28-322.04 or of any capital crime are not eligible to be placed in an incarceration work camp.

(5) The Director of Correctional Services may assign a felony offender to an incarceration work camp if he or she believes it is in the best interests of the felony offender and of society, except that offenders convicted of a crime under sections 28-319 to 28-321 or of any capital crime are not eligible to be assigned to an incarceration work camp pursuant to this subsection.

Source: Laws 1997, LB 882, § 3; Laws 2000, LB 288, § 1; Laws 2005, LB 538, § 28; Laws 2006, LB 1199, § 104; Laws 2007, LB83, § 2; Laws 2009, LB97, § 29; Laws 2009, LB274, § 2.

ARTICLE 9

DEPARTMENT OF CORRECTIONAL SERVICES

(a) GENERAL PROVISIONS

Section

- 83-913.01. Department of Correctional Services Facility Cash Fund; created; how funded; investment; disbursements; how made.
83-917. Reentry Cash Fund; created; use; investment.

Section

(j) LETHAL INJECTION

- 83-964. Sentence of death; how enforced.
- 83-965. Director of Correctional Services; written execution protocol; contents.
- 83-966. Lethal injection; participation of professional; how treated under other law.
- 83-967. Director of Correctional Services; administration of substances; execution team; confidentiality.
- 83-968. Method of execution declared unconstitutional; effect on sentence.
- 83-969. Punishment inflicted; exclude view of persons; exception.
- 83-970. Execution; persons permitted.
- 83-971. Director of Correctional Services; military force necessary to carry out punishment; inform Governor.
- 83-972. Director of Correctional Services; inflict punishment; return of proceedings; clerk of court; duty.

(a) GENERAL PROVISIONS

83-913.01 Department of Correctional Services Facility Cash Fund; created; how funded; investment; disbursements; how made.

(1) There is hereby created the Department of Correctional Services Facility Cash Fund.

Except as otherwise provided, all money derived from any source in any facility under the supervision of the Department of Correctional Services shall be remitted to the State Treasurer in accordance with the policies and procedures established by the Director of Correctional Services for credit to the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Department of Correctional Services Facility Cash Fund available for investment may be invested pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) All disbursements from the fund shall be made by the Director of Administrative Services by warrants drawn on the fund only upon certification of expenses by the chief executive officer of the appropriate facility within the Department of Correctional Services and upon presentation of proper vouchers for such expenses by the Director of Correctional Services or his or her authorized agent.

Source: Laws 1976, LB 869, § 1; Laws 1993, LB 31, § 68; Laws 1994, LB 1066, § 130; Laws 2009, First Spec. Sess., LB3, § 89.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

83-917 Reentry Cash Fund; created; use; investment.

The Reentry Cash Fund is created. The fund shall be administered by the Department of Correctional Services. The State Treasurer shall credit funds remitted pursuant to sections 33-157 and 83-184 and donations or contributions from public or private sources to the Reentry Cash Fund. The fund shall be used by the department for tuition, fees, and other costs associated with reentry and reintegration programs offered to offenders that are placed in the incarceration work camp. 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 2010, LB510, § 6.

Effective date July 15, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(j) LETHAL INJECTION

83-964 Sentence of death; how enforced.

A sentence of death shall be enforced by the intravenous injection of a substance or substances in a quantity sufficient to cause death. The lethal substance or substances shall be administered in compliance with an execution protocol created and maintained by the Department of Correctional Services.

Source: Laws 1973, LB 268, § 17; R.S.1943, (2008), § 29-2532; Laws 2009, LB36, § 9.

83-965 Director of Correctional Services; written execution protocol; contents.

(1) A sentence of death shall be enforced by the Director of Correctional Services. Upon receipt of an execution warrant, the director shall proceed at the time named in the warrant to enforce the sentence, unless the director is informed that enforcement of the sentence has been stayed by competent judicial authority, the sentence has been commuted, or the conviction has been pardoned.

(2) The director shall create, modify, and maintain a written execution protocol describing the process and procedures by which an execution will be carried out consistent with this section. The director shall (a) select the substance or substances to be employed in an execution by lethal injection, (b) create a documented process for obtaining the necessary substances, (c) designate an execution team composed of one or more executioners and any other personnel deemed necessary to effectively and securely conduct an execution, (d) describe the respective responsibilities of each member of the execution team, (e) describe the training required of each member of the execution team, and (f) perform or authorize any other details deemed necessary and appropriate by the director.

(3) The execution protocol shall require that the first or only substance injected be capable of rendering the convicted person unconscious and that a determination sufficient to reasonably verify that the convicted person is unconscious be made before the administration of any additional substances, if any.

Source: Laws 2009, LB36, § 10.

83-966 Lethal injection; participation of professional; how treated under other law.

Notwithstanding any other provision of law:

(1) Any prescription, preparation, compounding, dispensing, obtaining, or administration of the substances deemed necessary to perform a lethal injection

shall not constitute the practice of medicine or any other profession relating to health care which is subject by law to regulation, licensure, or certification;

(2) A pharmacist or pharmaceutical supplier may dispense the designated substances, without a prescription, to the Director of Correctional Services or the director's designee upon production of a written request from the director for the designated substances necessary to conduct an execution;

(3) Obtaining, preparing, compounding, dispensing, and administering the substance or substances designated by the execution protocol does not violate the Uniform Controlled Substances Act or sections 71-2501 to 71-2512; and

(4) If a person who is a member of the execution team is licensed by a board or department, the licensing board or department shall not censure, reprimand, suspend, revoke, or take any other disciplinary action against that person's license as a result of that person's participation in a court-ordered execution.

Source: Laws 2009, LB36, § 11.

Cross References

Uniform Controlled Substances Act, see section 28-401.01.

83-967 Director of Correctional Services; administration of substances; execution team; confidentiality.

(1) The Director of Correctional Services may designate any person qualified under the terms of the execution protocol to administer to the convicted person the substances necessary to comply with the execution protocol.

(2) The identity of all members of the execution team, and any information reasonably calculated to lead to the identity of such members, shall be confidential and exempt from disclosure pursuant to sections 84-712 to 84-712.09 and shall not be subject to discovery or introduction as evidence in any civil proceeding unless extraordinary good cause is shown and a protective order is issued by a district court limiting dissemination of such information.

Source: Laws 2009, LB36, § 12.

83-968 Method of execution declared unconstitutional; effect on sentence.

No death sentence shall be voided or reduced as a result of a determination that a method of execution was declared unconstitutional under the Constitution of Nebraska or the Constitution of the United States. In any case in which an execution method is declared unconstitutional, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method of execution.

Source: Laws 2009, LB36, § 13.

83-969 Punishment inflicted; exclude view of persons; exception.

When any convicted person is sentenced to death, such punishment shall be inflicted at a Department of Correctional Services facility under the supervision of the Director of Correctional Services and in such a manner as to exclude the view of all persons except those permitted to be present as provided in sections 83-970 and 83-971.

Source: Laws 1973, LB 268, § 18; R.S.1943, (2008), § 29-2533; Laws 2009, LB36, § 14.

83-970 Execution; persons permitted.

Besides the Director of Correctional Services and those persons required to be present under the execution protocol, the following persons, and no others, except as provided in section 83-971, may be present at the execution: (1) The member of the clergy in attendance upon the convicted person; (2) no more than three persons selected by the convicted person; (3) no more than three persons representing the victim or victims of the crime; and (4) such other persons, not exceeding six in number, as the director may designate. At least two persons designated by the director shall be professional members of the Nebraska news media.

Source: Laws 1973, LB 268, § 19; R.S.1943, (2008), § 29-2534; Laws 2009, LB36, § 15.

83-971 Director of Correctional Services; military force necessary to carry out punishment; inform Governor.

Whenever the Director of Correctional Services shall deem the presence of a military force necessary to carry into effect the provisions of sections 83-964 and 83-969, he or she shall make the fact known to the Governor of the state, who is hereby authorized to call out so much of the military force of the state as in his or her judgment may be necessary for the purpose.

Source: Laws 1973, LB 268, § 20; R.S.1943, (2008), § 29-2535; Laws 2009, LB36, § 16.

83-972 Director of Correctional Services; inflict punishment; return of proceedings; clerk of court; duty.

Whenever the Director of Correctional Services shall inflict the punishment of death upon a convicted person, in obedience to the command of the court, he or she shall make return of his or her proceedings as soon as may be to the clerk of the court where the conviction was had, and the clerk shall subjoin the return to the record of conviction and sentence.

Source: Laws 1973, LB 268, § 21; R.S.1943, (2008), § 29-2536; Laws 2009, LB36, § 17.

ARTICLE 12**DEVELOPMENTAL DISABILITIES SERVICES**

Section	
83-1209.	Director; duties.
83-1211.	Responsibility for cost of services.
83-1213.	Quality review team; members; expenses; duties; reports.
83-1217.	Department; contract for specialized services; certification and accreditation requirements; assisted services; method of reimbursement.
83-1217.02.	Employees subject to criminal history record information check; fingerprints; confidentiality.
83-1220.	Hearing officers; qualifications.
83-1221.	Hearing officer; powers and duties.
83-1222.	Hearing; rights of parties; hearing officer; production of evidence.
83-1223.	Hearing officer; subpoena power; enforcement.
83-1224.	Judicial review; enforcement of final decision and order; procedures; appeal to Court of Appeals.

83-1209 Director; duties.

To carry out the policies and purposes of the Developmental Disabilities Services Act, the director shall:

(1) Ensure effective management by (a) determining whether applicants are eligible for specialized services, (b) authorizing service delivery for eligible persons, (c) ensuring that services are available, accessible, and coordinated, (d) ensuring that eligible persons have their needs assessed by a team process, have individual program plans developed by a team process to address assessed needs, which plans incorporate the input of the individual and the family, and have services delivered in accordance with the program plan, (e) having the amount of funding for specialized services determined by an objective assessment process, (f) providing information and referral services to persons with developmental disabilities and their families, (g) promoting the development of pilot projects of high quality, cost-efficient services provided by specialized programs, and (h) administering the Beatrice State Developmental Center;

(2) Ensure a coordinated statewide response by (a) developing a comprehensive and integrated statewide plan for specialized services to persons with developmental disabilities in conjunction with state and local officials, designated advocates for such persons, service providers, and the general public, (b) reporting biennially to the Legislature, the Governor, service providers, and the public on persons served and progress made toward meeting requirements of the plan, and (c) creating a statewide registry of persons eligible for specialized services;

(3) Ensure specialized services which are efficient and individualized by (a) developing a written policy which ensures the adequate and equitable distribution of fiscal resources based upon a consistent rationale for reimbursement that allows funding to follow service recipients as their service needs change and which also includes a plan for funding shortfalls and (b) administering all state and federal funds as may be allowed by law;

(4) Ensure maximum quality of services by (a) developing a due process mechanism for resolution of disputes, (b) coordinating the development of review teams designed to enhance the quality of specialized services, (c) developing certification and accreditation requirements for service providers, (d) providing technical assistance to local service providers, and (e) providing eligible persons, their families, and the designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15001 et seq., with copies of all reports resulting from surveys of providers of specialized services conducted as part of the certification and accreditation process; and

(5) Establish and staff a developmental disabilities division which shall assist in carrying out the policies and purposes of the Developmental Disabilities Services Act.

Source: Laws 1991, LB 830, § 9; Laws 2004, LB 297, § 2; Laws 2009, LB288, § 40.

83-1211 Responsibility for cost of services.

A person receiving specialized services from a local specialized program which receives financial assistance through the department shall be responsible for the cost of such services in the same manner as are persons receiving services at the Beatrice State Developmental Center. Provisions of law in effect on September 6, 1991, or enacted after such date relating to the responsibility

of such persons and their relatives for the cost of and determination of ability to pay for services at the center shall also apply to persons receiving services from specialized programs.

Source: Laws 1991, LB 830, § 11; Laws 2009, LB288, § 41.

83-1213 Quality review team; members; expenses; duties; reports.

(1) The department shall provide for the establishment of at least one quality review team for each developmental disability service area designated by the department. Each team shall consist of at least four members and shall include at least one person with a developmental disability, at least one parent or other close relative of a person with a developmental disability, and at least one person who is neither a person with a developmental disability nor a close relative of such a person. No employee of any governmental agency or instrumentality or any specialized program shall be eligible to be appointed to a team. The department shall consider nominations for such teams from advocacy groups, providers, elected officials, or other groups or by persons interested in developmental disability services who are located in the service area where such team is established.

(2) Members of each quality review team shall be reimbursed by the department for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3)(a) Each quality review team shall (i) conduct onsite visits of persons with developmental disabilities receiving residential services funded in whole or in part by the department, (ii) assess the quality of life of such persons receiving such services, (iii) make recommendations to improve the quality of such services on behalf of such persons, and (iv) perform such advisory or other duties as provided or approved in rules and regulations adopted and promulgated by the department.

(b) In making quality of life assessments of persons receiving such services, the quality review team shall consider the extent to which such persons (i) are able to exercise choice and control regarding the type and provider of services they receive and the daily activities in which they are engaged, (ii) are treated with respect and dignity by their service providers, (iii) have access to necessary services, equipment, and support, and (iv) are able to participate in activities and events that maximize community integration and inclusion.

(4) Each quality review team shall provide quarterly and annual written reports to the department and service providers of visits conducted and assessments completed under this section.

Source: Laws 1991, LB 830, § 13; Laws 2009, LB288, § 42.

83-1217 Department; contract for specialized services; certification and accreditation requirements; assisted services; method of reimbursement.

The department shall contract for specialized services and shall only contract with specialized programs which meet certification and accreditation requirements. Assisted services provided under this section through community-based developmental disability programs shall be reimbursed on a daily rate basis, including such services provided to eligible recipients under the medical assistance program established in section 68-903 upon approval for such reimbursement from the federal Centers for Medicare and Medicaid Services.

The department shall apply to the federal Centers for Medicare and Medicaid Services for approval of any necessary waiver amendments to permit such reimbursement and shall begin reimbursing such services on a daily rate basis no later than March 1, 2011. In order to be certified, each specialized program shall:

- (1) Have an internal quality assurance process;
- (2) Have a program evaluation component;
- (3) Have a complaint mechanism for persons with developmental disabilities and their families;
- (4) Have a process to ensure direct and open communication with the department;
- (5) Develop, implement, and regularly evaluate a plan to ensure retention of quality employees and prevent staff turnover;
- (6) Have measures to enhance staff training and development;
- (7) Be governed by a local governing board or have an advisory committee, the membership of which consists of (a) persons with developmental disabilities, (b) family members or legal guardians of persons with developmental disabilities, and (c) persons who are interested community members;
- (8) Meet accreditation standards developed by the department;
- (9) Require a criminal history record information check of all employees hired on or after September 13, 1997, who work directly with clients receiving services and who are not licensed or certified as members of their profession; and
- (10) Meet any other certification requirements developed by the department to further the purposes of the Developmental Disabilities Services Act.

Source: Laws 1991, LB 830, § 17; Laws 1997, LB 852, § 2; Laws 2004, LB 297, § 4; Laws 2009, LB288, § 43; Laws 2010, LB849, § 30.
Operative date July 15, 2010.

83-1217.02 Employees subject to criminal history record information check; fingerprints; confidentiality.

Each employee subject to the criminal history record information check requirements of subdivision (9) of section 83-1217 and section 83-1217.01 shall file a complete set of his or her legible fingerprints with the department. The department shall transmit such fingerprints to the Nebraska State Patrol which shall transmit a copy of the applicant's fingerprints to the Identification Division of the Federal Bureau of Investigation for a national criminal history record information check.

The national criminal history record information check shall include information concerning the employee from federal repositories of such information and repositories of such information in other states if authorized by federal law. The division shall issue a report containing the results of the national criminal history record information check to the department.

The Nebraska State Patrol shall undertake a search for Nebraska criminal history record information concerning the employee. The Nebraska State Patrol shall issue a report to the department which contains the results of the criminal history record information check conducted by the Nebraska State Patrol.

The department shall issue copies of the reports to the employer listed by the employee.

Criminal history record information subject to federal confidentiality requirements shall remain confidential and may be released only upon the written authorization by the employee.

The department, in cooperation with the Nebraska State Patrol, shall adopt and promulgate rules and regulations to carry out this section. Such rules and regulations shall provide that the decision to initiate, continue, or terminate the employment of the employee is and shall remain that of the employer.

Source: Laws 1997, LB 852, § 4; Laws 1999, LB 722, § 1; Laws 2009, LB288, § 44.

83-1220 Hearing officers; qualifications.

The department shall conduct hearings initiated under section 83-1219 using hearing officers. The department may employ, retain, or approve such qualified hearing officers as are necessary to conduct the hearings. The hearing officers shall not be persons who are employees or officers of a local agency which is involved in providing services to the person with developmental disabilities. A person who otherwise qualifies to conduct a hearing shall not be considered an employee of the agency solely because the person is paid by the agency to serve as a hearing officer. No hearing officer shall participate in any way in any hearing or matter in which the hearing officer may have a conflict of interest. The department shall have exclusive original jurisdiction over cases arising under sections 83-1219 to 83-1224, and in no event shall juvenile courts have jurisdiction over such matters.

Source: Laws 1991, LB 830, § 20; Laws 2010, LB849, § 31.
Operative date July 15, 2010.

83-1221 Hearing officer; powers and duties.

Upon the receipt of a petition pursuant to section 83-1219, the department shall assign it to a hearing officer. The hearing officer shall receive all subsequent pleadings and shall conduct the hearing. At the hearing the parties shall present evidence on the issues raised in the pleadings. At the completion of the proceedings, the hearing officer shall prepare a report based on the evidence presented containing recommendations for the director to make findings of fact and conclusions of law. Within forty-five days after the receipt of a request for a hearing, the director shall prepare a final decision and order directing such action as may be necessary. At the request of either party for good cause shown, the hearing officer may grant specific extensions of time beyond this period. The report and the final decision and order shall be delivered to each party or attorney of record by certified mail.

Source: Laws 1991, LB 830, § 21; Laws 2010, LB849, § 32.
Operative date July 15, 2010.

83-1222 Hearing; rights of parties; hearing officer; production of evidence.

Any party at a hearing conducted pursuant to section 83-1219 shall have the right to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the needs of persons with developmental disabilities;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;

(4) Obtain a written or electronic verbatim record of the hearing; and

(5) Obtain written findings of fact and decisions from the director.

The hearing officer may also produce evidence on his or her own motion.

Source: Laws 1991, LB 830, § 22; Laws 2010, LB849, § 33.

Operative date July 15, 2010.

83-1223 Hearing officer; subpoena power; enforcement.

The hearing officer shall have the power by subpoena to compel the appearance of witnesses and the production of any relevant evidence. Any witness compelled to attend or produce evidence shall be entitled to the fees and expenses allowed in district court. Any failure to respond to such subpoena shall be certified by the director to the district court of Lancaster County for enforcement or for punishment for contempt of the district court.

Source: Laws 1991, LB 830, § 23; Laws 2010, LB849, § 34.

Operative date July 15, 2010.

83-1224 Judicial review; enforcement of final decision and order; procedures; appeal to Court of Appeals.

(1) Any party aggrieved by the findings, conclusions, or final decision and order of the director shall be entitled to judicial review under this section. Any party of record also may seek enforcement of the final decision and order of the director pursuant to this section.

(2) Proceedings for judicial review shall be instituted by filing a petition in the district court of Lancaster County within thirty days after service of the final decision and order on the party seeking such review. All parties of record shall be made parties to the proceedings. The court, in its discretion, may permit other interested parties to intervene.

(3) The filing of a petition for judicial review to such district court shall operate to stay the enforcement of the final decision and order of the director. While judicial proceedings are pending in district court and unless the parties otherwise agree, the person with developmental disabilities shall remain in his or her current placement. If the health or safety of the person with developmental disabilities or of other persons would be endangered by delaying a change in placement, the service provider may make such change without prejudice to the rights of any party.

(4) Within thirty days after receiving notification that a petition for judicial review has been filed or, if good cause is shown, within such further time as the court may allow, the department shall prepare and transmit to the court a certified transcript of the proceedings before the hearing officer.

(5) Judicial review shall be heard de novo on the record. The court shall receive the records of the administrative proceedings, base its decision on the

preponderance of the evidence, and grant such relief as the court determines is appropriate. The district court may affirm, reverse, or modify the decision of the director, or remand the case to the director for further proceedings, including the receipt of additional evidence, for good cause shown.

(6) An aggrieved party may secure a review of any final judgment of the district court under this section by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals in civil cases and shall be heard de novo on the record.

(7) When no petition for judicial review or other civil action is filed within thirty days after service of the final decision and order on all of the parties, the director's final decision and order shall become effective. Proceedings for enforcement of the director's final decision and order shall be instituted by filing a petition for appropriate relief in the district court of Lancaster County within one year after the date of the director's final decision and order.

Source: Laws 1991, LB 830, § 24; Laws 1992, LB 360, § 39; Laws 2004, LB 297, § 6; Laws 2010, LB849, § 35.

Operative date July 15, 2010.



CHAPTER 84

STATE OFFICERS

Article.

4. Board of Educational Lands and Funds. 84-409, 84-414.
5. Secretary of State. 84-510, 84-511.
6. State Treasurer. 84-602 to 84-621.
7. General Provisions as to State Officers. 84-712.05, 84-713.
9. Rules of Administrative Agencies.
 - (a) Administrative Procedure Act. 84-907.03, 84-917.
12. Public Records.
 - (a) Records Management Act. 84-1227.
13. State Employees Retirement Act. 84-1302 to 84-1331.
14. Public Meetings. 84-1411, 84-1413.
15. Public Employees Retirement Board. 84-1504, 84-1512.

ARTICLE 4

BOARD OF EDUCATIONAL LANDS AND FUNDS

Section

- 84-409. State Surveyor; surveys; fees; amount; disposition; Surveyors' Cash Fund; created; use; investment.
- 84-414. Survey Record Repository Fund; created; use; investment.

84-409 State Surveyor; surveys; fees; amount; disposition; Surveyors' Cash Fund; created; use; investment.

There shall be paid to the State Treasurer, for each day the State Surveyor is engaged in making any survey or in settling and disposing of disputes and disagreements, as provided in section 84-410, a per diem rate of compensation as determined by the Board of Educational Lands and Funds for his or her services and the necessary expenses incurred in making the same. All fees received for the services and expenses of the State Surveyor or deputy surveyors shall be paid into the state treasury and by the State Treasurer placed in a fund to be known as Surveyors' Cash Fund, which fund shall be used in paying the salaries and expenses of deputy surveyors, except as provided in section 84-407.01, in making surveys and for making refunds on deposits. All fees and expenses placed in the Surveyors' Cash Fund for the services and expenses of the State Surveyor, after the payments from the cash fund are made as hereinbefore provided, shall be transferred to the General Fund. Transfers may be made from the Surveyors' Cash Fund to the General Fund at the direction of the Legislature. Any money in the Surveyors' 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 1903, c. 195, § 3, p. 577; R.S.1913, § 5565; Laws 1919, c. 54, § 1, p. 158; C.S.1922, § 4869; C.S.1929, § 84-408; R.S.1943, § 84-409; Laws 1947, c. 348, § 2, p. 1095; Laws 1951, c. 340, § 3, p. 1126; Laws 1953, c. 357, § 2, p. 1135; Laws 1957, c. 395, § 3, p. 1360; Laws 1959, c. 452, § 2, p. 1506; Laws 1965, c. 569, § 2,

p. 1858; Laws 1982, LB 127, § 13; Laws 2009, First Spec. Sess., LB3, § 90.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

84-414 Survey Record Repository Fund; created; use; investment.

The State Surveyor, under the direction of the Board of Educational Lands and Funds, shall receive and account for all money derived from the operation of the survey record repository pursuant to sections 84-412 and 84-413, and shall pay such money to the State Treasurer, who shall credit it to the Survey Record Repository Fund which is hereby created. When appropriated by the Legislature, this fund shall be expended only for the purposes of sections 84-412 and 84-413, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. All money in the Survey Record Repository 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 1982, LB 127, § 17; Laws 1995, LB 7, § 146; Laws 2009, First Spec. Sess., LB3, § 91.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 5

SECRETARY OF STATE

Section

84-510. Corporation Cash Fund; created; use; investment.

84-511. Electronic transmission and filing of documents.

84-510 Corporation Cash Fund; created; use; investment.

The Corporation Cash Fund is created. Transfers from the fund to the Election Administration Fund or the General Fund may be made at the direction of the Legislature. Any money in the Corporation Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2003, LB 357, § 9; Laws 2008, LB961, § 7; Laws 2009, LB316, § 25; Laws 2009, First Spec. Sess., LB3, § 92.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

84-511 Electronic transmission and filing of documents.

The Secretary of State may provide for the electronic transmission and filing of documents delivered for filing under (1) the Business Corporation Act, the Limited Liability Company Act, the Nebraska Limited Cooperative Association

Act, the Nebraska Nonprofit Corporation Act, the Nebraska Professional Corporation Act, the Nebraska Uniform Limited Partnership Act, the Nonstock Cooperative Marketing Act, the Uniform Partnership Act of 1998, and the Trademark Registration Act and (2) any filing provisions of sections 21-1301 to 21-1306, 21-1333 to 21-1339, and 87-208 to 87-220. The Secretary of State shall adopt and promulgate rules and regulations to implement this section.

Source: Laws 2010, LB791, § 1.
Effective date July 15, 2010.

Cross References

Business Corporation Act, see section 21-2001.
Limited Liability Company Act, see section 21-2601.
Nebraska Limited Cooperative Association Act, see section 21-2901.
Nebraska Nonprofit Corporation Act, see section 21-1901.
Nebraska Professional Corporation Act, see section 21-2201.
Nebraska Uniform Limited Partnership Act, see section 67-296.
Nonstock Cooperative Marketing Act, see section 21-1401.
Trademark Registration Act, see section 87-126.
Uniform Partnership Act of 1998, see section 67-401.

ARTICLE 6
STATE TREASURER

Section
84-602. State Treasurer; duties.
84-602.01. Taxpayer Transparency Act.
84-602.02. Web site; contents.
84-612. Cash Reserve Fund; created; transfers; receipt of federal funds.
84-613. Cash Reserve Fund; investment; interest.
84-621. State Treasurer; duty to transfer funds.

84-602 State Treasurer; duties.

It shall be the duty of the State Treasurer:

- (1) To receive and keep all money of the state not expressly required to be received and kept by some other person;
- (2) To disburse the public money upon warrants drawn upon the state treasury according to law and not otherwise;
- (3) To keep a just, true, and comprehensive account of all money received and disbursed;
- (4) To keep a just account with each fund, and each head of appropriation made by law, and the warrants drawn against them;
- (5) To render a full statement to the Department of Administrative Services of all money received by him or her from whatever source, and if on account of revenue, for what year; of all penalties and interest on delinquent taxes reported or accounted for to him or her, and of all disbursements of public funds; with a list, in numerical order, of all warrants redeemed, the name of the payee, amount, interest, and total amount allowed thereon, and with the amount of the balance of the several funds unexpended; which statement shall be made on the first day of December, March, June, and September, and more often if required;
- (6) To report to the Legislature as soon as practicable, but within ten days after the commencement of each regular session, a detailed statement of the condition of the treasury and its operations for the preceding fiscal year;

(7) To give information in writing to the Legislature, whenever required, upon any subject connected with the treasury or touching any duty of his or her office;

(8) To account for, and pay over, all money received by him or her as such treasurer, to his or her successor in office, and deliver all books, vouchers, and effects of office to him or her; and such successor shall receipt therefor. In accounting for and paying over such money the treasurer shall not be held liable on account of any loss occasioned by any investment, when such investment shall have been made pursuant to the direction of the state investment officer; and

(9) To develop and maintain a single, searchable web site with information on state tax receipts and expenditures which is accessible by the public at no cost to access as provided in section 84-602.02. The web site shall be hosted on a server owned and operated by the State of Nebraska or approved by the Chief Information Officer. The naming convention for the web site shall identify the web site as a state government web site. The web site shall not include the treasurer's name, the treasurer's image, the treasurer's seal, or a welcome message.

Source: R.S.1866, c. 4, § 18, p. 24; R.S.1913, § 5577; C.S.1922, § 4881; C.S.1929, § 84-602; R.S.1943, § 84-602; Laws 1967, c. 617, § 1, p. 2069; Laws 1970, Spec. Sess., c. 3, § 1, p. 67; Laws 2009, LB16, § 2.

84-602.01 Taxpayer Transparency Act.

The establishment of the web site provided for in section 84-602 and described in section 84-602.02 shall be known and may be cited as the Taxpayer Transparency Act.

Source: Laws 2009, LB16, § 1.

84-602.02 Web site; contents.

(1)(a) Not later than January 1, 2010, the web site established, developed, and maintained by the State Treasurer pursuant to subdivision (9) of section 84-602 shall provide such information as will document the sources of all tax receipts and the expenditure of state funds by all agencies, boards, commissions, and departments of the state.

(b) The State Treasurer shall, in appropriate detail, cause to be published on the web site:

(i) The identity, principal location, and amount of funds received or expended by the State of Nebraska and all of its agencies, boards, commissions, and departments;

(ii) The funding or expending agency, board, commission, or department;

(iii) The budget program source;

(iv) The amount, date, purpose, and recipient of all disbursed funds; and

(v) Such other relevant information as will further the intent of enhancing the transparency of state government financial operations to its citizens and taxpayers. The web site shall include data for fiscal year 2008-09 and each fiscal year thereafter.

(2) Beginning July 1, 2010, the data shall be available on the web site no later than thirty days after the end of the preceding fiscal year. All agencies, boards, commissions, and departments of the state shall provide to the State Treasurer, at such times and in such form as designated by the State Treasurer, such information as is necessary to accomplish the purposes of the Taxpayer Transparency Act. Nothing in this subsection requires the disclosure of information which is considered confidential under state or federal law or is not a public record under section 84-712.05.

(3)(a) For purposes of this section, expenditure of state funds means all expenditures of appropriated or nonappropriated funds by an agency, board, commission, or department of the state from the state treasury in forms including, but not limited to:

- (i) Grants;
- (ii) Contracts;
- (iii) Subcontracts;
- (iv) State aid to political subdivisions; and

(v) Tax refunds or credits that may be disclosed pursuant to the Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, or the Nebraska Advantage Rural Development Act.

(b) Expenditure of state funds does not include the transfer of funds between two agencies, boards, commissions, or departments of the state or payments of state or federal assistance to an individual.

Source: Laws 2009, LB16, § 3.

Cross References

Nebraska Advantage Act, see section 77-5701.

Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.

Nebraska Advantage Research and Development Act, see section 77-5801.

Nebraska Advantage Rural Development Act, see section 77-27,187.

84-612 Cash Reserve Fund; created; transfers; receipt of federal funds.

(1) There is hereby created within the state treasury a fund known as the Cash Reserve Fund which shall be under the direction of the State Treasurer. The fund shall only be used pursuant to this section.

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred. Any transfers made pursuant to this subsection shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

(3) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer such amounts not to exceed seven million seven hundred fifty-three thousand two hundred sixty-three dollars in total from the Cash Reserve Fund to the Nebraska Capital Construction Fund between July 1, 2003, and June 30, 2007.

(4) The State Treasurer, at the direction of the budget administrator, shall transfer an amount equal to the total amount transferred pursuant to subsec-

tion (3) of this section from the General Fund to the Cash Reserve Fund on or before June 30, 2008.

(5) In addition to receiving transfers from other funds, the Cash Reserve Fund shall receive federal funds received by the State of Nebraska for undesignated general government purposes, federal revenue sharing, or general fiscal relief of the state.

(6) On June 15, 2009, the State Treasurer shall transfer four million nine hundred ninety thousand five hundred five dollars from the Cash Reserve Fund to the General Fund.

(7) On or before June 16, 2009, the State Treasurer, at the direction of the budget administrator, shall transfer fifty million dollars from the Cash Reserve Fund to the General Fund.

(8) The State Treasurer, at the direction of the budget administrator, shall transfer such amounts, as certified by the Director of Administrative Services, for employee health insurance claims and expenses, not to exceed twelve million dollars in total from the Cash Reserve Fund to the State Employees Insurance Fund between May 1, 2007, and June 30, 2011.

(9) On July 9, 2007, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Job Training Cash Fund. The State Treasurer shall transfer from the Job Training Cash Fund to the Cash Reserve Fund such amounts as directed in section 81-1201.21.

(10) On July 7, 2008, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Job Training Cash Fund. The State Treasurer shall transfer from the Job Training Cash Fund to the Cash Reserve Fund such amounts as directed in section 81-1201.21.

(11) On or before June 30, 2009, the State Treasurer shall transfer nine million five hundred ninety thousand dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund.

(12) The State Treasurer, at the direction of the budget administrator, shall transfer an amount equal to the total amount transferred pursuant to subsection (8) of this section from the appropriate health insurance accounts of the State Employees Insurance Fund in such amounts as certified by the Director of Administrative Services to the Cash Reserve Fund on or before June 30, 2011.

(13) On July 7, 2009, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Roads Operations Cash Fund. The Department of Roads shall use such funds to provide the required state match for federal funding made available to the state through congressional earmarks.

(14) Within five days after the budget division of the Department of Administrative Services notifies the State Treasurer that matching fund requirements under section 82-331 have been met, the State Treasurer shall transfer one million dollars from the Cash Reserve Fund to the Nebraska Cultural Preservation Endowment Fund.

(15) On or before June 15, 2010, the State Treasurer, at the direction of the budget administrator, shall transfer one hundred five million dollars from the Cash Reserve Fund to the General Fund.

(16) On or before June 15, 2011, the State Treasurer, at the direction of the budget administrator, shall transfer one hundred fifty-one million dollars from the Cash Reserve Fund to the General Fund.

(17) On June 15, 2009, the State Treasurer shall transfer seven million five hundred thousand dollars from the Cash Reserve Fund to the Governor's Emergency Cash Fund.

(18) On July 7, 2009, the State Treasurer shall transfer one million dollars from the Cash Reserve Fund to the State Visitors Promotion Cash Fund. The Department of Economic Development shall use such funds to provide funding for the promotion and support of the hosting of a Special Olympics national event by a city of the primary class.

(19) On or before June 30, 2011, the State Treasurer, at the direction of the budget administrator, shall transfer three million dollars from the Cash Reserve Fund to the General Fund.

Source: Laws 1983, LB 59, § 5; Laws 1985, LB 713, § 2; Laws 1985, LB 501, § 2; Laws 1986, LB 739, § 1; Laws 1986, LB 870, § 1; Laws 1987, LB 131, § 1; Laws 1988, LB 1091, § 4; Laws 1989, LB 310, § 1; Laws 1991, LB 857, § 1; Laws 1991, LB 783, § 33; Laws 1992, LB 1268, § 1; Laws 1993, LB 38, § 4; Laws 1994, LB 1045, § 1; Laws 1996, LB 1290, § 6; Laws 1997, LB 401, § 5; Laws 1998, LB 63, § 1; Laws 1998, LB 988, § 1; Laws 1998, LB 1104, § 30; Laws 1998, LB 1134, § 5; Laws 1998, LB 1219, § 23; Laws 1999, LB 881, § 9; Laws 2000, LB 1214, § 2; Laws 2001, LB 541, § 6; Laws 2002, LB 1310, § 20; Laws 2003, LB 790, § 74; Laws 2003, LB 798, § 1; Laws 2004, LB 1090, § 2; Laws 2005, LB 427, § 2; Laws 2006, LB 1131, § 1; Laws 2006, LB 1256, § 9; Laws 2007, LB323, § 3; Laws 2008, LB846, § 21; Laws 2008, LB1094, § 8; Laws 2008, LB1116, § 9; Laws 2008, LB1165, § 2; Laws 2009, LB456, § 3; Laws 2009, First Spec. Sess., LB2, § 7; Laws 2010, LB317, § 1.

Effective date July 15, 2010.

84-613 Cash Reserve Fund; investment; interest.

Any money in the Cash Reserve 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 interest earned by the fund shall accrue to the General Fund.

Source: Laws 1983, LB 59, § 6; Laws 1986, LB 870, § 2; Laws 1987, LB 131, § 2; Laws 1988, LB 391, § 1; Laws 1995, LB 7, § 147; Laws 2004, LB 1090, § 3; Laws 2006, LB 1131, § 2; Laws 2006, LB 1256, § 10; Laws 2007, LB323, § 4; Laws 2009, LB456, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

84-621 State Treasurer; duty to transfer funds.

The State Treasurer shall transfer any money in the Commission on the Status of Women Cash Fund, the Nebraska Lewis and Clark Bicentennial Fund, the Nebraska Transit and Rail Advisory Council Cash Fund, and the Nebraska Transit and Rail Advisory Council Revolving Fund on August 30, 2009, to the General Fund.

Source: Laws 2009, LB154, § 25.

ARTICLE 7

GENERAL PROVISIONS AS TO STATE OFFICERS

Section

84-712.05. Records which may be withheld from the public; enumerated.

84-713. Settled claims; record required; contents; public record; certain settlement agreements; public agency; agenda item; applicability of section.

84-712.05 Records which may be withheld from the public; enumerated.

The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on January 1, 2003;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person; records of elections filed under section 44-2821; and patient safety work product under the Patient Safety Improvement Act;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person;

(6) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property;

computer or communications network schema, passwords, and user identification names; guard schedules; or lock combinations;

(9) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

(10) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private citizen account payment information, credit information on others supplied in confidence, and customer lists;

(11) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(12) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

(13) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

(14) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(15) Job application materials submitted by applicants, other than finalists, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less

than four, or (iii) who is an original applicant and there are four or fewer original applicants;

(16) Records obtained by the Public Employees Retirement Board pursuant to section 84-1512;

(17) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments by citizens; and

(18) Information exchanged between a jurisdictional utility and city pursuant to section 66-1867.

Source: Laws 1979, LB 86, § 5; Laws 1983, LB 108, § 1; Laws 1983, LB 565, § 1; Laws 1993, LB 579, § 6; Laws 1993, LB 590, § 6; Laws 1993, LB 719, § 2; Laws 1994, LB 1061, § 7; Laws 1994, LB 1224, § 88; Laws 1995, LB 343, § 7; Laws 1995, LB 509, § 6; Laws 1999, LB 137, § 1; Laws 2002, LB 276, § 7; Laws 2004, LB 236, § 1; Laws 2004, LB 868, § 3; Laws 2005, LB 361, § 37; Laws 2007, LB389, § 1; Laws 2009, LB188, § 8; Laws 2009, LB658, § 7.

Cross References

Patient Safety Improvement Act, see section 71-8701.

Unmarked Human Burial Sites and Skeletal Remains Protection Act, see section 12-1201.

84-713 Settled claims; record required; contents; public record; certain settlement agreements; public agency; agenda item; applicability of section.

(1) A public entity or public agency providing coverage to a public entity, public official, or public employee shall maintain a public written or electronic record of all settled claims. The record for all such claims settled in the amount of fifty thousand dollars or more, or one percent of the total annual budget of the public entity, whichever is less, shall include a written executed settlement agreement. The settlement agreement shall contain a brief description of the claim, the party or parties released under the settlement, and the amount of the financial compensation, if any, paid by or to the public entity or on its behalf.

(2) Any claim or settlement agreement involving a public entity shall be a public record but, to the extent permitted by sections 84-712.04 and 84-712.05 and as otherwise provided by statute, specific portions of the claim or settlement agreement may be withheld from the public. A private insurance company or public agency providing coverage to the public entity shall, without delay, provide to the public entity a copy of any claim or settlement agreement to be maintained as a public record.

(3) Except for settlement agreements involving the state, any state agency, or any employee of the state or pursuant to claims filed under the State Tort Claims Act, any settlement agreement with an amount of financial consideration of fifty thousand dollars or more, or one percent of the total annual budget of the public entity, whichever is less, shall be included as an agenda item at the next meeting of a public agency providing coverage to a public entity and as an agenda item on the next regularly scheduled public meeting of the public body for informational purposes or for approval if required.

(4) For purposes of this section, a confidentiality or nondisclosure clause or provision contained in or relating to a settlement agreement shall neither cause nor permit a settlement agreement or the claim or any other public record to be

withheld from the public. Nothing in this section shall require a public official or public employee or any party to the settlement agreement to comment on the settlement agreement.

(5) For purposes of this section:

(a) Confidentiality or nondisclosure clause or provision means any covenant or stipulation adopted by parties to a settlement agreement that designates the settlement agreement, the claim, or any other public record as confidential, or in any other way restricts public access to information concerning the settlement agreement or claim;

(b) Public body means public body as defined in subdivision (1) of section 84-1409;

(c) Public entity means a public entity listed in subdivision (1) of section 84-712.01; and

(d) Settlement agreement means any contractual agreement to settle or resolve a claim involving a public entity or on behalf of the public entity, a public official, or a public employee by (i) the public entity, (ii) a private insurance company, or (iii) a public agency providing coverage.

(6) This section does not apply to claims made in connection with insured or self-insured health insurance contracts.

Source: Laws 2010, LB742, § 1.
Effective date July 15, 2010.

Cross References

State Tort Claims Act, see section 81-8,235.

ARTICLE 9

RULES OF ADMINISTRATIVE AGENCIES

(a) ADMINISTRATIVE PROCEDURE ACT

Section
84-907.03. Secretary of State Administration Cash Fund; created; use; investment.
84-917. Contested case; appeal; right to cross-appeal; procedure.

(a) ADMINISTRATIVE PROCEDURE ACT

84-907.03 Secretary of State Administration Cash Fund; created; use; investment.

There is hereby created the Secretary of State Administration Cash Fund. The fund shall consist of revenue received to defray costs as authorized in sections 25-3308 and 84-901 to 84-908. The revenue shall be collected by the Secretary of State and remitted to the State Treasurer for credit to the fund. The fund shall be used to (1) offset expenses incurred as a result of sections 84-901 to 84-908, (2) administer the Address Confidentiality Act, (3) administer the Nebraska Uniform Athlete Agents Act, and (4) administer the Nonrecourse Civil Litigation 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 1994, LB 1194, § 8; Laws 1995, LB 7, § 148; Laws 2003, LB 228, § 15; Laws 2009, LB292, § 20; Laws 2010, LB1094, § 10.
Effective date July 15, 2010.

Cross References

Address Confidentiality Act, see section 42-1201.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.
Nebraska Uniform Athlete Agents Act, see section 48-2601.
Nonrecourse Civil Litigation Act, see section 25-3301.

84-917 Contested case; appeal; right to cross-appeal; procedure.

(1) Any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, shall be entitled to judicial review under the Administrative Procedure Act. Nothing in this section shall be deemed to prevent resort to other means of review, redress, or relief provided by law.

(2)(a)(i) Proceedings for review shall be instituted by filing a petition in the district court of the county where the action is taken within thirty days after the service of the final decision by the agency. All parties of record shall be made parties to the proceedings for review. If an agency's only role in a contested case is to act as a neutral factfinding body, the agency shall not be a party of record. In all other cases, the agency shall be a party of record. Summons shall be served within thirty days of the filing of the petition in the manner provided for service of a summons in section 25-510.02. If the agency whose decision is appealed from is not a party of record, the petitioner shall serve a copy of the petition and a request for preparation of the official record upon the agency within thirty days of the filing of the petition. The court, in its discretion, may permit other interested persons to intervene.

(ii) The filing of a petition for review shall vest in a responding party of record the right to a cross-appeal against any other party of record. A respondent shall serve its cross-appeal within thirty days after being served with the summons and petition for review.

(b) A petition for review shall set forth: (i) The name and mailing address of the petitioner; (ii) the name and mailing address of the agency whose action is at issue; (iii) identification of the final decision at issue together with a duplicate copy of the final decision; (iv) identification of the parties in the contested case that led to the final decision; (v) facts to demonstrate proper venue; (vi) the petitioner's reasons for believing that relief should be granted; and (vii) a request for relief, specifying the type and extent of the relief requested.

(3) The filing of the petition or the service of summons upon such agency shall not stay enforcement of a decision. The agency may order a stay. The court may order a stay after notice of the application therefor to such agency and to all parties of record. If the agency has found that its action on an application for stay or other temporary remedies is justified to protect against a substantial threat to the public health, safety, or welfare, the court may not grant relief unless the court finds that: (a) The applicant is likely to prevail when the court finally disposes of the matter; (b) without relief, the applicant will suffer irreparable injuries; (c) the grant of relief to the applicant will not substantially harm other parties to the proceedings; and (d) the threat to the public health, safety, or welfare relied on by the agency is not sufficiently serious to justify the agency's action in the circumstances. The court may require the party requesting such stay to give bond in such amount and conditioned as the court may direct.

(4) Within thirty days after service of the petition or within such further time as the court for good cause shown may allow, the agency shall prepare and transmit to the court a certified copy of the official record of the proceedings had before the agency. Such official record shall include: (a) Notice of all proceedings; (b) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the agency pertaining to the contested case; (c) the transcribed record of the hearing before the agency, including all exhibits and evidence introduced during such hearing, a statement of matters officially noticed by the agency during the proceeding, and all proffers of proof and objections and rulings thereon; and (d) the final order appealed from. The agency shall charge the petitioner with the reasonable direct cost or require the petitioner to pay the cost for preparing the official record for transmittal to the court in all cases except when the petitioner is not required to pay a filing fee. The agency may require payment or bond prior to the transmittal of the record.

(5)(a) When the petition instituting proceedings for review was filed in the district court before July 1, 1989, the review shall be conducted by the court without a jury on the record of the agency, and review may not be obtained of any issue that was not raised before the agency unless such issue involves one of the grounds for reversal or modification enumerated in subdivision (6)(a) of this section. When the petition instituting proceedings for review is filed in the district court on or after July 1, 1989, the review shall be conducted by the court without a jury de novo on the record of the agency.

(b)(i) If the court determines that the interest of justice would be served by the resolution of any other issue not raised before the agency, the court may remand the case to the agency for further proceedings.

(ii) The agency shall affirm, modify, or reverse its findings and decision in the case by reason of the additional proceedings and shall file the decision following remand with the reviewing court. The agency shall serve a copy of the decision following remand upon all parties to the district court proceedings. The agency decision following remand shall become final unless a petition for further review is filed with the reviewing court within thirty days after the decision following remand being filed with the district court. The party filing the petition for further review shall serve a copy of the petition for further review upon all parties to the district court proceeding in accordance with the rules of pleading in civil actions promulgated by the Supreme Court pursuant to section 25-801.01 within thirty days after the petition for further review is filed. Within thirty days after service of the petition for further review or within such further time as the court for good cause shown may allow, the agency shall prepare and transmit to the court a certified copy of the official record of the additional proceedings had before the agency following remand.

(6)(a) When the petition instituting proceedings for review was filed in the district court before July 1, 1989, the court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the agency decision is:

- (i) In violation of constitutional provisions;
- (ii) In excess of the statutory authority or jurisdiction of the agency;
- (iii) Made upon unlawful procedure;
- (iv) Affected by other error of law;

(v) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or

(vi) Arbitrary or capricious.

(b) When the petition instituting proceedings for review is filed in the district court on or after July 1, 1989, the court may affirm, reverse, or modify the decision of the agency or remand the case for further proceedings.

(7) The review provided by this section shall not be available in any case where other provisions of law prescribe the method of appeal.

Source: Laws 1963, c. 531, § 1, p. 1664; Laws 1969, c. 838, § 2, p. 3162; Laws 1983, LB 447, § 102; Laws 1987, LB 253, § 19; Laws 1988, LB 352, § 186; Laws 1989, LB 213, § 1; Laws 1997, LB 165, § 5; Laws 2006, LB 1115, § 42; Laws 2008, LB1014, § 69; Laws 2009, LB35, § 32.

ARTICLE 12

PUBLIC RECORDS

(a) RECORDS MANAGEMENT ACT

Section

84-1227. Records Management Cash Fund; created; use; investment.

(a) RECORDS MANAGEMENT ACT

84-1227 Records Management Cash Fund; created; use; investment.

There is hereby established in the state treasury a special fund to be known as the Records Management Cash Fund which, when appropriated by the Legislature, shall be expended by the Secretary of State for the purposes of providing records management services and assistance to political subdivisions, for development and maintenance of a gateway or electronic network for accessing public records, and for grants to political subdivisions as provided in subdivision (1)(j) of section 84-1204. All fees and charges for the purpose of records management services and analysis received by the Secretary of State from the political subdivisions shall be remitted to the State Treasurer for credit to such fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Records Management 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 1984, LB 527, § 3; Laws 1995, LB 7, § 149; Laws 1997, LB 590, § 14; Laws 2003, LB 257, § 2; Laws 2009, First Spec. Sess., LB3, § 93.

Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 13

STATE EMPLOYEES RETIREMENT ACT

Section	
84-1302.	State Employees Retirement System; established; operative date; official name; acceptance of contributions.
84-1307.	Retirement system; membership; requirements; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.
84-1309.02.	Cash balance benefit; election; effect; administrative services agreements; authorized.
84-1310.01.	Defined contribution benefit; employee account; investment options; procedures; administration.
84-1311.03.	Defined contribution benefit; employer account; investment options; procedures; administration.
84-1313.02.	Retirement system; transfer deferred compensation as plan-to-plan transfer; conditions.
84-1314.	State Employees Defined Contribution Retirement Expense Fund; State Employees Cash Balance Retirement Expense Fund; created; use; investment.
84-1317.	Employees; retirement date; application for benefits; deferment of benefits; board; duties.
84-1319.	Future service retirement benefits; when payable; how computed; selection of annuity; board; provide tax information; deferment of benefits.
84-1321.	Employees; termination of employment; benefits; when; how computed; vesting; deferment of benefits.
84-1321.01.	Termination of employment; account forfeited; when; State Employer Retirement Expense Fund; created; investment.
84-1323.	Employees; death before retirement; death benefit; amount.
84-1323.01.	Employee; retirement; disability; medical examination.
84-1330.	Elected officials and employees having regular term; act, when operative.
84-1331.	Act, how cited.

84-1302 State Employees Retirement System; established; operative date; official name; acceptance of contributions.

(1) An employees retirement system is hereby established for the purpose of providing a retirement annuity or other benefits for employees as provided by the State Employees Retirement Act and sections 84-1332 and 84-1333. The retirement system so created shall begin operation January 1, 1964. It shall be known as the State Employees Retirement System of the State of Nebraska and by such name shall transact all business and hold all cash and other property as provided in such sections.

(2) The retirement system shall not accept as contributions any money from members or the state except the following:

- (a) Mandatory contributions established by sections 84-1308 and 84-1309;
- (b) Money that is a repayment of refunded contributions made pursuant to section 84-1322;
- (c) Contributions for military service credit made pursuant to section 84-1325;
- (d) Actuarially required contributions pursuant to subdivision (4)(b) of section 84-1319;
- (e) Trustee-to-trustee transfers pursuant to section 84-1313.01; or

(f) Corrections ordered by the board pursuant to section 84-1305.02.

Source: Laws 1963, c. 532, § 2, p. 1668; Laws 1991, LB 549, § 61; Laws 2003, LB 451, § 24; Laws 2009, LB188, § 9.

84-1307 Retirement system; membership; requirements; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.

(1) The membership of the retirement system shall be composed of all persons who are or were employed by the State of Nebraska and who maintain an account balance with the retirement system.

(2) The following employees of the State of Nebraska are authorized to participate in the retirement system: (a) All permanent full-time employees shall begin participation in the retirement system upon employment; and (b) all permanent part-time employees who have attained the age of twenty years may exercise the option to begin participation in the retirement system. An employee who exercises the option to begin participation in the retirement system pursuant to this section shall remain in the retirement system until his or her termination of employment or retirement, regardless of any change of status as a permanent or temporary employee.

(3) On and after July 1, 2010, no employee shall be authorized to participate in the retirement system provided for in the State Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(4) For purposes of this section, (a) permanent full-time employees includes employees of the Legislature or Legislative Council who work one-half or more of the regularly scheduled hours during each pay period of the legislative session and (b) permanent part-time employees includes employees of the Legislature or Legislative Council who work less than one-half of the regularly scheduled hours during each pay period of the legislative session.

(5) Within the first one hundred eighty days of employment, a full-time employee may apply to the board for vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. The board may adopt and promulgate rules and regulations governing the assessment and granting of vesting credit.

(6) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public employment system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

(7) State agencies shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required

contributions to the retirement system immediately upon becoming an employee. Information necessary to determine membership in the retirement system shall be provided by the employer.

Source: Laws 1963, c. 532, § 7, p. 1670; Laws 1969, c. 842, § 1, p. 3177; Laws 1973, LB 492, § 1; Laws 1983, LB 219, § 1; Laws 1986, LB 325, § 16; Laws 1986, LB 311, § 30; Laws 1990, LB 834, § 1; Laws 1995, LB 501, § 11; Laws 1996, LB 1076, § 38; Laws 1997, LB 624, § 36; Laws 1998, LB 1191, § 71; Laws 1999, LB 703, § 21; Laws 2000, LB 1192, § 24; Laws 2002, LB 407, § 55; Laws 2002, LB 687, § 20; Laws 2004, LB 1097, § 33; Laws 2006, LB 366, § 8; Laws 2008, LB1147, § 13; Laws 2009, LB188, § 10; Laws 2010, LB950, § 21.
Operative date July 1, 2010.

84-1309.02 Cash balance benefit; election; effect; administrative services agreements; authorized.

(1) It is the intent of the Legislature that, in order to improve the competitiveness of the retirement plan for state employees, a cash balance benefit shall be added to the State Employees Retirement Act on and after January 1, 2003. Each member who is employed and participating in the retirement system prior to January 1, 2003, may either elect to continue participation in the defined contribution benefit as provided in the act prior to January 1, 2003, or elect to participate in the cash balance benefit as set forth in this section. The member shall make the election prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008. If no election is made prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008, the member shall be treated as though he or she elected to continue participating in the defined contribution benefit as provided in the act prior to January 1, 2003. Members who elect to participate in the cash balance benefit on or after November 1, 2007, but before January 1, 2008, shall commence participation in the cash balance benefit on January 1, 2008. Any member who made the election prior to January 1, 2003, does not have to reelect the cash balance benefit on or after November 1, 2007, but before January 1, 2008. A member employed and participating in the retirement system prior to January 1, 2003, who terminates employment on or after January 1, 2003, and returns to employment prior to having a five-year break in service shall participate in the cash balance benefit as set forth in this section.

(2) For a member employed and participating in the retirement system beginning on and after January 1, 2003, or a member employed and participating in the retirement system on January 1, 2003, who, prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008, elects to convert his or her employee and employer accounts to the cash balance benefit:

(a) The employee cash balance account shall, at any time, be equal to the following:

(i) The initial employee account balance, if any, transferred from the defined contribution plan account described in section 84-1310; plus

(ii) Employee contribution credits deposited in accordance with section 84-1308; plus

(iii) Interest credits credited in accordance with subdivision (18) of section 84-1301; plus

(iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319; and

(b) The employer cash balance account shall, at any time, be equal to the following:

(i) The initial employer account balance, if any, transferred from the defined contribution plan account described in section 84-1311; plus

(ii) Employer contribution credits deposited in accordance with section 84-1309; plus

(iii) Interest credits credited in accordance with subdivision (18) of section 84-1301; plus

(iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319.

(3) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees. The board may develop a schedule for the allocation of the administrative services agreements costs for accounting or record-keeping services and may assess the costs so that each member pays a reasonable fee as determined by the board.

Source: Laws 2002, LB 687, § 21; Laws 2003, LB 451, § 25; Laws 2005, LB 364, § 17; Laws 2006, LB 366, § 10; Laws 2006, LB 1019, § 16; Laws 2007, LB328, § 7; Laws 2009, LB188, § 11; Laws 2010, LB950, § 22.

Operative date July 1, 2010.

84-1310.01 Defined contribution benefit; employee account; investment options; procedures; administration.

(1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employee account to various investment options. Such investment options shall include, but not be limited to, the following:

(a) An investor select account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy substantially similar to the investment allocations made by the state investment officer for the defined benefit plans under the retirement systems described in subdivision (1)(a) of section 84-1503. Investments shall most likely include domestic and international equities, fixed income investments, and real estate, as well as potentially additional asset classes;

(b) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

(c) An equities account which shall be invested by or under the direction of the state investment officer in equities;

(d) A balanced account which shall be invested by or under the direction of the state investment officer in equities and fixed income instruments;

(e) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

(f) A fixed income account which shall be invested by or under the direction of the state investment officer in fixed income instruments;

(g) A money market account which shall be invested by or under the direction of the state investment officer in short-term fixed income securities; and

(h) Beginning on July 1, 2006, an age-based account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy that changes based upon the age of the member. The board shall develop an account mechanism that changes the investments as the employee nears retirement age. The asset allocation and asset classes utilized in the investments shall move from aggressive, to moderate, and then to conservative as retirement age approaches.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (b) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1) of section 84-1323 or his or her beneficiary may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Source: Laws 1984, LB 751, § 11; Laws 1991, LB 549, § 66; Laws 1994, LB 833, § 47; Laws 1996, LB 847, § 44; Laws 1999, LB 703, § 22; Laws 2000, LB 1200, § 5; Laws 2001, LB 408, § 26; Laws 2002, LB 407, § 56; Laws 2002, LB 687, § 23; Laws 2005, LB 503, § 16; Laws 2008, LB1147, § 14; Laws 2010, LB950, § 23.
Operative date July 1, 2010.

84-1311.03 Defined contribution benefit; employer account; investment options; procedures; administration.

(1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employer account to various investment options. Such investment options shall be the same as the investment options of the employee account as provided in subsection (1) of section 84-1310.01. If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in the balanced account option described in subdivision (1)(d) of section 84-1310.01. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1) of section 84-1323 or his or her beneficiary may transfer any portion of his or her funds among the options. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Source: Laws 1999, LB 687, § 4; Laws 2000, LB 1200, § 6; Laws 2001, LB 408, § 27; Laws 2002, LB 407, § 57; Laws 2002, LB 687, § 25; Laws 2004, LB 1097, § 34; Laws 2005, LB 503, § 17; Laws 2008, LB1147, § 15; Laws 2010, LB950, § 24.
Operative date July 1, 2010.

84-1313.02 Retirement system; transfer deferred compensation as plan-to-plan transfer; conditions.

The retirement system may transfer deferred compensation by a member as a plan-to-plan transfer to the deferred compensation plan authorized under section 84-1504 if the following conditions are met:

(1) The member has an amount of compensation deferred immediately after the transfer at least equal to the amount of compensation deferred immediately before the transfer;

(2) The account of the member is valued as of the date of final account value;

(3) The member is not eligible for additional annual deferrals in the receiving plan unless the member is performing services for the state; and

(4) The deferred compensation plan provides for such transfers.

Source: Laws 2009, LB188, § 12.

84-1314 State Employees Defined Contribution Retirement Expense Fund; State Employees Cash Balance Retirement Expense Fund; created; use; investment.

(1) The State Employees Defined Contribution Retirement Expense Fund is created. The fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the State Employees Retirement Act and necessary in connection with the administration and operation of the retirement system, except as provided in sections 84-1309.02, 84-1310.01, and 84-1311.03. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Employees Cash Balance Retirement Expense Fund is created. The fund shall be credited with money forfeited pursuant to section 84-1321.01 and with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the State Employees Retirement Act and necessary in connection with the administration and operation of the retirement system, except as provided in sections 84-1309.02, 84-1310.01, and 84-1311.03. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1997, LB 623, § 40; Laws 2000, LB 1200, § 7; Laws 2001, LB 408, § 28; Laws 2003, LB 451, § 26; Laws 2005, LB 364, § 18; Laws 2007, LB328, § 8; Laws 2010, LB950, § 25.
Operative date July 1, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

84-1317 Employees; retirement date; application for benefits; deferment of benefits; board; duties.

(1) Upon filing an application for benefits with the board, an employee may elect to retire after the attainment of age fifty-five or an employee may retire as a result of disability at any age.

(2) The member shall specify in the application for benefits the manner in which he or she wishes to receive the retirement benefit under the options provided by the State Employees Retirement Act. Payment under the application for benefits shall be made (a) for annuities, no sooner than the annuity start date, and (b) for other distributions, no sooner than the date of final account value.

(3) Payment of any benefit provided under the retirement system may not be deferred later than April 1 of the year following the year in which the employee has both attained at least age seventy and one-half years and terminated his or her employment with the state, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009.

(4) The board shall make reasonable efforts to locate the member or the member's beneficiary and distribute benefits by the required beginning date as specified by section 401(a)(9) of the Internal Revenue Code and the regulations

issued thereunder. If the board is unable to make such a distribution, the benefit shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any member would otherwise receive under the State Employees Retirement Act.

Source: Laws 1963, c. 532, § 17, p. 1673; Laws 1967, c. 619, § 2, p. 2075; Laws 1971, LB 360, § 1; Laws 1973, LB 498, § 4; Laws 1973, LB 55, § 1; Laws 1974, LB 740, § 2; Laws 1979, LB 391, § 7; Laws 1979, LB 161, § 3; Laws 1981, LB 288, § 1; Laws 1982, LB 287, § 5; Laws 1983, LB 604, § 25; Laws 1983, LB 219, § 2; Laws 1986, LB 325, § 17; Laws 1986, LB 311, § 32; Laws 1987, LB 296, § 4; Laws 1996, LB 1076, § 39; Laws 1997, LB 624, § 38; Laws 2003, LB 451, § 27; Laws 2009, LB188, § 13.

Cross References

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

84-1319 Future service retirement benefits; when payable; how computed; selection of annuity; board; provide tax information; deferment of benefits.

(1) The future service retirement benefit shall be an annuity, payable monthly with the first payment made no earlier than the annuity start date, which shall be the actuarial equivalent of the retirement value as specified in section 84-1318 based on factors determined by the board, except that gender shall not be a factor when determining the amount of such payments except as provided in this section.

Except as provided in section 42-1107, at any time before the annuity start date, the retiring employee may choose to receive his or her annuity either in the form of an annuity as provided under subsection (4) of this section or any optional form that is determined acceptable by the board.

Except as provided in section 42-1107, in lieu of the future service retirement annuity, a retiring employee may receive a benefit not to exceed the amount in his or her employer and employee accounts as of the date of final account value payable in a lump sum and, if the employee chooses not to receive the entire amount in such accounts, an annuity equal to the actuarial equivalent of the remainder of the retirement value, and the employee may choose any form of such annuity as provided for by the board.

In any case, the amount of the monthly payment shall be such that the annuity chosen shall be the actuarial equivalent of the retirement value as specified in section 84-1318 except as provided in this section.

The board shall provide to any state employee who is eligible for retirement, prior to his or her selecting any of the retirement options provided by this section, information on the federal and state income tax consequences of the various annuity or retirement benefit options.

(2) Except as provided in subsection (4) of this section, the monthly annuity income payable to a member retiring on or after January 1, 1984, shall be as follows:

He or she shall receive at retirement the amount which may be purchased by the accumulated contributions based on annuity rates in effect on the annuity start date which do not utilize gender as a factor, except that such amounts shall not be less than the retirement income which can be provided by the sum

of the amounts derived pursuant to subdivisions (a) and (b) of this subsection as follows:

(a) The income provided by the accumulated contributions made prior to January 1, 1984, based on male annuity purchase rates in effect on the date of purchase; and

(b) The income provided by the accumulated contributions made on and after January 1, 1984, based on the annuity purchase rates in effect on the date of purchase which do not use gender as a factor.

(3) Any amounts, in excess of contributions, which may be required in order to purchase the retirement income specified in subsection (2) of this section shall be withdrawn from the State Equal Retirement Benefit Fund.

(4)(a) The normal form of payment shall be a single life annuity with five-year certain, which is an annuity payable monthly during the remainder of the member's life with the provision that, in the event of his or her death before sixty monthly payments have been made, the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until sixty monthly payments have been made in total. Such annuity shall be equal to the actuarial equivalent of the member cash balance account or the sum of the employee and employer accounts, whichever is applicable, as of the date of final account value. As a part of the annuity, the normal form of payment may include a two and one-half percent cost-of-living adjustment purchased by the member, if the member elects such a payment option.

Except as provided in section 42-1107, a member may elect a lump-sum distribution of his or her member cash balance account as of the date of final account value upon termination of service or retirement.

For a member employed and participating in the retirement system prior to January 1, 2003, who has elected to participate in the cash balance benefit pursuant to section 84-1309.02, or for a member employed and participating in the retirement system beginning on and after January 1, 2003, the balance of his or her member cash balance account as of the date of final account value shall be converted to an annuity using an interest rate used in the actuarial valuation as recommended by the actuary and approved by the board.

For an employee who is a member prior to January 1, 2003, who has elected not to participate in the cash balance benefit prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008, pursuant to section 84-1309.02, and who, at the time of retirement, chooses the annuity option rather than the lump-sum option, his or her employee and employer accounts as of the date of final account value shall be converted to an annuity using an interest rate that is equal to the lesser of (i) the Pension Benefits Guarantee Corporation initial interest rate for valuing annuities for terminating plans as of the beginning of the year during which payment begins plus three-fourths of one percent or (ii) the interest rate used in the actuarial valuation as recommended by the actuary and approved by the board.

(b) For the calendar year beginning January 1, 2003, and each calendar year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level-payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The

normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of January 1, 2003, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the State Employees Retirement Act, there shall be a supplemental appropriation sufficient to pay for the difference between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

(c) If the unfunded accrued actuarial liability under the entry age actuarial cost method is less than zero on an actuarial valuation date, and on the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board may elect to pay a dividend to all members participating in the cash balance option in an amount that would not increase the actuarial contribution rate above ninety percent of the actual contribution rate. Dividends shall be credited to the employee cash balance account and the employer cash balance account based on the account balances on the actuarial valuation date. In the event a dividend is granted and paid after the actuarial valuation date, interest for the period from the actuarial valuation date until the dividend is actually paid shall be paid on the dividend amount. The interest rate shall be the interest credit rate earned on regular contributions.

(5) At the option of the retiring member, any lump sum or annuity provided under this section or section 84-1320 may be deferred to commence at any time, except that no benefit shall be deferred later than April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009. Such election by the retiring member may be made at any time prior to the commencement of the lump-sum or annuity payments.

Source: Laws 1963, c. 532, § 19, p. 1674; Laws 1973, LB 498, § 5; Laws 1983, LB 210, § 2; Laws 1984, LB 751, § 7; Laws 1986, LB 325, § 18; Laws 1986, LB 311, § 33; Laws 1987, LB 308, § 1; Laws 1987, LB 60, § 4; Laws 1991, LB 549, § 70; Laws 1992, LB 543, § 2; Laws 1994, LB 1306, § 8; Laws 1996, LB 1273, § 31; Laws 2002, LB 687, § 27; Laws 2003, LB 451, § 29; Laws 2006, LB 1019, § 17; Laws 2007, LB328, § 9; Laws 2009, LB188, § 14.

84-1321 Employees; termination of employment; benefits; when; how computed; vesting; deferment of benefits.

(1) Except as provided in section 42-1107, upon termination of employment before becoming eligible for retirement under section 84-1317, a member may, upon application to the board, receive:

(a) If not vested, a termination benefit equal to the amount in his or her employee account or member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009; or

(b) If vested, a termination benefit equal to (i) the amount of his or her member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years or (ii)(A) the amount in his or her employee account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years plus (B) the amount of his or her employer account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years. For purposes of subdivision (1)(b) of this section, for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009.

The member cash balance account or employer and employee accounts of a terminating member shall be retained by the board, and the termination benefit shall be deferred until a valid application for benefits has been received.

(2) At the option of the terminating member, any lump sum of the vested portion of the employer account or member cash balance account or any annuity provided under subsection (1) of this section shall commence as of the first of the month at any time after such member has terminated his or her employment with the state or may be deferred, except that no benefit shall be deferred later than April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009. Such election by the terminating member shall be made at any time prior to the commencement of the lump-sum or annuity payments.

(3) Members of the retirement system shall be vested after a total of three years of participation in the system as a member pursuant to section 84-1307, including vesting credit. If an employee retires pursuant to section 84-1317, such an employee shall be fully vested in the retirement system.

Source: Laws 1963, c. 532, § 21, p. 1675; Laws 1973, LB 498, § 6; Laws 1975, LB 56, § 3; Laws 1983, LB 604, § 26; Laws 1983, LB 219, § 3; Laws 1984, LB 751, § 9; Laws 1986, LB 325, § 20; Laws

1986, LB 311, § 35; Laws 1987, LB 308, § 3; Laws 1987, LB 60, § 5; Laws 1991, LB 549, § 71; Laws 1993, LB 417, § 7; Laws 1994, LB 1306, § 9; Laws 1996, LB 1076, § 40; Laws 1996, LB 1273, § 32; Laws 1997, LB 624, § 39; Laws 2002, LB 687, § 28; Laws 2003, LB 451, § 31; Laws 2006, LB 366, § 11; Laws 2009, LB188, § 15.

84-1321.01 Termination of employment; account forfeited; when; State Employer Retirement Expense Fund; created; investment.

(1) For a member who has terminated employment and is not vested, the balance of the member's employer account or employer cash balance account shall be forfeited. The forfeited account shall be credited to the State Employees Retirement Fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, which charges shall be credited to the State Employees Defined Contribution Retirement Expense Fund, if the member participated in the defined contribution option, or to the State Employees Cash Balance Retirement Expense Fund, if the member participated in the cash balance option, and the remainder, if any, shall then be used to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts. No forfeited amounts shall be applied to increase the benefits any member would otherwise receive under the State Employees Retirement Act.

(2) If a member ceases to be an employee due to the termination of his or her employment by the state and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account or employer cash balance account shall be suspended pending the final outcome of the grievance or other appeal.

(3) The State Employer Retirement Expense Fund is created. The fund shall be administered by the Public Employees Retirement Board. The fund shall be established and maintained separate from any funds held in trust for the benefit of members under the retirement system. The fund shall be used to meet expenses of the State Employees Retirement System of the State of Nebraska whether such expenses are incurred in administering the member's employer account or in administering the member's employer cash balance account when the funds available in the State Employees Defined Contribution Retirement Expense Fund or State Employees Cash Balance Retirement Expense Fund make such use reasonably necessary.

(4) The director of the Nebraska Public Employees Retirement Systems shall certify to the Accounting Administrator of the Department of Administrative Services when accumulated employer account forfeiture funds are available to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts referred to in subsection (1) of this section. Following such certification, the Accounting Administrator shall transfer the amount reduced from the state contribution from the Imprest Payroll Distributive Fund to the State Employer Retirement Expense Fund. Expenses incurred as a result of the state depositing amounts into the State Employer Retirement Expense Fund shall be deducted prior to any additional expenses being allocated. Any remaining amount shall be allocated in accordance with subsection (3) of this section.

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

Source: Laws 1997, LB 624, § 40; Laws 2000, LB 1200, § 8; Laws 2002, LB 687, § 29; Laws 2003, LB 451, § 32; Laws 2005, LB 364, § 19; Laws 2007, LB328, § 10; Laws 2010, LB950, § 26.
Operative date July 1, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

84-1323 Employees; death before retirement; death benefit; amount.

In the event of the death before his or her retirement date of any employee who is a member of the system, the death benefit shall be equal to (1) for participants in the defined contribution benefit, the total of the employee account and the employer account and (2) for participants in the cash balance benefit, the benefit provided in section 84-1309.02. The death benefit shall be paid to the member's beneficiary, to an alternate payee pursuant to a qualified domestic relations order as provided in section 42-1107, or to the member's estate if there are no designated beneficiaries. If the beneficiary is not the member's surviving spouse, the death benefit shall be paid as a lump-sum payment or payments, except that the entire account must be distributed by the fifth anniversary of the member's death. If the sole primary beneficiary is the member's surviving spouse, the surviving spouse may elect to receive an annuity calculated as if the member retired and selected a one-hundred-percent joint and survivor annuity effective on the annuity purchase date. If the surviving spouse does not elect the annuity option within one hundred eighty days after the death of the member, the surviving spouse shall receive a lump-sum payment or payments, except that the entire account must be distributed by the fifth anniversary of the member's death.

Source: Laws 1963, c. 532, § 23, p. 1676; Laws 1973, LB 498, § 7; Laws 1984, LB 751, § 10; Laws 1994, LB 1306, § 10; Laws 1996, LB 1273, § 33; Laws 2002, LB 687, § 31; Laws 2003, LB 451, § 34; Laws 2004, LB 1097, § 36; Laws 2009, LB188, § 16.

84-1323.01 Employee; retirement; disability; medical examination.

(1) Any member who is an employee, disregarding the length of service, may be retired as a result of disability either upon the member's own application or upon the application of the member's employer or any person acting in the member's behalf. Before any member may be so retired, a medical examination shall be made at the expense of the retirement system, which examination shall be conducted by a disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, such physician to be selected by the retirement board, and the physician shall certify to the board that the member suffers from an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which began while the member was a participant in the plan and which can be expected to result in death or to be of long-continued and indefinite duration and should be retired. The application for disability retirement shall be made within one year of termination of employment.

(2) The retirement board may require any disability beneficiary who has not attained the age of fifty-five to undergo a medical examination at the expense of the board once each year. If any disability beneficiary refuses to undergo such an examination, the disability retirement benefit may be discontinued by the board.

Source: Laws 1973, LB 498, § 8; Laws 1993, LB 417, § 8; Laws 1997, LB 623, § 44; Laws 1999, LB 703, § 25; Laws 2001, LB 408, § 29; Laws 2010, LB950, § 27.
Operative date July 1, 2010.

84-1330 Elected officials and employees having regular term; act, when operative.

The provisions of the State Employees Retirement Act pertaining to elected officials or other employees having a regular term of office shall be interpreted as to effectuate its general purpose and to take effect as soon as the same may become operative under the Constitution of the State of Nebraska.

Source: Laws 1963, c. 532, § 30, p. 1677; Laws 2009, LB188, § 17.

84-1331 Act, how cited.

Sections 84-1301 to 84-1331 shall be known and may be cited as the State Employees Retirement Act.

Source: Laws 1963, c. 532, § 31, p. 1677; Laws 1984, LB 751, § 12; Laws 1991, LB 549, § 73; Laws 1994, LB 833, § 53; Laws 1995, LB 501, § 13; Laws 1996, LB 847, § 50; Laws 1996, LB 1076, § 43; Laws 1997, LB 623, § 45; Laws 1997, LB 624, § 42; Laws 1998, LB 1191, § 77; Laws 1999, LB 687, § 6; Laws 2002, LB 407, § 62; Laws 2002, LB 687, § 32; Laws 2009, LB188, § 18.

ARTICLE 14

PUBLIC MEETINGS

Section

84-1411. Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

84-1413. Meetings; minutes; roll call vote; secret ballot; when.

84-1411 Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

(1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (a)

twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of more than fifty counties in this state, of a board of an educational service unit, or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

(a) Reasonable advance publicized notice is given;

(b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;

(d) At least one member of the state entity, advisory committee, board, or governing body is present at each site of the videoconference or telephone conference; and

(e) No more than one-half of the state entity's, advisory committee's, board's, or governing body's meetings in a calendar year are held by videoconference or telephone conference.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(3) A meeting of a board of an educational service unit, of the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by telephone conference call if:

(a) The territory represented by the educational service unit or member public agencies of the entity or pool covers more than one county;

(b) Reasonable advance publicized notice is given which identifies each telephone conference location at which an educational service unit board member or a member of the entity's or pool's governing body will be present;

(c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board or entity or pool or at a place which will accommodate the anticipated audience;

(d) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(f) At least one member of the educational service unit board or governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;

(g) The telephone conference call lasts no more than one hour; and

(h) No more than one-half of the board's, entity's, or pool's meetings in a calendar year are held by telephone conference call, except that a governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

Source: Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2.

Cross References

Intergovernmental Risk Management Act, see section 44-4301.

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Municipal Cooperative Financing Act, see section 18-2401.

84-1413 Meetings; minutes; roll call vote; secret ballot; when.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a municipality, a county, a learning community, a joint entity created pursuant to the Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act, or an agency formed under the Municipal Cooperative Financing Act which utilizes an electronic voting device which allows the yeas and nays of each member of such city council, village board, county board, or governing body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

Source: Laws 1975, LB 325, § 6; Laws 1978, LB 609, § 3; Laws 1979, LB 86, § 9; Laws 1987, LB 663, § 26; Laws 2005, LB 501, § 1; Laws 2009, LB361, § 3.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Municipal Cooperative Financing Act, see section 18-2401.

ARTICLE 15**PUBLIC EMPLOYEES RETIREMENT BOARD****Section**

84-1504. Deferred compensation; treatment; participation; requirements.

84-1512. Board; access to records; director; duties; employer education program.

84-1504 Deferred compensation; treatment; participation; requirements.

(1) The Public Employees Retirement Board, on behalf of the state, may contract with any individual to defer a portion of such individual's compensation or with the Legislative Council to defer any other amount that the Legislative Council agrees to credit to an individual's account pursuant to section 457 of the Internal Revenue Code.

(2) The compensation to be deferred at the election of the individual and any other amount credited on behalf of such individual by the Legislative Council shall not exceed the total compensation to be received by the individual from the employer or exceed the limits established by the Internal Revenue Code for such a plan.

(3) The deferred compensation program shall serve in addition to but not be a part of any existing retirement or pension system provided for state or county employees or any other benefit program.

(4) Any compensation deferred at the election of the individual under such a deferred compensation plan shall continue to be included as regular compensation for the purpose of computing the retirement, pension, or social security contributions made or benefits earned by any employee.

(5) Any sum so deferred shall not be included in the computation of any federal or state taxes withheld on behalf of any such individual.

(6) The state, the board, the state investment officer, the agency, or the county shall not be responsible for any investment results entered into by the individual in the deferred compensation agreement.

(7) Nothing in this section shall in any way limit, restrict, alter, amend, invalidate, or nullify any deferred compensation plan previously instituted by any instrumentality or agency of the State of Nebraska, and any such plan is hereby authorized and approved.

(8) On and after July 1, 2010, no employee of the state or any political subdivision of the state shall be authorized to participate in a deferred compensation plan unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(9) For purposes of this section, individual means (a) any state employee, whether employed on a permanent or temporary basis, full-time or part-time, (b) a person under contract providing services to the state who is not employed by the University of Nebraska or any of the state colleges or community colleges and who has entered into a contract with the state to have compensation deferred prior to August 28, 1999, and (c) any county employee designated as a permanent part-time or full-time employee or elected official whose employer does not offer a deferred compensation plan and who has entered into an agreement pursuant to section 48-1401.

Source: Laws 1973, LB 428, § 1; R.S.Supp.,1974, § 84-1329.01; Laws 1975, LB 42, § 2; Laws 1987, LB 549, § 15; Laws 1994, LB 460, § 1; Laws 1996, LB 847, § 55; Laws 1997, LB 623, § 49; Laws 1997, LB 624, § 43; Laws 1998, LB 1191, § 79; Laws 1999, LB 703, § 27; Laws 2001, LB 75, § 2; Laws 2010, LB950, § 28. Operative date July 1, 2010.

84-1512 Board; access to records; director; duties; employer education program.

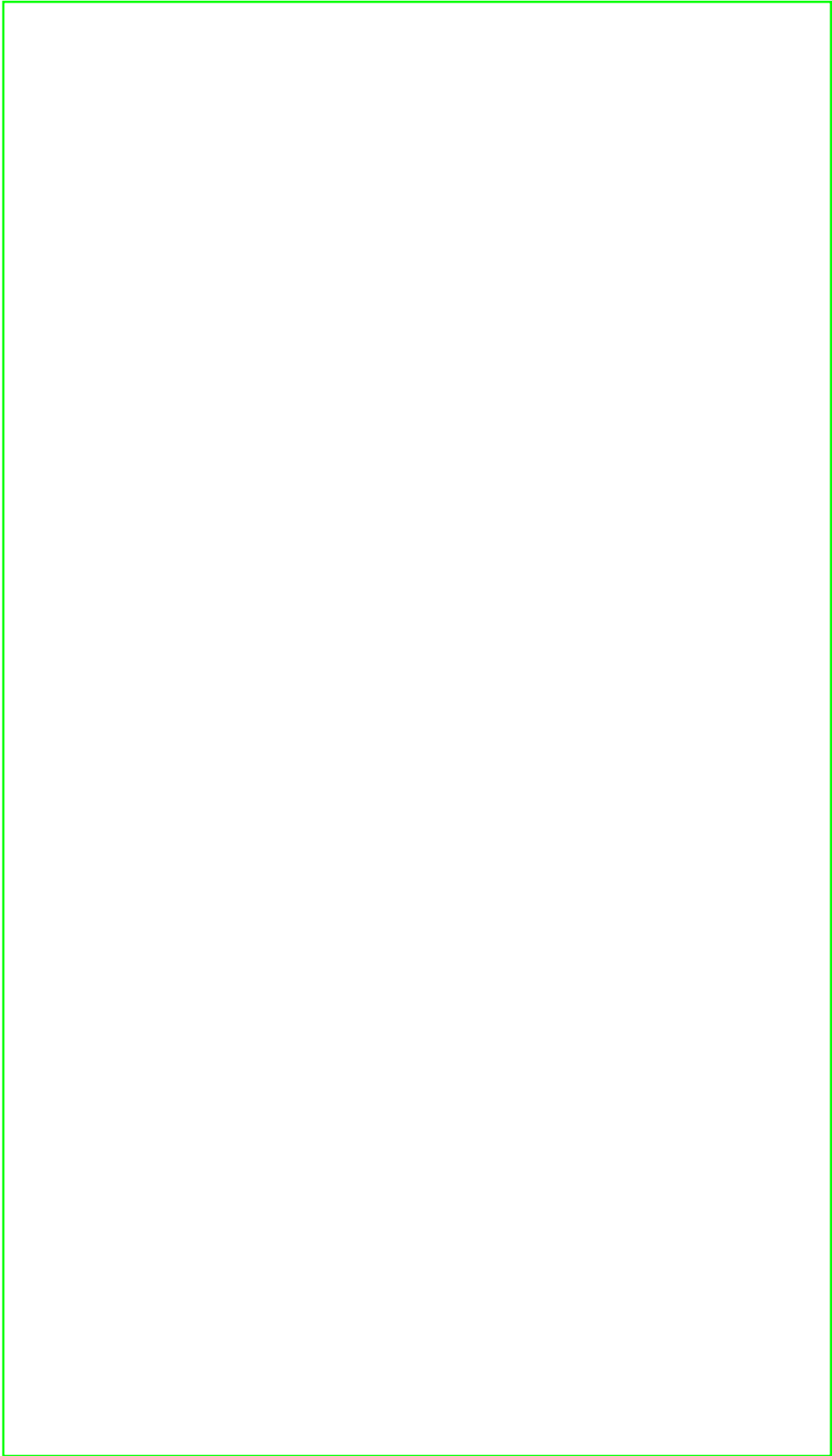
(1) The Public Employees Retirement Board, for purposes of administering the various retirement systems under its jurisdiction, shall receive from the Department of Administrative Services and other employers such information as is necessary for the efficient and accurate administration of the systems and shall consult with the Department of Administrative Services and other employers as to the form in which the information is to be presented and received by the board. The information in the records shall be provided by the employers in an accurate and verifiable form, as specified by the director of the Nebraska Public Employees Retirement Systems. The director shall, from time to time,

carry out testing procedures to verify the accuracy of such information. The director shall have access to records maintained by the Department of Administrative Services on the Nebraska employees information system data base for the purpose of obtaining any information which may be necessary to verify the accuracy of information and administer the systems 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.

(2) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

(3) The information obtained by the board pursuant to this section shall not be considered public records subject to sections 84-712 to 84-712.09, except that the following information shall be considered public records: The member's name, the retirement system in which the member is a participant, the date the member's participation in the retirement system commenced, and the date the member's participation in the retirement system ended, if applicable.

Source: Laws 1986, LB 311, § 41; Laws 2000, LB 1192, § 26; Laws 2005, LB 503, § 22; Laws 2009, LB188, § 19.



CHAPTER 85

STATE UNIVERSITY, STATE COLLEGES, AND POSTSECONDARY EDUCATION

Article.

1. University of Nebraska. 85-110 to 85-1,142.
3. State Colleges. 85-309.
4. Campus Buildings and Facilities. 85-415, 85-421.
6. Public Institutions of Higher Education.
 - (c) Admission. 85-607.
9. Postsecondary Education.
 - (a) General Provisions. 85-903.
 - (m) Student Diversity Scholarship Program Act. 85-9,178, 85-9,182.
10. Nebraska Safety Center. 85-1008.
14. Coordinating Commission for Postsecondary Education.
 - (a) Coordinating Commission for Postsecondary Education Act. 85-1402 to 85-1419.
15. Community Colleges. 85-1502 to 85-1517.
16. Private Postsecondary Career Schools. 85-1655.
18. Educational Savings Plan Trust. 85-1801 to 85-1813.
19. Nebraska Opportunity Grant Act. 85-1901 to 85-1920.
21. Access College Early Scholarship Program Act. 85-2104 to 85-2106.
22. Community College Foundation and Equalization Aid Act. 85-2230.
23. In the Line of Duty Dependent Education Act. 85-2301 to 85-2306.

ARTICLE 1

UNIVERSITY OF NEBRASKA

Section

- 85-110. Board of Regents; memorandum of understanding with State Board of Education; policy to share student data.
- 85-1,138. Transferred to section 68-962.
- 85-1,139. Transferred to section 68-963.
- 85-1,140. Transferred to section 68-964.
- 85-1,141. Transferred to section 68-965.
- 85-1,142. Transferred to section 68-966.

85-110 Board of Regents; memorandum of understanding with State Board of Education; policy to share student data.

The Board of Regents of the University of Nebraska shall enter into a memorandum of understanding on or before September 1, 2010, with the State Board of Education to adopt a policy to share student data. At a minimum, the policy shall ensure that the exchange of information is conducted in conformance with the requirements of the federal Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g, and all federal regulations and applicable guidelines adopted in accordance with such act, as such act, regulations, and guidelines existed on January 1, 2010.

Source: Laws 2010, LB1071, § 34.
Operative date April 15, 2010.

85-1,138 Transferred to section 68-962.

§ 85-1,139 UNIVERSITY, COLLEGES, POSTSECONDARY EDUCATION

85-1,139 Transferred to section 68-963.

85-1,140 Transferred to section 68-964.

85-1,141 Transferred to section 68-965.

85-1,142 Transferred to section 68-966.

**ARTICLE 3
STATE COLLEGES**

Section

85-309. Board of Trustees; memorandum of understanding with State Board of Education; policy to share student data.

85-309 Board of Trustees; memorandum of understanding with State Board of Education; policy to share student data.

The Board of Trustees of the Nebraska State Colleges shall enter into a memorandum of understanding on or before September 1, 2010, with the State Board of Education to adopt a policy to share student data. At a minimum, the policy shall ensure that the exchange of information is conducted in conformance with the requirements of the federal Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g, and all federal regulations and applicable guidelines adopted in accordance with such act, as such act, regulations, and guidelines existed on January 1, 2010.

Source: Laws 2010, LB1071, § 35.
Operative date April 15, 2010.

**ARTICLE 4
CAMPUS BUILDINGS AND FACILITIES**

Section

85-415. University of Nebraska Facilities Program; contracts authorized; limitations.

85-421. University of Nebraska Facilities Program of 2006; appropriations; legislative intent; projects enumerated; accounting; status reports.

85-415 University of Nebraska Facilities Program; contracts authorized; limitations.

(1) In order to accomplish any projects authorized by section 85-414, the Board of Regents of the University of Nebraska may enter into contracts with any person, firm, or corporation providing for the implementation of any such project of the University of Nebraska and providing for the long-term payment of the cost of such project from the University of Nebraska Facilities Program. In no case shall any such contract extend for a period beyond July 15, 2011, nor shall any such contract exceed the repayment capabilities implicit in the funding streams authorized in sections 85-412 and 85-414.

(2) The Board of Regents of the University of Nebraska shall not pledge the credit of the State of Nebraska for the payment of any sum owing on account of such contract, except that there may be pledged for the payment of any such contract any appropriation specifically made by the Legislature for such purpose, together with such funds of the Board of Regents of the University of Nebraska as the board determines. No contract shall be entered into pursuant to this section without prior approval by resolution by the Board of Regents.

The Board of Regents may also convey, lease, or lease back all or any part of the projects authorized by section 85-414 and the land on which such projects are situated to such person, firm, or corporation as the Board of Regents may contract with pursuant to this section to facilitate the long-term payment of the cost of such projects. Any such conveyance or lease shall provide that when the cost of such projects has been paid, together with interest and other costs thereon, such projects and the land on which such projects are located shall become the property of the Board of Regents.

(3) The Board of Regents of the University of Nebraska is authorized to make expenditures for the purposes stated in this section and section 85-414 from investment income balances in any fund created under the authority provided for in any contract or contracts authorized by this section. Any appropriated amounts and amounts designated or matched by the Board of Regents under section 85-412 in excess of amounts required to meet debt service and any interest earnings derived from reserve funds or any other funds created under the authority provided for in any contract or contracts authorized by this section shall be accumulated and applied toward early retirement of debt as authorized under any indenture or other contract entered into by the Board of Regents as authorized by this section. The Board of Regents and the Department of Administrative Services shall, on or before January 1, 1999, enter into an agreement providing for the allocation and distribution of any balances existing in the University of Nebraska Facilities Program or any other funds created as part of a long-term contract entered into by the Board of Regents pursuant to this section to the General Fund and any other funds designated by the Board of Regents as a source of funds for the match specified in section 85-412 either on July 15, 2011, or when all financial obligations incurred in the contracts entered into by the Board of Regents pursuant to this section are discharged, whichever occurs first. Up to eleven million eight hundred thousand dollars of the balances existing in the University of Nebraska Facilities Program and any other funds created as a part of a long-term contract entered into by the Board of Regents pursuant to this section on July 15, 2009, may be expended for the acquisition and implementation of a joint student information system for the University of Nebraska and the Nebraska State College System.

Source: Laws 1998, LB 1100, § 4; Laws 2009, LB316, § 26.

85-421 University of Nebraska Facilities Program of 2006; appropriations; legislative intent; projects enumerated; accounting; status reports.

(1) The Legislature shall appropriate from the General Fund (a) an amount not less than five million five hundred thousand dollars for each fiscal year for the period beginning with the fiscal year commencing July 1, 2006, and continuing through the fiscal year ending June 30, 2009, and (b) an amount not less than eleven million dollars for each fiscal year for the period beginning with the fiscal year commencing July 1, 2009, and continuing through the fiscal year ending June 30, 2020, to the University of Nebraska Facilities Program of 2006 to be used by the Board of Regents of the University of Nebraska to accomplish projects as provided in this section. Through the allotment process established in section 81-1113, the Department of Administrative Services shall make appropriated funds available. Undisbursed appropriations balances existing in the University of Nebraska Facilities Program of 2006 at the end of each fiscal year until June 30, 2021, shall be and are hereby reappropriated.

(2) The Legislature finds and determines that the projects funded through the University of Nebraska Facilities Program of 2006 are of critical importance to the State of Nebraska. It is the intent of the Legislature that the appropriations to the program shall not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid but in no case shall such appropriations extend beyond the fiscal year ending June 30, 2020, nor shall the cumulative total of the General Fund appropriations for the program exceed one hundred thirty-seven million five hundred thousand dollars.

(3) Subject to the receipt of project approval from the Coordinating Commission for Postsecondary Education as required by subsection (10) of section 85-1414 for each of the following University of Nebraska projects, the Board of Regents of the University of Nebraska is authorized to make expenditures from the University of Nebraska Facilities Program of 2006 for the following projects: (a) Deferred maintenance, repair, and renovation of University of Nebraska at Kearney Bruner Hall; (b) construction of University of Nebraska at Kearney campus-wide central utilities plant and system; (c) construction of facilities to replace University of Nebraska-Lincoln Behlen, Brace, and Ferguson Halls or deferred maintenance, repair, and renovation of University of Nebraska-Lincoln Behlen, Brace, and Ferguson Halls; (d) construction of a facility to replace University of Nebraska-Lincoln Keim Hall or deferred maintenance, repair, and renovation of University of Nebraska-Lincoln Keim Hall; (e) deferred maintenance, repair, and renovation of University of Nebraska-Lincoln Sheldon Memorial Art Gallery; (f) deferred maintenance, repair, and renovation of University of Nebraska-Lincoln Animal Science Complex; (g) deferred maintenance, repair, and renovation of University of Nebraska Medical Center Poynter, Bennet, and Wittson Halls; (h) deferred maintenance, repair, and renovation of University of Nebraska Medical Center Eppley Institute for Research in Cancer and Allied Diseases or replacement if additional federal or private funds are received; (i) deferred maintenance, repair, and renovation of University of Nebraska Medical Center College of Dentistry; (j) deferred maintenance, repair, and renovation of University of Nebraska at Omaha Library; and (k) deferred maintenance, repair, and renovation of University of Nebraska at Omaha utilities infrastructure.

(4) Expenditures of matching funds provided for the projects listed in this section by the Board of Regents of the University of Nebraska as provided for in section 85-419 shall be accounted for in the Nebraska State Accounting System through the University of Nebraska Facilities Program of 2006 or according to some other reporting process mutually agreed upon by the University of Nebraska and the Department of Administrative Services.

(5) The Board of Regents of the University of Nebraska shall record and report, on the Nebraska State Accounting System, expenditure of amounts from the University of Nebraska Facilities Program of 2006 and expenditure of proceeds arising from any contract entered into pursuant to this section and section 85-422 in such manner and format as prescribed by the Department of Administrative Services or according to some other reporting process mutually agreed upon by the University of Nebraska and the Department of Administrative Services.

(6) The Board of Regents of the University of Nebraska shall provide to the Task Force for Building Renewal semiannual reports concerning the status of each project authorized by this section.

Source: Laws 2006, LB 605, § 3; Laws 2009, LB316, § 27.

ARTICLE 6

PUBLIC INSTITUTIONS OF HIGHER EDUCATION

(c) ADMISSION

Section

85-607. Denial of admission of certain qualified student; prohibited.

(c) ADMISSION

85-607 Denial of admission of certain qualified student; prohibited.

No publicly funded college or university in this state shall prohibit the admission of any student educated in any school which elects to meet the requirements of subsections (2) through (6) of section 79-1601 if the student is qualified for admission as shown by testing results.

Source: Laws 1984, LB 928, § 5; Laws 1996, LB 900, § 1079; Laws 1999, LB 813, § 58; Laws 2009, LB549, § 51.

ARTICLE 9

POSTSECONDARY EDUCATION

(a) GENERAL PROVISIONS

Section

85-903. Information on early voting; requirements.

(m) STUDENT DIVERSITY SCHOLARSHIP PROGRAM ACT

85-9,178. Legislative findings and intent.

85-9,182. Awards; committee; determination.

(a) GENERAL PROVISIONS

85-903 Information on early voting; requirements.

In addition to the requirements of 20 U.S.C. 1094(a)(23), the University of Nebraska, each state college, and each community college shall provide information furnished by the Secretary of State on early voting prior to each statewide primary and general election to each student enrolled in a degree or certificate program and physically in attendance at the institution. The information shall include instructions on early voting and an application to request a ballot for early voting. The institution may provide the information electronically.

Source: Laws 2010, LB951, § 7.
Effective date July 15, 2010.

(m) STUDENT DIVERSITY SCHOLARSHIP PROGRAM ACT

85-9,178 Legislative findings and intent.

(1) The Legislature finds that the State of Nebraska has a compelling interest to provide access to the University of Nebraska, the state colleges, and the

community colleges for students from diverse backgrounds who often find that the financial requirements of postsecondary education are a major obstacle. The Legislature further finds that the State of Nebraska has a compelling interest in attaining greater diversity in the makeup of the student bodies at the University of Nebraska, the state colleges, and the community colleges because of the educational benefits that a diverse educational environment will produce for all students attending the University of Nebraska, the state colleges, and the community colleges.

(2) It is the intent of the Legislature:

(a) To appropriate funds to support a student diversity scholarship program for the purpose of developing more diverse student bodies at the state's public postsecondary educational institutions;

(b) That the student diversity scholarship program be designed and implemented so as to achieve a greater diversity in student populations in fulfillment of the compelling interest found by the Legislature pursuant to subsection (1) of this section; and

(c) That all funds appropriated by the Legislature for student diversity scholarships at the University of Nebraska, the state colleges, and the community colleges shall be used in coordination with private donations for such scholarships and in consultation with the major donors thereof and in coordination with federal grant funds available to students at the University of Nebraska, the state colleges, and the community colleges so as to maximize the level of benefits and accomplish the purposes of the Student Diversity Scholarship Program Act.

Source: Laws 2000, LB 1379, § 2; Laws 2007, LB342, § 33; Laws 2009, LB440, § 1.

85-9,182 Awards; committee; determination.

Criteria for the award of scholarships under the Student Diversity Scholarship Program Act shall be determined in accordance with state and federal law by a committee selected by the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, and the community college boards of governors. The committee shall include members from diverse groups and private donors to the endowed scholarship funds. Awards shall be consistent with the intent stated in the act and with the constitutions and laws of the United States and the State of Nebraska.

Source: Laws 2000, LB 1379, § 6; Laws 2007, LB342, § 37; Laws 2009, LB440, § 2.

ARTICLE 10

NEBRASKA SAFETY CENTER

Section

85-1008. Nebraska Safety Center Advisory Council; membership; appointment.

85-1008 Nebraska Safety Center Advisory Council; membership; appointment.

(1) To assist the center in carrying out its purposes and functions, the Board of Regents may establish a Nebraska Safety Center Advisory Council composed of the following members:

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION § 85-1402

- (a) One representative from the Department of Roads;
 - (b) One representative from the Department of Motor Vehicles;
 - (c) One representative from the State Department of Education;
 - (d) One representative from the Game and Parks Commission;
 - (e) One representative from the Department of Labor;
 - (f) One person representing the community college areas;
 - (g) One person representing private business and industry;
 - (h) One person representing the University of Nebraska;
 - (i) One person representing the medical profession;
 - (j) One person representing the area of law enforcement in this state;
 - (k) One person representing the Safety Council of Nebraska, Inc.;
 - (l) One person representing the area of transportation;
 - (m) One person representative of emergency medical services;
 - (n) One person representing the judiciary in the State of Nebraska;
 - (o) One person representing city government;
 - (p) One person representing county government;
 - (q) One person representing the area of agriculture;
 - (r) One person representing the local public school system;
 - (s) One person representing fire safety;
 - (t) One representative of the Coordinating Commission for Postsecondary Education;
 - (u) One person representing the Red Cross; and
 - (v) One person representing the state colleges.
- (2) Representatives selected to serve on the council shall have appropriate education, training, and experience in the field of fire safety, industrial safety, recreational safety, domestic safety, or traffic safety.

Source: Laws 1978, LB 693, § 8; Laws 1991, LB 663, § 124; Laws 1994, LB 683, § 14; Laws 2009, LB299, § 1.

ARTICLE 14

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION

(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

Section

- 85-1402. Terms, defined.
- 85-1412. Commission; additional powers and duties.
- 85-1416. Budget and state aid requests; review; commission; duties.
- 85-1418. Program or capital construction project; state funds; restrictions on use; district court of Lancaster County; jurisdiction; appeals; procedure.
- 85-1419. Coordinating Commission for Postsecondary Education Cash Fund; created; use; investment.

(a) COORDINATING COMMISSION FOR POSTSECONDARY
EDUCATION ACT

85-1402 Terms, defined.

For purposes of the Coordinating Commission for Postsecondary Education Act:

(1)(a) Capital construction project shall mean a project which utilizes tax funds designated by the Legislature and shall be: Any proposed new capital structure; any proposed addition to, renovation of, or remodeling of a capital structure; any proposed acquisition of a capital structure by gift, purchase, lease-purchase, or other means of construction or acquisition that (i) will be directly financed in whole or in part with tax funds designated by the Legislature totaling at least the minimum capital expenditure for purposes of this subdivision or (ii) is likely, as determined by the institution, to result in an incremental increase in appropriation or expenditure of tax funds designated by the Legislature of at least the minimum capital expenditure for the facility's operations and maintenance costs in any one fiscal year within a period of ten years from the date of substantial completion or acquisition of the project. No tax funds designated by the Legislature shall be appropriated or expended for any incremental increase of more than the minimum capital expenditure for the costs of the operations and utilities of any facility which is not included in the definition of capital construction project and thus is not subject to commission approval pursuant to the Coordinating Commission for Postsecondary Education Act. No institution shall include a request for funding such an increase in its budget request for tax funds designated by the Legislature nor shall any institution utilize any such funds for such an increase. The Governor shall not include in his or her budget recommendations, and the Legislature shall not appropriate, such funds for such increase.

(b) For purposes of this subdivision:

(i) Directly financed shall mean funded by:

(A) Appropriation of tax funds designated by the Legislature for the specific capital construction project;

(B) Property tax levies used to establish a capital improvement and bond sinking fund pursuant to section 85-1515; or

(C) That portion of tax funds designated by the Legislature and appropriated by the Legislature for the general operation of the public institution and utilized to fund the capital project;

(ii) Incremental increase shall mean an increase in appropriation or expenditure of tax funds designated by the Legislature of at least the minimum capital expenditure for a facility's operations and maintenance costs, beyond any increase due to inflation, to pay for a capital structure's operations and maintenance costs that are a direct result of a capital construction project; and

(iii) Minimum capital expenditure shall mean:

(A) For purposes of subdivision (a)(i) of this subdivision, a base amount of two million dollars; and

(B) For the facility's operations and maintenance costs pursuant to subdivision (a)(ii) of this subdivision, a base amount of eighty-five thousand dollars for any one fiscal year.

The base amount for the facility's operations and maintenance costs shall be subject to any inflationary or market adjustments made by the commission pursuant to this subdivision. The commission shall adjust the base amount on a biennial basis beginning January 1, 2010. The adjustments shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, both as selected by the commission in cooperation with the public institutions. The index or indices shall reflect

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inflationary or market trends for the applicable operations and maintenance or construction costs;

(2) Commission shall mean the Coordinating Commission for Postsecondary Education;

(3) Coordination shall mean:

(a) Authority to adopt, and revise as needed, a comprehensive statewide plan for postsecondary education which shall include (i) definitions of the role and mission of each public postsecondary educational institution within any general assignments of role and mission as may be prescribed by the Legislature and (ii) plans for facilities which utilize tax funds designated by the Legislature;

(b) Authority to review, monitor, and approve or disapprove each public postsecondary educational institution's programs and capital construction projects which utilize tax funds designated by the Legislature in order to provide compliance and consistency with the comprehensive plan and to prevent unnecessary duplication; and

(c) Authority to review and modify, if needed to promote compliance and consistency with the comprehensive statewide plan and prevent unnecessary duplication, the budget requests of the governing boards or any other governing board for any other public postsecondary educational institution which may be established by the Legislature;

(4) Education center shall mean an off-campus branch of a public institution or cooperative of either public or public and private postsecondary educational institutions which offers instructional programs to students;

(5) Governing board shall mean the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, or the board of governors for each community college area;

(6) Program shall mean any program of instruction which leads directly to a degree, diploma, or certificate and, for purposes of section 85-1414, shall include public service programs and all off-campus instructional programs, whether or not such programs lead directly to a degree, diploma, or certificate. Program shall also include the establishment of any new college, school, major division, education center, or institute but shall not include reasonable and moderate extensions of existing curricula which have a direct relationship to existing programs;

(7) Public institution shall mean each campus of a public postsecondary educational institution which is or may be established by the Legislature, which is under the direction of a governing board, and which is administered as a separate unit by the board; and

(8) Tax funds designated by the Legislature shall mean all state tax revenue and all property tax revenue.

Source: Laws 1991, LB 663, § 5; Laws 1994, LB 683, § 15; Laws 1999, LB 816, § 11; Laws 2006, LB 196, § 2; Laws 2009, LB440, § 3.

85-1412 Commission; additional powers and duties.

The commission shall have the following additional powers and duties:

(1) Conduct surveys and studies as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 and request information from governing boards and appropriate administrators of

public institutions and other governmental agencies for research projects. All public institutions and governmental agencies receiving state funds shall comply with reasonable requests for information under this subdivision. Public institutions may comply with such requests pursuant to section 85-1417;

(2) Recommend to the Legislature and the Governor legislation it deems necessary or appropriate to improve postsecondary education in Nebraska and any other legislation it deems appropriate to change the role and mission provisions in sections 85-917 to 85-966.01;

(3) Establish any advisory committees as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 or to solicit input from affected parties such as students, faculty, governing boards, administrators of the public institutions, administrators of the private nonprofit institutions of postsecondary education and proprietary institutions in the state, and community and business leaders regarding the coordination function of the commission;

(4) Participate in or designate an employee or employees to participate in any committee which may be created to prepare a coordinated plan for the delivery of educational programs and services in Nebraska through the telecommunications system;

(5) Seek a close liaison with the State Board of Education and the State Department of Education in recognition of the need for close coordination of activities between elementary and secondary education and postsecondary education;

(6) Administer the Integrated Postsecondary Education Data System or other information system or systems to provide the commission with timely, comprehensive, and meaningful information pertinent to the exercise of its duties. The information system shall be designed to provide comparable data on each public institution. The commission shall also administer the uniform information system prescribed in sections 85-1421 to 85-1427 known as the Nebraska Educational Data System. Public institutions shall supply the appropriate data for the information system or systems required by the commission;

(7) Administer the Access College Early Scholarship Program Act and the Nebraska Opportunity Grant Act;

(8) Accept and administer loans, grants, and programs from the federal or state government and from other sources, public and private, for carrying out any of its functions, including the administration of privately endowed scholarship programs. Such loans and grants shall not be expended for any other purposes than those for which the loans and grants were provided. The commission shall determine eligibility for such loans, grants, and programs, and such loans and grants shall not be expended unless approved by the Governor;

(9) Consistent with section 85-1620, approve, in a timely manner, new baccalaureate degree programs to be offered at private postsecondary career schools as defined in section 85-1603. The commission may charge a reasonable fee based on its administrative costs for authorizations pursuant to this subdivision and section 85-1620. The commission shall report such action to the Commissioner of Education;

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(10) Pursuant to sections 85-1101 to 85-1104, authorize out-of-state institutions of higher or postsecondary education to offer courses or degree programs in this state;

(11) Pursuant to sections 85-1105 to 85-1111, approve or disapprove petitions to establish new private colleges in this state;

(12) On or before December 1, 2000, and on or before December 1 every two years thereafter, submit to the Legislature and the Governor a report of its objectives and activities and any new private colleges in Nebraska and the implementation of any recommendations of the commission for the preceding two calendar years;

(13) Provide staff support for interstate compacts on postsecondary education;

(14) Request inclusion of the commission in any existing grant review process and information system; and

(15) Facilitate a study that explores the following issues related to the Nebraska community college system:

(a) The need for changes to the statutory role and mission of Nebraska community colleges;

(b) Changes in the weighting of courses that may be necessary for reimbursable educational units to properly reflect the role and mission of Nebraska community colleges and the cost of providing such courses;

(c) Powers, duties, and mission of the Nebraska Community College Association or its successor and whether membership in such an association should be required;

(d) Consequences for failing to satisfy current community college association membership requirements contained in section 85-1502; and

(e) State coordination of community colleges in the absence of a community college association or membership therein.

The commission shall include and facilitate discussion among the state's community colleges in the completion of such study. Each community college shall participate in good faith with the conduct of such study. The commission shall report its findings to the Legislature on or before December 15, 2009.

Source: Laws 1991, LB 663, § 15; Laws 1993, LB 93, § 7; Laws 1994, LB 683, § 18; Laws 1999, LB 816, § 14; Laws 2003, LB 7, § 5; Laws 2003, LB 574, § 26; Laws 2003, LB 685, § 29; Laws 2007, LB192, § 1; Laws 2009, LB340, § 1; Laws 2010, LB956, § 3. Operative date July 1, 2010.

Cross References

Access College Early Scholarship Program Act, see section 85-2101.

Integrated Postsecondary Education Data System, see section 85-1424.

Nebraska Opportunity Grant Act, see section 85-1901.

Private Postsecondary Career School Act, see section 85-1601.

85-1416 Budget and state aid requests; review; commission; duties.

(1) Pursuant to the authority granted in Article VII, section 14, of the Constitution of Nebraska and the Coordinating Commission for Postsecondary Education Act, the commission shall, in accordance with the coordination function of the commission pursuant to section 85-1403, review and modify, if needed to promote compliance and consistency with the comprehensive state-

wide plan and prevent unnecessary duplication, the budget requests of the governing boards.

(2)(a) At least thirty days prior to submitting to the Governor their biennial budget requests pursuant to section 81-1113 and any major deficit appropriation requests pursuant to instructions of the Department of Administrative Services, the Board of Regents of the University of Nebraska and the Board of Trustees of the Nebraska State Colleges shall each submit to the commission an outline of its proposed operating budget. The outline of its proposed operating budget or outline of proposed state aid request shall include those information summaries provided to the institution's governing board describing the respective institution's budget for the next fiscal year or biennium. The outline shall contain projections of funds necessary for (i) the retention of current programs and services at current funding levels, (ii) any inflationary costs necessary to maintain current programs and services at the current programmatic or service levels, and (iii) proposed new and expanded programs and services. In addition to the outline, the commission may request an institution to provide to the commission any other supporting information to assist the commission in its budget review process. An institution may comply with such requests pursuant to section 85-1417.

(b) On September 15 of each biennial budget request year, the boards of governors of the community colleges or their designated representatives shall submit to the commission outlines of their proposed state aid requests.

(c) The commission shall analyze institutional budget priorities in light of the comprehensive statewide plan, role and mission assignments, and the goal of prevention of unnecessary duplication. The commission shall submit to the Governor and Legislature by October 15 of each year recommendations for approval or modification of the budget requests together with a rationale for its recommendations. The analysis and recommendations by the commission shall focus on budget requests for new and expanded programs and services and major statewide funding issues or initiatives as identified in the comprehensive statewide plan. If an institution does not comply with the commission's request pursuant to subdivision (a) of this subsection for additional budget information, the commission may so note the refusal and its specific information request in its report of budget recommendations. The commission shall also provide to the Governor and the Appropriations Committee of the Legislature on or before October 1 of each even-numbered year a report identifying public policy issues relating to student tuition and fees, including the appropriate relative differentials of tuition and fee levels between the sectors of public postsecondary education in the state consistent with the comprehensive statewide plan.

(3) At least thirty days prior to submitting to the Governor their biennial budget requests pursuant to section 81-1113 and any major deficit appropriation requests pursuant to instructions of the Department of Administrative Services, the Board of Regents of the University of Nebraska and the Board of Trustees of the Nebraska State Colleges shall each submit to the commission information the commission deems necessary regarding each board's capital construction budget requests. The commission shall review the capital construction budget request information and may recommend to the Governor and the Legislature modification, approval, or disapproval of such requests consistent with the statewide facilities plan and any project approval determined pursuant to subsection (10) of section 85-1414 and to section 85-1415. The commission shall develop from a statewide perspective a unified prioritization

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of individual capital construction budget requests for which it has recommended approval and submit such prioritization to the Governor and the Legislature for their consideration. In establishing its prioritized list, the commission may consider and respond to the priority order established by the Board of Regents or the Board of Trustees in their respective capital construction budget requests.

(4) Nothing in this section shall be construed to affect other constitutional, statutory, or administrative requirements for the submission of budget or state aid requests by the governing boards to the Governor and the Legislature.

Source: Laws 1991, LB 663, § 19; Laws 1993, LB 239, § 21; Laws 1994, LB 683, § 22; Laws 1999, LB 816, § 17; Laws 2002, Second Spec. Sess., LB 12, § 5; Laws 2006, LB 962, § 5; Laws 2007, LB342, § 38; Laws 2010, LB1072, § 4.
Effective date April 15, 2010.

85-1418 Program or capital construction project; state funds; restrictions on use; district court of Lancaster County; jurisdiction; appeals; procedure.

(1) No state warrant shall be issued by the Department of Administrative Services or used by any public institution for the purpose of funding any program or capital construction project which has not been approved or which has been disapproved by the commission pursuant to the Coordinating Commission for Postsecondary Education Act. If state funding for any such program or project cannot be or is not divided into warrants separate from other programs or projects, the department shall reduce a warrant to the public institution which includes funding for the program or project by the amount of tax funds designated by the Legislature which are budgeted in that fiscal year by the public institution for use for the program or project.

(2) The department may reduce the amount of state aid distributed to a community college area pursuant to the Community College Foundation and Equalization Aid Act or for fiscal year 2010-11, pursuant to section 90-517, by the amount of funds used by the area to provide a program or capital construction project which has not been approved or which has been disapproved by the commission.

(3) The district court of Lancaster County shall have jurisdiction to enforce an order or decision of the commission entered pursuant to the Coordinating Commission for Postsecondary Education Act and to enforce this section.

(4) Any person or public institution aggrieved by a final order of the commission entered pursuant to section 85-1413, 85-1414, 85-1415, or 85-1416 shall be entitled to judicial review of the order. Proceedings for review shall be instituted by filing a petition in the district court of Lancaster County within thirty days after public notice of the final decision by the commission is given. The filing of the petition or the service of summons upon the commission shall not stay enforcement of such order. The review shall be conducted by the court without a jury on the record of the commission. The court shall have jurisdiction to enjoin enforcement of any order of the commission which is (a) in violation of constitutional provisions, (b) in excess of the constitutional or statutory authority of the commission, (c) made upon unlawful procedure, or (d) affected by other error of law.

(5) A party may secure a review of any final judgment of the district court by appeal to the Court of Appeals. Such appeal shall be taken in the manner

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provided by law for appeals in civil cases and shall be heard de novo on the record.

Source: Laws 1991, LB 663, § 21; Laws 1992, LB 360, § 40; Laws 1993, LB 239, § 22; Laws 2007, LB342, § 39; Laws 2010, LB1072, § 5. Effective date April 15, 2010.

Cross References

Community College Foundation and Equalization Aid Act, see section 85-2201.

85-1419 Coordinating Commission for Postsecondary Education Cash Fund; created; use; investment.

There is hereby created the Coordinating Commission for Postsecondary Education Cash Fund. The fund shall contain money received from application fees from out-of-state institutions of higher and postsecondary education seeking authorization to offer courses and programs in the State of Nebraska and from private colleges seeking provisional accreditation and money received by the commission for services rendered incident to the administration of its statutory or contractual functions. The fund shall be expended for the administrative costs of reviewing applications, publishing and duplicating reports, coordinating studies, conducting conferences, and other related activities as may be authorized by the Legislature or by contract, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. All such money received by the commission shall be remitted to the State Treasurer for credit to the Coordinating Commission for Postsecondary Education Cash Fund. A report on the receipts and expenditures from the fund shall be included as a part of the operating budget request submitted to the Legislature and the Governor. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1991, LB 663, § 22; Laws 1994, LB 683, § 23; Laws 1994, LB 1066, § 138; Laws 2009, First Spec. Sess., LB3, § 94. Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**ARTICLE 15
COMMUNITY COLLEGES**

Section

- 85-1502. Area governance and statewide coordination; legislative intent; association of boards; powers and duties; section, how construed.
- 85-1503. Terms, defined.
- 85-1511. Board; powers and duties; enumerated.
- 85-1517. Board; power to certify tax levy; limit; purpose; approval required to raise levy over limit; how collected.

85-1502 Area governance and statewide coordination; legislative intent; association of boards; powers and duties; section, how construed.

(1) It is the intent of the Legislature that a clear distinction between area governance and statewide coordination for the community college areas be

recognized and that such coordination is appropriate in order to provide the most cost-effective programs for residents of each community college area. It is further the intent of the Legislature that coordination of the community colleges by the Coordinating Commission for Postsecondary Education be conducted through an association of the boards.

(2) Through June 30, 2011, all of the boards shall be a part of and shall be represented by such association. Coordination services provided by such association shall include (a) preparation of a system strategic plan, (b) coordination of the budget request for the biennium, (c) facilitation of program-needs assessment and articulation, (d) recommendation and facilitation of the appointment of representatives to committees, boards, commissions, task forces, and any other state-level bodies requesting or requiring participation from the community college system, and (e) facilitation of responses to data and information requests for the system.

(3) All activities conducted pursuant to this section by such association shall be conducted in accordance with the Open Meetings Act.

(4) Nothing in this section shall be construed to require or provide for state control of the operations of any community college area or to abridge the governance ability, rights, or responsibilities of any board. Nothing in this section shall be construed to limit the ability or authority of the commission to fulfill its responsibilities and duties regarding the individual community college areas and the individual community college area campuses.

Source: Laws 1991, LB 625, § 1; Laws 1991, LB 663, § 46; R.S.Supp., 1992, § 79-2636.01; Laws 1993, LB 239, § 24; Laws 2004, LB 821, § 43; Laws 2010, LB1072, § 6.
Effective date April 15, 2010.

Cross References

Open Meetings Act, see section 84-1407.

85-1503 Terms, defined.

For purposes of sections 85-1501 to 85-1540, unless the context otherwise requires:

(1) Community college means an educational institution operating and offering programs pursuant to such sections;

(2) Community college area means an area established by section 85-1504;

(3) Board means the Community College Board of Governors for each community college area;

(4) Full-time equivalent student means, in the aggregate, the equivalent of a registered student who in a twelve-month period is enrolled in (a) thirty semester credit hours or forty-five quarter credit hours of classroom, laboratory, clinical, practicum, or independent study course work or cooperative work experience or (b) nine hundred contact hours of classroom or laboratory course work for which credit hours are not offered or awarded. Avocational and recreational community service programs or courses are not included in determining full-time equivalent students or student enrollment;

(5) Contact hour means an educational activity consisting of sixty minutes minus break time and required time to change classes;

(6) Credit hour means the unit used to ascertain the educational value of course work offered by the institution to students enrolling for such course work, earned by such students upon successful completion of such course work, and for which tuition is charged. A credit hour may be offered and earned in any of several instructional delivery systems, including, but not limited to, classroom hours, laboratory hours, clinical hours, practicum hours, cooperative work experience, and independent study. A credit hour shall consist of a minimum of: (a) Ten quarter or fifteen semester classroom contact hours per term of enrollment; (b) twenty quarter or thirty semester academic transfer and academic support laboratory hours per term of enrollment; (c) thirty quarter or forty-five semester vocational laboratory hours per term of enrollment; (d) thirty quarter or forty-five semester clinical or practicum contact hours per term of enrollment; or (e) forty quarter or sixty semester cooperative work experience contact hours per term of enrollment. An institution may include in a credit hour more classroom, laboratory, clinical, practicum, or cooperative work experience hours than the minimum required in this subdivision. The institution shall publish in its catalog, or otherwise make known to the student in writing prior to the student enrolling or paying tuition for any courses, the number of credit or contact hours offered in each such course. Such published credit or contact hour offerings shall be used to determine whether a student is a full-time equivalent student pursuant to subdivision (4) of this section;

(7) Classroom hour means a minimum of fifty minutes of formalized instruction on campus or off campus in which a qualified instructor applying any combination of instructional methods such as lecture, directed discussion, demonstration, or the presentation of audiovisual materials is responsible for providing an educational experience to students;

(8) Laboratory hour means a minimum of fifty minutes of educational activity on campus or off campus in which students conduct experiments, perfect skills, or practice procedures under the direction of a qualified instructor;

(9) Clinical hour means a minimum of fifty minutes of educational activity on campus or off campus during which the student is assigned practical experience under constant supervision at a health-related agency, receives individual instruction in the performance of a particular function, and is observed and critiqued in the repeat performance of such function. Adjunct professional personnel, who may or may not be paid by the college, may be used for the directed supervision of students and for the delivery of part of the didactic phase of the experience;

(10) Practicum hour means a minimum of fifty minutes of educational activity on campus or off campus during which the student is assigned practical experiences, receives individual instruction in the performance of a particular function, and is observed and critiqued by an instructor in the repeat performance of such function. Adjunct professional personnel, who may or may not be paid by the college, may be used for the directed supervision of the students;

(11) Cooperative work experience means an internship or on-the-job training, designed to provide specialized skills and educational experiences, which is coordinated, supervised, observed, and evaluated by qualified college staff or faculty and may be completed on campus or off campus, depending on the nature of the arrangement;

(12) Independent study means an arrangement between an instructor and a student in which the instructor is responsible for assigning work activity or skill

objectives to the student, personally providing needed instruction, assessing the student's progress, and assigning a final grade. Credit hours shall be assigned according to the practice of assigning credits in similar courses;

(13) Full-time equivalent student enrollment total means the total of full-time equivalent students enrolled in a community college in any fiscal year;

(14) General academic transfer course means a course offering in a one-year or two-year degree-credit program, at the associate degree level or below, intended by the offering institution for transfer into a baccalaureate program. The completion of the specified courses in a general academic transfer program may include the award of a formal degree;

(15) Applied technology or occupational course means a course offering in an instructional program, at the associate degree level or below, intended to prepare individuals for immediate entry into a specific occupation or career. The primary intent of the institutions offering an applied technology or occupational program shall be that such program is for immediate job entry. The completion of the specified courses in an applied technology or occupational program may include the award of a formal degree, diploma, or certificate;

(16) Academic support course means a general education academic course offering which may be necessary to support an applied technology or occupational program;

(17) Class 1 course means an applied technology or occupational course offering which requires the use of equipment, facilities, or instructional methods easily adaptable for use in a general academic transfer program classroom or laboratory;

(18) Class 2 course means an applied technology or occupational course offering which requires the use of specialized equipment, facilities, or instructional methods not easily adaptable for use in a general academic transfer program classroom or laboratory;

(19) Full-time equivalent student means a full-time equivalent student subject to the following limitation: The number of credit and contact hours which shall be counted by any community college area in which a tribally controlled community college is located shall include credit and contact hours awarded by such tribally controlled community college to students for which such institution received no federal reimbursement pursuant to the Tribally Controlled Community College Assistance Act, 25 U.S.C. 1801;

(20) Full-time equivalent total means the total of all full-time equivalents accumulated in a community college area in any fiscal year;

(21) Reimbursable educational unit means a full-time equivalent student multiplied by (a) for a general academic transfer course or an academic support course, a factor of one, (b) for a Class 1 course, a factor of one and fifty-hundredths, (c) for a Class 2 course, a factor of two, (d) for a tribally controlled community college general academic transfer course or academic support course, a factor of two, (e) for a tribally controlled community college Class 1 course, a factor of three, and (f) for a tribally controlled community college Class 2 course, a factor of four;

(22) Reimbursable educational unit total means the total of all reimbursable educational units accumulated in a community college area in any fiscal year;

(23) Special instructional term means any term which is less than fifteen weeks for community colleges using semesters or ten weeks for community colleges using quarters;

(24) Statewide reimbursable full-time equivalent total means the total of all reimbursable full-time equivalents accumulated statewide for the community college in any fiscal year;

(25) Tribally controlled community college means an educational institution operating and offering programs pursuant to the Tribally Controlled Community College Assistance Act, 25 U.S.C. 1801; and

(26) Tribally controlled community college state aid amount means:

(a) For fiscal years before fiscal year 2010-11, the quotient of the amount of state aid to be distributed pursuant to the Community College Foundation and Equalization Aid Act for the current fiscal year to a community college area in which a tribally controlled community college is located divided by the reimbursable educational unit total for such community college area for the immediately preceding fiscal year, with such quotient then multiplied by the average reimbursable educational units derived pursuant to subdivision (19) of this section for the immediately preceding fiscal year; and

(b) For fiscal year 2010-11, the amount of state aid provided to a tribally controlled community college pursuant to section 90-517.

Source: Laws 1975, LB 344, § 2; Laws 1977, LB 459, § 10; Laws 1979, LB 363, § 1; Laws 1984, LB 890, § 1; Laws 1987, LB 329, § 1; Laws 1988, LB 802, § 30; Laws 1991, LB 663, § 45; Laws 1992, LB 921, § 1; R.S.Supp.,1992, § 79-2637; Laws 1993, LB 239, § 25; Laws 1995, LB 241, § 1; Laws 1997, LB 269, § 68; Laws 1999, LB 67, § 1; Laws 2005, LB 38, § 3; Laws 2007, LB342, § 40; Laws 2010, LB1072, § 7.
Effective date April 15, 2010.

Cross References

Community College Foundation and Equalization Aid Act, see section 85-2201.

85-1511 Board; powers and duties; enumerated.

In addition to any other powers and duties imposed upon the community college system or its areas, campuses, or boards by the Community College Foundation and Equalization Aid Act, sections 85-917 to 85-966 and 85-1501 to 85-1540, and any other provision of law, each board shall:

(1) Have general supervision, control, and operation of each community college within its jurisdiction;

(2) Subject to coordination by the Coordinating Commission for Postsecondary Education as prescribed in the Coordinating Commission for Postsecondary Education Act, develop and offer programs of applied technology education, academic transfer programs, academic support courses, and such other programs and courses as the needs of the community college area served may require. The board shall avoid unnecessary duplication of existing programs and courses in meeting the needs of the students and the community college area;

(3) Employ, for a period to be fixed by the board, executive officers, members of the faculty, and such other administrative officers and employees as may be necessary or appropriate and fix their salaries and duties;

(4) Subject to coordination by the Coordinating Commission for Postsecondary Education as prescribed in the Coordinating Commission for Postsecondary Education Act, construct, lease, purchase, purchase on contract, operate, equip, and maintain facilities;

(5) Contract for services connected with the operation of the community college area as needs and interest demand;

(6) Cause an examination and comprehensive audit of the books, accounts, records, and affairs, including full-time equivalent student enrollment totals, full-time equivalent totals, and reimbursable educational unit totals as defined in section 85-1503, to be made annually covering the most recently completed fiscal year. The audit of each area shall include the full-time equivalent student enrollment totals, full-time equivalent totals, and reimbursable educational unit totals for the three most recently completed fiscal years which shall be used for calculation of aid to the community college areas for fiscal years prior to fiscal year 2010-11 as prescribed in the Community College Foundation and Equalization Aid Act. The audit shall also include the county-certified property valuations for the community college area for the three most recently completed fiscal years which shall be used for calculation of aid to such community college areas for fiscal years prior to fiscal year 2010-11. Such examination and audit of the books, accounts, records, and affairs shall be completed and filed with the Auditor of Public Accounts and the Department of Administrative Services on or before October 15 of each year. The examination and audit of the full-time equivalent student enrollment totals, full-time equivalent totals, and reimbursable educational unit totals shall be completed and filed with the Auditor of Public Accounts and the Department of Administrative Services on or before August 15 of each year;

(7) Establish fees and charges for the facilities authorized by sections 85-1501 to 85-1540. Each board may enter into agreements with owners of facilities to be used for housing regarding the management, operation, and government of such facilities and may employ necessary employees to govern, manage, and operate such facilities;

(8) Receive such gifts, grants, conveyances, and bequests of real and personal property from public or private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community college programs as specified by law. Each board may sell, lease, exchange, invest, or expend such gifts, grants, conveyances, and bequests or the proceeds, rents, profits, and income therefrom according to the terms and conditions thereof and adopt and promulgate rules and regulations governing the receipt and expenditure of such proceeds, rents, profits, and income, except that acceptance of such gifts, grants, or conveyances shall not be conditioned on matching state or local funds;

(9) Prescribe the courses of study for any community college under its control and publish such catalogs and bulletins as may be necessary;

(10) Grant to every student upon graduation or completion of a course of study a suitable diploma, associate degree, or certificate;

(11) Adopt and promulgate such rules and regulations and perform all other acts as the board may deem necessary or appropriate to the administration of the community college area. Such rules and regulations shall include, but not be limited to, rules and regulations relating to facilities, housing, scholarships,

discipline, and pedestrian and vehicular traffic on property owned, operated, or maintained by the community college area;

(12) Employ, for a period to be fixed by the board, an executive officer for the community college area and, by written order filed in its office, delegate to such executive officer any of the powers and duties vested in or imposed upon it by sections 85-1501 to 85-1540. Such delegated powers and duties may be exercised in the name of the board;

(13) Acquire real property by eminent domain pursuant to sections 76-701 to 76-724;

(14) Acquire real and personal property and sell, convey, or lease such property whenever the community college area will be benefited thereby. The sale, conveyance, or lease of any real estate owned by a community college area shall be effective only when authorized by an affirmative vote of at least two-thirds of all the members of the board;

(15) Enter into agreements for services, facilities, or equipment and for the presentation of courses for students when such agreements are deemed to be in the best interests of the education of the students involved;

(16) Transfer tribally controlled community college state aid amounts to a tribally controlled community college located within its community college area;

(17) Invest, after proper consideration of the requirements for the availability of money, funds of the community college in securities the nature of which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another;

(18) Establish tuition rates for courses of instruction offered by each community college within its community college area. Separate tuition rates shall be established for students who are nonresidents of the State of Nebraska;

(19) Establish a fiscal year for the community college area which conforms to the fiscal year of the state;

(20) Enter into a memorandum of understanding with the State Board of Education to adopt a policy to share student data. At a minimum, the policy shall ensure that the exchange of information is conducted in conformance with the requirements of the federal Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g, and all federal regulations and applicable guidelines adopted in accordance with such act, as such act, regulations, and guidelines existed on January 1, 2010; and

(21) Exercise any other powers, duties, and responsibilities necessary to carry out sections 85-1501 to 85-1540.

Source: Laws 1975, LB 344, § 9; Laws 1977, LB 459, § 11; Laws 1978, LB 756, § 52; Laws 1979, LB 363, § 5; Laws 1987, LB 30, § 2; Laws 1988, LB 802, § 32; Laws 1991, LB 663, § 47; R.S.Supp., 1992, § 79-2644; Laws 1993, LB 239, § 33; Laws 1997, LB 269, § 69; Laws 2007, LB342, § 41; Laws 2010, LB1071, § 36; Laws 2010, LB1072, § 8.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1071, section 36, with LB1072, section 8, to reflect all amendments.

Note: Changes made by LB1072 became effective April 15, 2010. Changes made by LB1071 became operative April 15, 2010.

Cross References

Community College Foundation and Equalization Aid Act, see section 85-2201.
Coordinating Commission for Postsecondary Education Act, see section 85-1401.

85-1517 Board; power to certify tax levy; limit; purpose; approval required to raise levy over limit; how collected.

(1)(a) For fiscal years prior to fiscal year 2010-11, the board may certify to the county board of equalization of each county within the community college area a tax levy not to exceed the maximum levy calculated pursuant to the Community College Foundation and Equalization Aid Act on each one hundred dollars on the taxable valuation of all property subject to the levy within the community college area, uniform throughout such area, for the purpose of supporting operating expenditures of the community college area.

(b) For fiscal year 2010-11 and each fiscal year thereafter, the board may certify to the county board of equalization of each county within the community college area a tax levy not to exceed ten and one-quarter cents on each one hundred dollars on the taxable valuation of all property subject to the levy within the community college area, uniform throughout the area, for the purpose of supporting operating expenditures of the community college area.

(2)(a) In addition to the levies provided in subsection (1) of this section and this subsection, the board may certify to the county board of equalization of each county within the community college area a tax levy of not to exceed one cent on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, for the purpose of establishing a capital improvement fund and bond sinking fund as provided in section 85-1515. The levy provided by this subdivision may be exceeded by that amount necessary to retire the general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997.

(b) In addition to the levies provided in subsections (1) and (2) of this section, the board may also certify to the county board of equalization of each county within the community college area a tax levy on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, in the amount which will produce funds only in the amount necessary to pay for funding accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-10,110. Such tax levy shall not be so certified unless approved by an affirmative vote of a majority of the board taken at a public meeting of the board following notice and a hearing. The board shall give at least seven days' notice of such public hearing and shall publish such notice once in a newspaper of general circulation in the area to be affected by the increase.

(3) The taxes provided by this section shall be levied and assessed in the same manner as other property taxes and entered on the books of the county treasurer. The proceeds of the tax, as collected, shall be remitted to the treasurer of the board not less frequently than once each month.

Source: Laws 1975, LB 344, § 15; Laws 1978, LB 922, § 5; Laws 1979, LB 363, § 2; Laws 1979, LB 187, § 251; Laws 1980, LB 599, § 16; Laws 1980, LB 824, § 2; Laws 1981, LB 320, § 1; Laws 1984, LB 881, § 1; Laws 1986, LB 796, § 1; Laws 1988, LB 38,

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§ 1; Laws 1990, LB 1050, § 1; Laws 1992, LB 719A, § 197; Laws 1992, LB 1001, § 35; R.S.Supp.,1992, § 79-2650; Laws 1993, LB 239, § 39; Laws 1995, LB 268, § 1; Laws 1996, LB 299, § 32; Laws 1996, LB 900, § 1084; Laws 1996, LB 1114, § 69; Laws 1997, LB 269, § 72; Laws 2005, LB 38, § 4; Laws 2007, LB342, § 42; Laws 2010, LB1072, § 9.
Effective date April 15, 2010.

Cross References

Community College Foundation and Equalization Aid Act, see section 85-2201.

**ARTICLE 16
PRIVATE POSTSECONDARY CAREER SCHOOLS**

Section
85-1655. Tuition Recovery Cash Fund; administration.

85-1655 Tuition Recovery Cash Fund; administration.

The Tuition Recovery Cash Fund shall be administered by the board. The board shall adopt and promulgate rules and regulations for the administration of the fund and for the evaluation and approval of claims pursuant to section 85-1657.

Source: Laws 1993, LB 348, § 53; R.S.1943, (1994), § 79-2860; Laws 1995, LB 4, § 55; Laws 2009, LB154, § 20.

**ARTICLE 18
EDUCATIONAL SAVINGS PLAN TRUST**

Section
85-1801. Legislative findings.
85-1802. Terms, defined.
85-1803. Repealed. Laws 2010, LB 197, § 11.
85-1804. Nebraska educational savings plan trust; created; State Treasurer; Nebraska Investment Council; powers and duties.
85-1807. Deposit of funds; College Savings Plan Administrative Fund; College Savings Plan Expense Fund; created; use; investment.
85-1808. Participation agreement; cancellation; when; effect.
85-1813. Assets of trust; how treated.

85-1801 Legislative findings.

The Legislature finds that the general welfare and well-being of the state are directly related to educational levels and skills of the citizens of the state and that a vital and valid public purpose is served by the creation and implementation of programs which encourage and make possible the attainment of higher education by the greatest number of citizens of the state. The state has limited resources to provide additional programs for higher education funding and the continued operation and maintenance of the state's public institutions of higher education, and the general welfare of the citizens of the state will be enhanced by establishing a program which allows parents and others interested in the higher education of our youth to invest money in a public trust for future application to the payment of higher education costs. The creation of the means of encouragement for persons to invest in such a program represents the carrying out of a vital and valid public purpose. In order to make available to

parents and others interested in the higher education of our youth an opportunity to fund future higher education needs, it is necessary that a public trust be established in which money may be invested for future educational use.

Source: Laws 2000, LB 1003, § 1; Laws 2010, LB197, § 2.

Operative date July 1, 2010.

85-1802 Terms, defined.

For purposes of sections 85-1801 to 85-1814:

(1) Administrative fund means the College Savings Plan Administrative Fund created in section 85-1807;

(2) Beneficiary means the individual designated by a participation agreement to benefit from advance payments of higher education costs on behalf of the beneficiary;

(3) Benefits means the payment of higher education costs on behalf of a beneficiary by the trust during the beneficiary's attendance at an institution of higher education;

(4) Expense fund means the College Savings Plan Expense Fund created in section 85-1807;

(5) Higher education costs means the certified costs of tuition and fees, books, supplies, and equipment required for enrollment or attendance at an institution of higher education. Reasonable room and board expenses, based on the minimum amount applicable for the institution of higher education during the period of enrollment, shall be included as a higher education cost for those students enrolled on at least a half-time basis. Higher education costs shall not include any amounts in excess of those allowed by section 529 of the Internal Revenue Code;

(6) Institution of higher education means an institution described in section 529 of the Internal Revenue Code which is eligible to participate in the United States Department of Education's student aid programs;

(7) Nebraska educational savings plan trust means the trust created in section 85-1804;

(8) Nebraska institution of higher education means an institution described in section 529 of the Internal Revenue Code which is eligible to participate in the United States Department of Education's student aid program and which is located in Nebraska;

(9) Participant means an individual, an individual's legal representative, or any other legal entity authorized to establish a savings account under section 529 of the Internal Revenue Code who has entered into a participation agreement for the advance payment of higher education costs on behalf of a beneficiary;

(10) Participation agreement means an agreement between a participant and the Nebraska educational savings plan trust entered into under sections 85-1801 to 85-1814;

(11) Program fund means the College Savings Plan Program Fund created in section 85-1807;

(12) Refund penalty means the amount assessed by the State Treasurer for cancellation of a participation agreement or other refund which is not consid-

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ered a de minimis penalty pursuant to section 529 of the Internal Revenue Code;

(13) Section 529 of the Internal Revenue Code means such section of the code and the regulations interpreting such section, as such section and regulations existed on April 18, 2001; and

(14) Tuition and fees means the quarter or semester charges imposed to attend an institution of higher education and required as a condition of enrollment.

Source: Laws 2000, LB 1003, § 2; Laws 2001, LB 750, § 1; Laws 2010, LB197, § 3.

Operative date July 1, 2010.

85-1803 Repealed. Laws 2010, LB 197, § 11.

Operative date July 1, 2010.

85-1804 Nebraska educational savings plan trust; created; State Treasurer; Nebraska Investment Council; powers and duties.

The Nebraska educational savings plan trust is created. The State Treasurer is the trustee of the trust and as such is responsible for the administration, operation, and maintenance of the program and has all powers necessary to carry out and effectuate the purposes, objectives, and provisions of sections 85-1801 to 85-1814 pertaining to the administration, operation, and maintenance of the trust and program, except that the state investment officer shall have fiduciary responsibility to make all decisions regarding the investment of the money in the administrative fund, expense fund, and program fund, including the selection of all investment options and the approval of all fees and other costs charged to trust assets except costs for administration, operation, and maintenance of the trust as appropriated by the Legislature, pursuant to the directions, guidelines, and policies established by the Nebraska Investment Council. The State Treasurer may adopt and promulgate rules and regulations to provide for the efficient administration, operation, and maintenance of the trust and program. The State Treasurer shall not adopt and promulgate rules and regulations that in any way interfere with the fiduciary responsibility of the state investment officer to make all decisions regarding the investment of money in the administrative fund, expense fund, and program fund. The State Treasurer or his or her designee shall have the power to:

(1) Enter into agreements with any institution of higher education, the state, any federal or other state agency, or any other entity to implement sections 85-1801 to 85-1814, except agreements which pertain to the investment of money in the administrative fund, expense fund, or program fund;

(2) Carry out the duties and obligations of the trust;

(3) Carry out studies and projections to advise participants regarding present and estimated future higher education costs and levels of financial participation in the trust required in order to enable participants to achieve their educational funding objectives;

(4) Participate in any federal, state, or local governmental program for the benefit of the trust;

(5) Procure insurance against any loss in connection with the property, assets, or activities of the trust as provided in section 81-8,239.01;

(6) Enter into participation agreements with participants;

(7) Make payments to institutions of higher education pursuant to participation agreements on behalf of beneficiaries;

(8) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in sections 85-1801 to 85-1814;

(9) Contract for goods and services and engage personnel as necessary, including consultants, actuaries, managers, legal counsels, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice regarding trust administration and operation, except contracts which pertain to the investment of the administrative, expense, or program funds; and

(10) Establish, impose, and collect administrative fees and charges in connection with transactions of the trust, and provide for reasonable service charges, including penalties for cancellations, refund penalties, and late payments with respect to participation agreements.

The Nebraska Investment Council may adopt and promulgate rules and regulations to provide for the prudent investment of the assets of the trust. The council or its designee also has the authority to select and enter into agreements with individuals and entities to provide investment advice and management of the assets held by the trust, establish investment guidelines, objectives, and performance standards with respect to the assets held by the trust, and approve any fees, commissions, and expenses, which directly or indirectly affect the return on assets.

Source: Laws 2000, LB 1003, § 4; Laws 2001, LB 750, § 2; Laws 2003, LB 574, § 28; Laws 2010, LB197, § 4.
Operative date July 1, 2010.

85-1807 Deposit of funds; College Savings Plan Administrative Fund; College Savings Plan Expense Fund; created; use; investment.

(1) The State Treasurer shall deposit money received by the Nebraska educational savings plan trust into three funds: The College Savings Plan Program Fund, the College Savings Plan Expense Fund, and the College Savings Plan Administrative Fund. The State Treasurer shall deposit money received by the trust into the appropriate fund. The State Treasurer and Accounting Administrator of the Department of Administrative Services shall determine the state fund types necessary to comply with section 529 of the Internal Revenue Code and state policy. The money in the funds shall be invested by the state investment officer pursuant to policies established by the Nebraska Investment Council. The program fund, the expense fund, and the administrative fund shall be separately administered. The Nebraska educational savings plan trust shall be operated with no General Fund appropriations.

(2) All money paid by participants in connection with participation agreements and all investment income earned on such money shall be deposited as received into separate accounts within the program fund. Contributions to the trust made by participants may only be made in the form of cash. All funds generated in connection with participation agreements shall be deposited into the appropriate accounts within the program fund. A participant or beneficiary

shall not provide investment direction regarding program contributions or earnings held by the trust. Money accrued by participants in the program fund may be used for payments to any institution of higher education.

(3) The College Savings Plan Administrative Fund is created. Money from the trust transferred from the expense fund to the administrative fund in an amount authorized by an appropriation from the Legislature shall be utilized to pay for the costs of administering, operating, and maintaining the trust, to the extent permitted by section 529 of the Internal Revenue Code. The administrative fund shall not be credited with any money other than money transferred from the expense fund in an amount authorized by an appropriation by the Legislature or any interest income earned on the balances held in the administrative fund. The State Treasurer shall transfer any money in the administrative fund on July 1, 2010, to the expense fund on July 1, 2010, or as soon as administratively possible. Any money in the administrative 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 College Savings Plan Expense Fund is created. The expense fund shall be used to pay costs associated with the Nebraska educational savings plan trust and shall be funded with fees assessed to the program fund. The State Treasurer shall transfer from the expense fund to the State Investment Officer's Cash Fund an amount equal to the pro rata share of the budget appropriated to the Nebraska Investment Council as permitted in section 72-1249.02, to cover reasonable expenses incurred for investment management of the Nebraska educational savings plan trust. Annually and prior to such transfer to the State Investment Officer's Cash Fund, the State Treasurer shall report to the budget division of the Department of Administrative Services and to the Legislative Fiscal Analyst the amounts transferred during the previous fiscal year. The State Treasurer shall transfer any money in the endowment fund on July 1, 2010, to the expense fund on such date. Transfers may be made from the expense fund to the General Fund at the direction of the Legislature. Any money in the expense fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2000, LB 1003, § 7; Laws 2003, LB 574, § 29; Laws 2010, LB197, § 5.

Operative date July 1, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

85-1808 Participation agreement; cancellation; when; effect.

(1) A participant may cancel a participation agreement at will. The trustee shall determine and collect a refund penalty by deducting the refund penalty from the returned funds. Collected refund penalties shall be deposited in the expense fund.

(2) Upon the occurrence of any of the following circumstances, no refund penalty shall be levied by the trust in the event of a refund or termination of a participation agreement:

(a) Death of the beneficiary;

(b) Permanent disability or mental incapacity of the beneficiary;

(c) The beneficiary is awarded a scholarship as defined in section 529 of the Internal Revenue Code, but only to the extent the refund of earnings does not exceed the scholarship amount; or

(d) A qualified rollover is made as permitted by section 529 of the Internal Revenue Code, except that if a qualified rollover is made into a plan sponsored by another state or entity, the participation agreement shall be deemed to have been canceled for purposes of subdivision (8)(c) of section 77-2716 and federal adjusted gross income shall be increased to the extent previously deducted as a contribution to the trust.

(3) In the event of cancellation of a participation agreement for any of the causes listed in subsection (2) of this section, the participant shall be entitled to receive the principal amount of all contributions made by the participant under the participation agreement plus the actual program fund investment income earned on the contributions, less any losses incurred on the investment. Notwithstanding any other provisions of this section, under no circumstances shall a participant or beneficiary receive a refund or distribution that is more than the fair market value of the specific account on the applicable liquidation date.

Source: Laws 2000, LB 1003, § 8; Laws 2001, LB 750, § 4; Laws 2003, LB 574, § 30; Laws 2005, LB 216, § 20; Laws 2010, LB197, § 6.
Operative date July 1, 2010.

85-1813 Assets of trust; how treated.

The assets of the Nebraska educational savings plan trust, including the program fund and excluding the administrative fund and the expense fund, shall at all times be preserved, invested, and expended solely and only for the purposes of the trust and shall be held in trust for the participants and beneficiaries. No property rights in the trust shall exist in favor of the state. Such assets of the trust shall not be transferred or used by the state for any purposes other than the purposes of the trust.

Source: Laws 2000, LB 1003, § 13; Laws 2010, LB197, § 7.
Operative date July 1, 2010.

ARTICLE 19

NEBRASKA OPPORTUNITY GRANT ACT

Section

- 85-1901. Act, how cited.
- 85-1902. Definitions, where found.
- 85-1903. Award, defined.
- 85-1907. Eligible student, defined.
- 85-1908. Full-time student and full-time-equivalent student, defined.
- 85-1909. Tuition and mandatory fees, defined.
- 85-1911. Awards; how made.
- 85-1912. Target level of funds; computation.
- 85-1913. Eligible postsecondary educational institutions; duties.
- 85-1914. Commission; awards; duties.
- 85-1915. Award; conditions.
- 85-1917. Commission; duties; rules and regulations.
- 85-1918. Annual report.
- 85-1919. Applicability of act.
- 85-1920. Nebraska Opportunity Grant Fund; created; use; investment.

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85-1901 Act, how cited.

Sections 85-1901 to 85-1920 shall be known and may be cited as the Nebraska Opportunity Grant Act.

Source: Laws 2003, LB 574, § 1; Laws 2010, LB956, § 4.
Operative date July 1, 2010.

85-1902 Definitions, where found.

For purposes of the Nebraska Opportunity Grant Act, the definitions found in sections 85-1903 to 85-1910 apply.

Source: Laws 2003, LB 574, § 2; Laws 2010, LB956, § 5.
Operative date July 1, 2010.

85-1903 Award, defined.

Award means a grant of money by the commission to an eligible student for educational expenses. Awards shall not exceed:

(1) For each award year except award years 2008-09 and 2009-10, fifty percent of the tuition and mandatory fees for a full-time, resident, undergraduate student for the last completed award year at the University of Nebraska-Lincoln; and

(2) For award years 2008-09 and 2009-10, twenty-five percent of the tuition and mandatory fees for a full-time, resident, undergraduate student for the last completed award year at the University of Nebraska-Lincoln.

Source: Laws 2003, LB 574, § 3; Laws 2004, LB 1107, § 1; Laws 2006, LB 962, § 6; Laws 2007, LB342, § 43; Laws 2010, LB956, § 6.
Operative date July 1, 2010.

85-1907 Eligible student, defined.

Eligible student means an undergraduate student who:

(1) Is enrolled in an eligible postsecondary educational institution;

(2) Has applied for federal financial aid through the Free Application for Federal Student Aid for the applicable award year and either is eligible to receive a Federal Pell Grant from the United States Department of Education or has an expected family contribution for the applicable award year of no more than the qualifying maximum which will equal six thousand dollars for award year 2010-11 and will equal the prior year's qualifying maximum increased by two and one-half percent for each award year thereafter;

(3) Is a resident student who is domiciled in Nebraska as provided by section 85-502; and

(4) Complies with all other provisions of the Nebraska Opportunity Grant Act and its rules and regulations.

Source: Laws 2003, LB 574, § 7; Laws 2010, LB956, § 7.
Operative date July 1, 2010.

85-1908 Full-time student and full-time-equivalent student, defined.

Full-time student and full-time-equivalent student have the definitions found in rules and regulations adopted and promulgated pursuant to the Nebraska Opportunity Grant Act.

Source: Laws 2003, LB 574, § 8; Laws 2010, LB956, § 8.

Operative date July 1, 2010.

85-1909 Tuition and mandatory fees, defined.

Tuition and mandatory fees means the lesser of the student costs for tuition and mandatory fees for a full-time, resident, undergraduate student for the last completed award year at the eligible postsecondary educational institution or the student costs for tuition and mandatory fees for a full-time, resident, undergraduate student for the last completed award year at the University of Nebraska-Lincoln.

Source: Laws 2003, LB 574, § 9; Laws 2010, LB956, § 9.

Operative date July 1, 2010.

85-1911 Awards; how made.

The Nebraska Opportunity Grant Act shall provide for awards made directly to eligible students based on financial need.

Source: Laws 2003, LB 574, § 11; Laws 2010, LB956, § 10.

Operative date July 1, 2010.

85-1912 Target level of funds; computation.

In order to reduce the costs of administering the Nebraska Opportunity Grant Act, the commission shall identify a target level of funds to be distributed to students pursuant to the act at each eligible postsecondary educational institution. The target level of funds shall represent the maximum amount that may be awarded pursuant to the act to eligible students enrolled in such eligible postsecondary educational institution. To determine the target level of funds for each eligible postsecondary educational institution, the commission shall:

(1) Determine the number of eligible full-time-equivalent students enrolled at the eligible postsecondary educational institution for the last completed award year;

(2) Multiply the number determined in subdivision (1) of this section by the tuition and mandatory fees as limited pursuant to section 85-1909;

(3) Divide the product derived pursuant to subdivision (2) of this section for each eligible postsecondary educational institution by the sum of the products derived pursuant to subdivision (2) of this section for all eligible postsecondary educational institutions; and

(4) Multiply the total of federal and state funds appropriated for purposes of distribution pursuant to the act by the ratio derived pursuant to subdivision (3) of this section.

Source: Laws 2003, LB 574, § 12; Laws 2004, LB 1107, § 2; Laws 2010, LB956, § 11.

Operative date July 1, 2010.

85-1913 Eligible postsecondary educational institutions; duties.

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Eligible postsecondary educational institutions, acting as agents of the commission, shall:

- (1) Receive and process applications for awards under the Nebraska Opportunity Grant Act;
- (2) Determine eligibility of students based on criteria set forth in the act; and
- (3) At any time prior to June 1 of each award year, make recommendations as often as necessary to the commission for awards to eligible students, including the name of each eligible student, social security number of each eligible student, and recommended award amount for each eligible student.

Source: Laws 2003, LB 574, § 13; Laws 2010, LB956, § 12.

Operative date July 1, 2010.

85-1914 Commission; awards; duties.

(1) Within thirty days after receiving recommendations pursuant to section 85-1913, the commission shall review the recommended awards for compliance with the Nebraska Opportunity Grant Act and its rules and regulations and notify each eligible postsecondary educational institution of the approval or disapproval of recommended awards.

(2) The commission shall distribute to each eligible postsecondary educational institution the total award amount approved for eligible students at such institution. The eligible postsecondary educational institution shall act as an agent of the commission to disburse the awards directly to eligible students during the award year.

Source: Laws 2003, LB 574, § 14; Laws 2010, LB956, § 13.

Operative date July 1, 2010.

85-1915 Award; conditions.

An award may be granted to an eligible student for attendance at an eligible postsecondary educational institution if:

(1) The eligible student is accepted for enrollment as follows:

(a) In the case of an eligible student beginning his or her first year in attendance at an eligible postsecondary educational institution, such eligible student has satisfied requirements for admission and has enrolled or indicated an intent to enroll in an eligible postsecondary educational institution; or

(b) In the case of an eligible student enrolled in an eligible postsecondary educational institution following the successful completion of the student's first year in attendance, such eligible student continues to meet the requirements of the Nebraska Opportunity Grant Act and has maintained the minimum standards of performance as required by the eligible postsecondary educational institution in which the eligible student is enrolled;

(2) The eligible student receiving such award certifies that the award will be used only for educational expenses; and

(3) The eligible student has complied with the act and its rules and regulations.

Source: Laws 2003, LB 574, § 15; Laws 2010, LB956, § 14.

Operative date July 1, 2010.

85-1917 Commission; duties; rules and regulations.

(1) The commission shall:

(a) Supervise the issuance of public information concerning the Nebraska Opportunity Grant Act; and

(b) Establish a reasonable and fair appeal procedure for students adversely affected by the actions of the commission or an eligible postsecondary educational institution in the distribution of funds or granting of awards pursuant to the act.

(2) The commission may adopt and promulgate rules and regulations necessary to carry out the act, including such rules and regulations for maintenance of fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of funds and to assure that the eligible postsecondary educational institutions, as agents of the commission, have complied with the act. Such rules and regulations shall be developed in cooperation with representatives of eligible postsecondary educational institutions and shall be designed, to the extent consistent with requirements of the act, to minimize the administrative burden on the eligible postsecondary educational institutions and the commission.

Source: Laws 2003, LB 574, § 17; Laws 2010, LB956, § 15.
Operative date July 1, 2010.

85-1918 Annual report.

Each eligible postsecondary educational institution shall file an annual report with the commission. The report shall document that students receiving awards under the Nebraska Opportunity Grant Act have met the eligibility standards and requirements established in the act and rules and regulations. The report shall include an accounting of all state-funded or federally funded student financial aid awarded by the eligible postsecondary educational institution in the previous fiscal year. The report may include other data, including the unmet need as defined by the commission for all Federal-Pell-Grant-eligible students at each eligible postsecondary educational institution.

Source: Laws 2003, LB 574, § 18; Laws 2010, LB956, § 16.
Operative date July 1, 2010.

85-1919 Applicability of act.

The Nebraska Opportunity Grant Act does not grant any authority to the commission to (1) control or influence the policies of any eligible postsecondary educational institution because such institution accepts students who receive awards or (2) require any eligible postsecondary educational institution to enroll any student receiving an award or, once admitted, to continue in such institution any student receiving an award.

Source: Laws 2003, LB 574, § 19; Laws 2010, LB956, § 17.
Operative date July 1, 2010.

85-1920 Nebraska Opportunity Grant Fund; created; use; investment.

The Nebraska Opportunity Grant Fund is created. Money in the fund shall include amounts transferred from the State Lottery Operation Trust Fund pursuant to section 9-812. All amounts accruing to the Nebraska Opportunity Grant Fund shall be used to carry out the Nebraska Opportunity Grant Act. Any money in the fund available for investment shall be invested by the state

investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any money in the Nebraska Scholarship Fund on July 1, 2010, shall be transferred to the Nebraska Opportunity Grant Fund on such date.

Source: Laws 2003, LB 574, § 20; Laws 2010, LB956, § 18.
Operative date July 1, 2010.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 21

ACCESS COLLEGE EARLY SCHOLARSHIP PROGRAM ACT

Section

85-2104. Student; eligibility.

85-2105. Applicant; commission; powers and duties; educational institution receiving payment; report required.

85-2106. Report.

85-2104 Student; eligibility.

A student who is applying to take one or more courses for credit from a qualified postsecondary educational institution is eligible for the Access College Early Scholarship Program if:

(1) Such student or the student's parent or legal guardian is eligible to receive:

- (a) Supplemental Security Income;
- (b) Supplemental Nutrition Assistance Program benefits;
- (c) Free or reduced-price lunches under United States Department of Agriculture child nutrition programs;
- (d) Aid to families with dependent children; or
- (e) Assistance under the Special Supplemental Nutrition Program for Women, Infants, and Children; or

(2) The student or the student's parent or legal guardian has experienced an extreme hardship.

Source: Laws 2007, LB192, § 5; Laws 2009, LB288, § 45.

85-2105 Applicant; commission; powers and duties; educational institution receiving payment; report required.

(1) An applicant for the Access College Early Scholarship Program shall complete an application form developed and provided by the commission and shall forward the form to his or her guidance counselor. The guidance counselor shall verify the student's eligibility under the Access College Early Scholarship Program Act and shall forward the information to the commission for review within fifteen days following receipt of the form from the student. Notification of tuition and mandatory fees to be accrued by the student shall be provided to the commission by the student, high school, or qualified postsecondary educational institution as determined by the commission.

(2) The commission shall review the application and verify the student's eligibility under the act. The commission shall notify the student and the

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student's guidance counselor of the verification of eligibility and the estimated award amount in writing within thirty days following receipt of the form from the student's guidance counselor. The scholarship award shall equal the lesser of tuition and mandatory fees accrued by the student after any discounts applicable to such student from the qualified postsecondary educational institution or the tuition and mandatory fees that would have been accrued by the student for the same number of credit hours if the student were taking the course as a full-time, resident, undergraduate student from the University of Nebraska-Lincoln. The commission shall forward such amount directly to the qualified postsecondary educational institution as payment of such student's tuition and mandatory fees.

(3) The commission shall make such payments in the order the applications are received, except that the commission may limit the number of scholarships awarded in each term.

(4) The commission may limit the number of scholarships a student may receive.

(5) For any student receiving a scholarship pursuant to the act for tuition and mandatory fees, the qualified postsecondary educational institution receiving the payment shall report either the student's grade for the course or the student's failure to complete the course to the commission within thirty days after the end of the course or within one hundred eighty days after receipt of a payment pursuant to the act if the course for which the scholarship was awarded does not have a specified ending date. The commission shall keep the identity of students receiving scholarships confidential, except as necessary to comply with the requirements of the act.

Source: Laws 2007, LB192, § 6; Laws 2009, LB20, § 1.

85-2106 Report.

The commission shall prepare an annual report on scholarships awarded pursuant to the Access College Early Scholarship Program Act and shall submit the report to the Clerk of the Legislature. The report shall include, but not be limited to, the number and amount of scholarships awarded, the postsecondary educational institutions attended by scholarship recipients, and information regarding the success of scholarship recipients in the courses for which the scholarships were awarded.

Source: Laws 2007, LB192, § 7; Laws 2009, LB20, § 2.

ARTICLE 22

COMMUNITY COLLEGE FOUNDATION AND EQUALIZATION AID ACT

Section
85-2230. Act; termination.

85-2230 Act; termination.

The Community College Foundation and Equalization Aid Act terminates on June 30, 2011.

Source: Laws 2010, LB1072, § 11.
Effective date April 15, 2010.

Cross References

Community College Foundation and Equalization Aid Act, see section 85-2201.

ARTICLE 23**IN THE LINE OF DUTY DEPENDENT EDUCATION ACT**

Section

- 85-2301. Act, how cited.
85-2302. Legislative findings, declarations, and intent.
85-2303. Terms, defined.
85-2304. In the Line of Duty Dependent Education Benefit; established; eligibility; waiver of tuition and fees; application; notice; determination; effect.
85-2305. Procedures, rules, and regulations.
85-2306. Qualification for benefit; how treated.

85-2301 Act, how cited.

Sections 85-2301 to 85-2306 shall be known and may be cited as the In the Line of Duty Dependent Education Act.

Source: Laws 2009, LB206, § 1.

85-2302 Legislative findings, declarations, and intent.

The Legislature finds and declares that:

- (1) Nebraska's law enforcement officers and firefighters place their lives at risk in the line of duty to protect the citizens and property of this state;
- (2) The services performed by Nebraska law enforcement officers and firefighters are necessary for the protection of the citizens and property of this state;
- (3) Nebraska law enforcement officers and firefighters have lost or may lose their lives in the performance of their official duties; and
- (4) Nebraska law enforcement officers and firefighters perform dangerous and hazardous acts in order to protect the citizens and property of this state.

It is the intent of the Legislature to recognize the ultimate sacrifice made by Nebraska law enforcement officers and firefighters who are killed in the line of duty on or after April 23, 2009, by providing a postsecondary educational benefit for their surviving children to attend state universities, state colleges, and community colleges located in Nebraska.

Source: Laws 2009, LB206, § 2.

85-2303 Terms, defined.

For purposes of the In the Line of Duty Dependent Education Act:

- (1) Associate degree program means a degree program at a community college, state college, or state university which typically requires completion of an organized program of study of at least sixty semester credit hours or an equivalent that can be shown to accomplish the same goal. Associate degree program does not include a baccalaureate degree program;
- (2) Baccalaureate degree program means a degree program at a community college, state college, or state university which typically requires completion of an organized program of study of at least one hundred twenty semester credit hours or an equivalent that can be shown to accomplish the same goal;
- (3) Child means a resident or nonresident of Nebraska who is the child by birth or adoption of a Nebraska law enforcement officer killed in the line of duty or a Nebraska firefighter killed in the line of duty;

(4) Community college means a public postsecondary educational institution which is part of the community college system and includes all branches and campuses of such institution located within the State of Nebraska;

(5) Education benefit means the In the Line of Duty Dependent Education Benefit established under section 85-2304;

(6) Fatal injury means an event occurring in the line of duty which is a proximate cause of the death of a law enforcement officer or firefighter;

(7) 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, and a member of an emergency medical services ambulance squad;

(8) Law enforcement officer means any person who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of the State of Nebraska or any political subdivision of the state for more than one hundred hours per year and who is authorized by law to make arrests;

(9) Line of duty means any action that a Nebraska law enforcement officer or firefighter is authorized or obligated by law, rule, or regulation to perform, related to or as a condition of employment or service;

(10) State college means a public postsecondary educational institution which is part of the Nebraska state college system and includes all branches and campuses of such institution located within the State of Nebraska;

(11) State university means a public postsecondary educational institution which is part of the University of Nebraska and includes all branches and campuses of such institution located within the State of Nebraska;

(12) Tuition and fees means the charges and cost of tuition and fees as set by the governing body of a state university, state college, or community college; and

(13) Volunteer fire department means a volunteer department as defined in section 35-1303 located in Nebraska which provides fire protection services within Nebraska.

Source: Laws 2009, LB206, § 3.

85-2304 In the Line of Duty Dependent Education Benefit; established; eligibility; waiver of tuition and fees; application; notice; determination; effect.

(1) The In the Line of Duty Dependent Education Benefit is established for children of law enforcement officers and firefighters killed in the line of duty. In order for a child to be eligible for the benefit, the law enforcement officer or firefighter must have incurred the fatal injury on or after April 23, 2009.

(2) Notwithstanding the provisions of this section, a death that occurs as the direct and proximate result of a preexisting physical condition, disease, or illness shall be excluded from eligibility under this section unless the aggravation of such condition, disease, or illness caused by being in the line of duty was a direct and proximate cause of death.

(3) Any child who is the child of a law enforcement officer killed in the line of duty as provided in subsection (1) of this section or of a firefighter killed in the line of duty as provided in such subsection shall be eligible for the education benefit if the child is twenty-five years of age or younger. An eligible child shall

meet all admission requirements of the state university, state college, or community college to which he or she is applying.

(4) The education benefit shall be provided only for full-time undergraduate students who are pursuing studies leading to a degree from an associate degree program or a baccalaureate degree program. The eligible child may receive the education benefit for up to five years if he or she otherwise continues to be eligible for participation. All education benefits received under the In the Line of Duty Dependent Education Act shall cease when the eligible child reaches twenty-six years of age.

(5) A child becomes eligible for the education benefit after he or she has applied for federal financial aid grants and state scholarships and grants to cover tuition and fees. The child must provide a record of application for such financial aid to the state university, state college, or community college to which he or she is applying.

(6) The state university, state college, or community college shall waive tuition and fees remaining due after subtracting awarded federal financial aid grants and state scholarships and grants for an eligible child during the time the child is enrolled as a full-time student. To remain eligible, the child must comply with all requirements of the institution for continued attendance and award of an associate degree or a baccalaureate degree.

(7) An application for an education benefit shall include a certified copy of the eligible child's birth certificate or applicable adoption record and verification of the death of the law enforcement officer or firefighter who was the child's parent.

(8) Verification of the death of the law enforcement officer or firefighter shall be made by obtaining a certificate of eligibility from the following sources: (a) Certificates of eligibility for the children of law enforcement officers shall be obtained from the Superintendent of Law Enforcement and Public Safety; (b) certificates of eligibility for the children of firefighters, except as provided in subdivision (c) of this subsection, shall be obtained from the State Fire Marshal; and (c) certificates of eligibility for the children of members of emergency medical services ambulance squads that are not associated with a paid or volunteer fire department shall be obtained from the Department of Health and Human Services.

(9) Within forty-five days after receipt of a completed application, the state university, state college, or community college shall send written notice of the applicant's eligibility or ineligibility for the education benefit. If the child is determined not to be eligible for the benefit, the notice shall include the reason or reasons for such determination and an indication that an appeal of the determination may be made pursuant to the Administrative Procedure Act.

(10) Upon a determination of eligibility for the child to obtain the education benefit, the state university, state college, or community college is prohibited from charging the child, the child's surviving parent, or the child's guardian any tuition or fees as long as the child remains eligible.

Source: Laws 2009, LB206, § 4.

Cross References

Administrative Procedure Act, see section 84-920.

85-2305 Procedures, rules, and regulations.

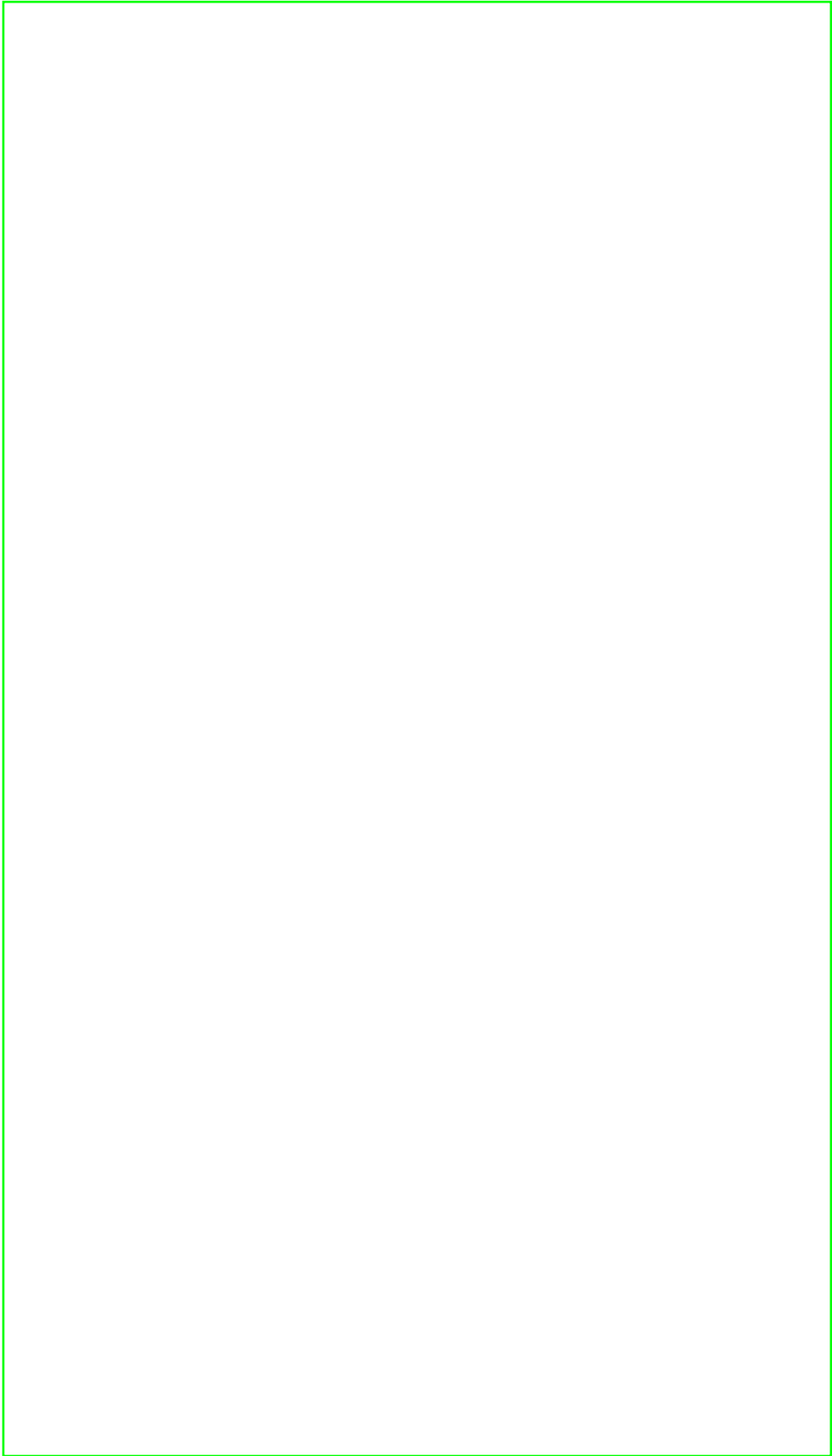
Each state university, state college, or community college shall adopt the procedures, rules, and regulations necessary to carry out the In the Line of Duty Dependent Education Act.

Source: Laws 2009, LB206, § 5.

85-2306 Qualification for benefit; how treated.

A finding that a student qualifies for an education benefit pursuant to the In Line of Duty Dependent Education Act shall not be admissible as evidence for any other purpose.

Source: Laws 2009, LB206, § 6.



CHAPTER 86

TELECOMMUNICATIONS AND TECHNOLOGY

Article.

1. Telecommunications Regulation.
 - (a) General Provisions. 86-101.
 - (b) Regulatory Authority. 86-127.
 - (h) Railroad Carrier Wire-Crossing Agreement. 86-164.
 - (i) Sale of Exchange. 86-165.
2. Telecommunications Consumer Protection.
 - (e) Intercepted Communications. 86-275.
3. Universal Service.
 - (a) Telecommunications Relay System. 86-312, 86-313.
4. Public Safety Systems.
 - (a) Nebraska Public Safety Communication System Act. 86-401, 86-418.01.
 - (c) Enhanced Wireless 911 Services. 86-463.
5. Public Technology Infrastructure.
 - (a) Information Technology Infrastructure Act. 86-501 to 86-520.01.
 - (h) Retail or Wholesale Services. 86-593 to 86-599.
 - (i) Network Nebraska. 86-5,100, 86-5,101.
8. Kelsey Smith Act. 86-801 to 86-807.

ARTICLE 1

TELECOMMUNICATIONS REGULATION

(a) GENERAL PROVISIONS

Section

86-101. Act, how cited.

(b) REGULATORY AUTHORITY

86-127. Nebraska Competitive Telephone Marketplace Fund; created; use; investment.

(h) RAILROAD CARRIER WIRE-CROSSING AGREEMENT

86-164. Telecommunications carrier; placement of line, wire, or cable across railroad right-of-way; application; petition; hearing; order; standard crossing fee; expenses; agreement.

(i) SALE OF EXCHANGE

86-165. Sale of exchange; application; notice; commission; considerations; order.

(a) GENERAL PROVISIONS

86-101 Act, how cited.

Sections 86-101 to 86-163 and section 86-165 shall be known and may be cited as the Nebraska Telecommunications Regulation Act.

Source: Laws 2002, LB 1105, § 2; Laws 2003, LB 2, § 1; Laws 2010, LB181, § 1; Laws 2010, LB183, § 1.
Effective date July 15, 2010.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB181, section 1, with LB183, section 1, to reflect all amendments.

(b) REGULATORY AUTHORITY

86-127 Nebraska Competitive Telephone Marketplace Fund; created; use; investment.

(1) One of the goals of the federal Telecommunications Act of 1996, as such act existed on January 1, 2002, is to foster competition among telephone companies. Section 271 of the federal act (a) establishes specific incentives, procedures, and requirements for regional Bell operating companies to offer inter-LATA interexchange service and (b) requires the Public Service Commission to monitor the competitive performance of a regional Bell operating company and to consult with the Federal Communications Commission regarding such activities.

(2) The Nebraska Competitive Telephone Marketplace Fund is created. The Public Service Commission may accept, and the fund shall consist of, any voluntary performance payments received from a regional Bell operating company. The fund shall be used by the commission for expenses related to the monitoring of compliance with section 271 of the federal act. If money in the fund exceeds thirty thousand dollars, the commission shall remit such excess money to the State Treasurer for credit to the Nebraska Internet Enhancement Fund, except that transfers may be made from the Nebraska Competitive Telephone Marketplace Fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Competitive Telephone Marketplace 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 2002, LB 1211, § 11; Laws 2008, LB755, § 6; Laws 2009, First Spec. Sess., LB3, § 96.
Effective date November 21, 2009.

Cross References

Certificates for inter-LATA interexchange services, see section 86-129.

Nebraska Capital Expansion Act, see section 72-1269.

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

(h) RAILROAD CARRIER WIRE-CROSSING AGREEMENT

86-164 Telecommunications carrier; placement of line, wire, or cable across railroad right-of-way; application; petition; hearing; order; standard crossing fee; expenses; agreement.

(1) Any telecommunications carrier that intends to place a line, wire, or cable across a railroad right-of-way shall request permission for such placement from the railroad carrier. The request shall be in the form of a completed crossing application, including engineering specifications. Upon receipt of such application, the railroad carrier and the telecommunications carrier may enter into a binding wire-crossing agreement. If the railroad carrier and the telecommunications carrier are unable to negotiate a binding wire-crossing agreement within sixty days after receipt of the crossing application by the railroad carrier, either party may submit a petition to the commission for a hearing on the disputed terms and conditions of the purported wire-crossing agreement.

(2)(a) Unless otherwise agreed to by all parties, the commission shall, after providing proper notice, hold and complete such hearing within sixty days after receipt of the petition. The commission shall issue an order of its decision

within thirty days after the hearing. In rendering its decision, the commission shall consider whether the terms and conditions at issue are unreasonable or against the public interest, taking into account safety, engineering, and access requirements of the railroad carrier as such requirements are prescribed by the Federal Railroad Administration and established rail industry standards.

(b) Upon issuance of an order by the commission under subdivision (a) of this subsection, the railroad carrier and the telecommunications carrier shall have fifteen days after the date of issuance to file a conforming wire-crossing agreement with the commission. The commission shall have fifteen days after the date of such filing to approve or reject the agreement. If the commission does not issue an approval or rejection of such agreement within the fifteen-day requirement, the agreement shall be deemed approved. The commission may reject a wire-crossing agreement if it finds that the agreement does not conform to the order issued by the commission. If the commission enters such a finding, the parties shall revise the agreement to comply with the commission's order and shall refile the agreement to the commission for further review. If the commission does not approve or reject the revised agreement within fifteen days after the date of refiling, the agreement shall be deemed approved.

(3)(a) Except as provided in subsection (4) of this section or as otherwise agreed to by all parties, if a telecommunications carrier places a line, wire, or cable across a railroad right-of-way pursuant to this section, it shall pay the railroad carrier a one-time standard crossing fee of one thousand two hundred fifty dollars for each applicable crossing. In addition to the standard crossing fee, the telecommunications carrier shall reimburse the railroad carrier for any actual flagging expenses associated with the placement of the line, wire, or cable.

(b) The standard crossing fee shall be in lieu of any license fee or any other fees or charges to reimburse the railroad carrier for any direct expense incurred as a result of the placement of the line, wire, or cable.

(4) If a railroad carrier or telecommunications carrier believes a special circumstance exists for the placement of a line, wire, or cable across a railroad right-of-way, the railroad carrier or telecommunications carrier may petition the commission for additional requirements or for modification of the standard crossing fee in its initial petition to the commission pursuant to subsection (1) of this section. If the petition is filed with the request for additional requirements or modification, the commission shall determine if a special circumstance exists that necessitates additional requirements for such placement or a modification of the standard crossing fee.

(5) This section applies to any telecommunications carrier certified by the commission pursuant to section 86-128. This section does not apply to any longitudinal encumbrance or any line, wire, or cable within any public right-of-way and does not change, modify, or supersede any rights or obligations created pursuant to sections 86-701 to 86-707.

(6)(a) A wire-crossing agreement between a railroad carrier and a telecommunications carrier that includes a provision, clause, covenant, or agreement contained in, collateral to, or affecting such wire-crossing agreement that purports to indemnify, defend, or hold harmless the railroad carrier from any liability for loss or damage resulting from the negligence or willful and wanton misconduct of the carrier or its agents, employees, or independent contractors who are directly responsible to such carrier or has the effect of indemnifying,

defending, or holding harmless such carrier from the negligence or willful and wanton misconduct of the carrier or its agents, employees, or independent contractors who are directly responsible to the carrier is against the public policy of this state and is unenforceable.

(b) Nothing in this section shall affect a provision, clause, covenant, or agreement in which the telecommunications carrier indemnifies, defends, or holds harmless a railroad carrier against liability for loss or damage to the extent that the loss or damage results from the negligence or willful and wanton misconduct of the telecommunications carrier or its agents, employees, or independent contractors who are directly responsible to the telecommunications carrier.

(7) For purposes of this section:

(a) Railroad carrier has the same meaning as in section 75-402; and

(b) Telecommunications carrier means a telecommunications common carrier as defined in section 86-118 or a telecommunications contract carrier as defined in section 86-120.

Source: Laws 2010, LB181, § 2.

Effective date July 15, 2010.

(i) SALE OF EXCHANGE

86-165 Sale of exchange; application; notice; commission; considerations; order.

(1) A telecommunications company that proposes to sell any exchange owned by the company shall submit an application to the commission on a form provided by the commission for approval of the sale. Within twenty days after receipt of the application, the commission shall publish notice of the proposed sale in a newspaper of general circulation in each county in which an exchange proposed for sale provides basic local exchange service. The notice shall inform the residents of this state of their right to file a petition of intervention or submit a comment. Such filing or submission shall occur within fifteen days after publication of the notice. The telecommunications company shall reimburse the commission for the cost of such publication.

(2) In approving or rejecting the application, the commission shall consider the protection of the public interest and to the extent applicable to the exchange proposed to be sold, (a) the adequacy of local telephone service, (b) the reasonableness of rates for the local telephone service, (c) the provision of 911 service, enhanced-911 service, and other public safety services, (d) the payment of taxes by the company, and (e) the ability of the telecommunications company to provide modern, state-of-the-art telecommunications services. If the commission does not hold a hearing on the application, it shall issue an order of approval or rejection within forty-five days after the publication of the notice pursuant to subsection (1) of this section. If the commission holds a hearing on the application, it shall issue an order of approval or rejection within one hundred twenty days after the publication of such notice. The order may include conditions that the commission deems necessary to ensure protection of the public interest pursuant to the criteria set forth in this subsection.

(3) For purposes of this section:

(a) Exchange means (i) switching, transmission, and other equipment and (ii) facilities and associated permits, authorizations, service rights, customer contracts, and related assets by which a telecommunications company provides basic local exchange service within a local exchange area; and

(b) Sell or sale means the transfer, for consideration, of title to the assets comprising an exchange. Sell or sale does not include a transaction such as a merger, a consolidation, stock sale, financing transaction, or other non-asset sale transaction.

Source: Laws 2010, LB183, § 2.
Effective date July 15, 2010.

ARTICLE 2

TELECOMMUNICATIONS CONSUMER PROTECTION

(e) INTERCEPTED COMMUNICATIONS

Section

86-275. Electronic, mechanical, or other device, defined.

(e) INTERCEPTED COMMUNICATIONS

86-275 Electronic, mechanical, or other device, defined.

Electronic, mechanical, or other device means any device or apparatus which can be used to intercept a wire, electronic, or oral communication other than:

(1) Any telephone or telegraph instrument, equipment, or facility, or any component thereof, (a) furnished to the subscriber or user by a provider in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used by the subscriber or user in the ordinary course of its business or (b) being used by a provider in the ordinary course of its business or by an investigative or law enforcement officer in the ordinary course of his or her duties; or

(2) A hearing instrument or similar device being used to correct subnormal hearing to not better than normal.

Source: Laws 2002, LB 1105, § 137; Laws 2009, LB195, § 109.

ARTICLE 3

UNIVERSAL SERVICE

(a) TELECOMMUNICATIONS RELAY SYSTEM

Section

86-312. Nebraska Telecommunications Relay System Fund; created; use; investment.

86-313. Surcharge; amount; hearing; commission; powers and duties.

(a) TELECOMMUNICATIONS RELAY SYSTEM

86-312 Nebraska Telecommunications Relay System Fund; created; use; investment.

(1) The Nebraska Telecommunications Relay System Fund is created. The fund shall be used to provide a statewide telecommunications relay system and to administer a statewide voucher program to provide specialized telecommunications equipment to qualified deaf, hard of hearing, and speech-impaired

persons in Nebraska, except that transfers may be made from the fund to the General Fund at the direction of the Legislature.

(2) Based upon the price of the equipment, vouchers shall be issued by the program administrator to pay private vendors for all or part of the cost of the equipment. After purchase, the recipient is the owner of the equipment and responsible for enforcement of any warranties and repairs.

(3) Any money in the Nebraska Telecommunications Relay System 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 240, § 3; R.S.Supp.,1992, § 86-903; Laws 1993, LB 305, § 26; Laws 1994, LB 1066, § 141; Laws 1995, LB 146, § 3; Laws 1997, LB 568, § 2; Laws 1999, LB 359, § 6; R.S.1943, (1999), § 86-1304; Laws 2002, LB 1105, § 190; Laws 2009, First Spec. Sess., LB3, § 97.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

86-313 Surcharge; amount; hearing; commission; powers and duties.

(1)(a) Each telephone company in Nebraska shall collect from each of the telephone subscribers a surcharge not to exceed twenty cents per month on each telephone number or functional equivalent in Nebraska, including wireless service as defined in section 86-456.01. Except for wireless service, the surcharge shall only be collected on the first one hundred telephone numbers or functional equivalents per subscriber. The companies shall add the surcharge to each subscriber's bill.

(b) The telephone companies are not liable for any surcharge not paid by a subscriber.

(2) Before April 1 of each year, the commission shall hold a public hearing to determine the amount of surcharge necessary to carry out the Telecommunications Relay System Act. After the hearing, the commission shall set the surcharge at the level necessary to fund the statewide telecommunications relay system and the specialized telecommunications equipment program for the following year plus a reasonable reserve. The surcharge shall become effective on July 1 following the change.

(3) In an emergency the commission may adjust the amount of the surcharge to become effective before such date but only after a public hearing for such purpose.

(4) Each telephone company shall remit the proceeds from the surcharge to the commission. The commission shall remit the funds to the State Treasurer for credit to the fund.

(5) The commission may require an audit of any company collecting the surcharge pursuant to the act.

(6) This section shall not apply to subscribers who have no access to relay service.

Source: Laws 1990, LB 240, § 4; R.S.Supp.,1992, § 86-904; Laws 1993, LB 305, § 27; Laws 1995, LB 146, § 4; R.S.1943, (1999),

§ 86-1305; Laws 2002, LB 1105, § 191; Laws 2003, LB 187, § 28; Laws 2007, LB661, § 3; Laws 2010, LB723, § 1.
Effective date July 15, 2010.

ARTICLE 4

PUBLIC SAFETY SYSTEMS

(a) NEBRASKA PUBLIC SAFETY COMMUNICATION SYSTEM ACT

Section

86-401. Act, how cited.

86-418.01. Repealed. Laws 2009, LB 154, § 27.

(c) ENHANCED WIRELESS 911 SERVICES

86-463. Enhanced Wireless 911 Fund; created; use; investment.

(a) NEBRASKA PUBLIC SAFETY COMMUNICATION SYSTEM ACT

86-401 Act, how cited.

Sections 86-401 to 86-418 shall be known and may be cited as the Nebraska Public Safety Communication System Act.

Source: Laws 1999, LB 446, § 1; R.S.1943, (1999), § 86-1803; Laws 2002, LB 1105, § 208; Laws 2002, LB 1211, § 14; Laws 2005, LB 343, § 2; Laws 2006, LB 1061, § 14; Laws 2009, LB154, § 21.

86-418.01 Repealed. Laws 2009, LB 154, § 27.

(c) ENHANCED WIRELESS 911 SERVICES

86-463 Enhanced Wireless 911 Fund; created; use; investment.

The Enhanced Wireless 911 Fund is created. The fund shall consist of the surcharges credited to the fund, any money appropriated by the Legislature, any federal funds received for wireless emergency communication, and any other funds designated for credit to the fund. Money in the fund shall be used for the costs of administering the fund and the purposes specified in section 86-465 unless otherwise directed by federal law with respect to any federal funds. The costs of administering the fund shall be kept to a minimum. The money in the fund shall not be subject to any fiscal-year limitation or lapse provision of unexpended balance at the end of any fiscal year or biennium. Interest accruing to the fund from invested fund balances may be transferred to the General Fund at the direction of the Legislature through June 30, 2010. Any money in the Enhanced Wireless 911 Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2001, LB 585, § 8; R.S.Supp.,2001, § 86-2208; Laws 2002, LB 1105, § 264; Laws 2006, LB 1222, § 10; Laws 2009, First Spec. Sess., LB3, § 98.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 5

PUBLIC TECHNOLOGY INFRASTRUCTURE

(a) INFORMATION TECHNOLOGY INFRASTRUCTURE ACT

Section

- 86-501. Act, how cited.
 86-505. Enterprise, defined.
 86-506. Enterprise project, defined.
 86-515. Nebraska Information Technology Commission; created; members; expenses; executive director.
 86-516. Commission; duties.
 86-520. Chief Information Officer; duties.
 86-520.01. Information technology purchases; standards; use of Network Nebraska; notice required; when.

(h) RETAIL OR WHOLESALE SERVICES

- 86-593. Terms, defined.
 86-597. Retail or wholesale service; how construed.
 86-598. Sections; how construed.
 86-599. Repealed. Laws 2009, LB 154, § 27.

(i) NETWORK NEBRASKA

- 86-5,100. Network Nebraska; development and maintenance; access; Chief Information Officer; duties; cost; report.
 86-5,101. Repealed. Laws 2009, LB 545, § 26.

(a) INFORMATION TECHNOLOGY INFRASTRUCTURE ACT

86-501 Act, how cited.

Sections 86-501 to 86-530 shall be known and may be cited as the Information Technology Infrastructure Act.

Source: Laws 1996, LB 1190, § 1; Laws 2000, LB 1349, § 3; R.S.Supp.,2000, § 81-1190; Laws 2002, LB 1105, § 271; Laws 2008, LB823, § 1; Laws 2010, LB1071, § 37.
 Operative date April 15, 2010.

86-505 Enterprise, defined.

Enterprise means one or more departments, offices, boards, bureaus, commissions, or institutions of the state for which money is to be appropriated for communications or data processing services, equipment, or facilities, including all executive, legislative, and judicial departments, the Nebraska state colleges, the University of Nebraska, and all other state institutions and entities.

Source: Laws 2002, LB 1105, § 275; Laws 2010, LB1071, § 38.
 Operative date April 15, 2010.

86-506 Enterprise project, defined.

Enterprise project means an endeavor undertaken by an enterprise over a fixed period of time using information technology, which would have a significant effect on a core business function or which affects multiple government programs, agencies, or institutions. Enterprise project includes all aspects of planning, design, implementation, project management, and training relating to the endeavor.

Source: Laws 2002, LB 1105, § 276; Laws 2008, LB823, § 2; Laws 2010, LB1071, § 39.
 Operative date April 15, 2010.

86-515 Nebraska Information Technology Commission; created; members; expenses; executive director.

(1) The Nebraska Information Technology Commission is created. The commission shall consist of (a) one member representing elementary and secondary education, (b) one member representing postsecondary education, (c) the Governor or his or her designee, (d) one member representing communities, and (e) five members representing the general public who have experience in developing strategic plans and making high-level business decisions. A member of the Transportation and Telecommunications Committee of the Legislature shall be appointed by the Executive Board of the Legislative Council to serve as an ex officio, nonvoting member of the commission. The Executive Board shall make the initial appointment of such member after January 5, 2011, and shall appoint a member every two years after the initial appointment. At any time that there is not a member of the Educational Service Unit Coordinating Council serving on the Nebraska Information Technology Commission, the technical panel established pursuant to section 86-521, or any working groups established pursuant to sections 86-512 to 86-524 that establish, coordinate, or prioritize needs for education, the Governor shall appoint to the commission one member who serves on the Educational Service Unit Coordinating Council.

(2) The Governor or a designee of the Governor shall serve as chairperson of the commission.

(3) The members of the commission other than the legislative member shall be appointed by the Governor with the approval of a majority of the Legislature. Members of the commission shall serve for terms of four years, except that two members initially appointed to represent the general public shall be appointed for a term of two years and any member appointed to represent the Educational Service Unit Coordinating Council shall be appointed for a term of one year. Members shall be limited to two consecutive terms. The Governor or his or her designee shall serve on the commission for his or her term. The legislative member of the commission shall serve until he or she is reappointed or a successor is appointed. Each member shall serve until the appointment and qualification of his or her successor. In case of a vacancy occurring prior to the expiration of the term of a member, the appointment shall be made only for the remainder of the term.

(4) Members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(5) The commission may employ or designate an executive director to provide administrative and operational support for the commission. The Department of Administrative Services and Nebraska Educational Telecommunications Commission shall assist with administrative and operational support for the Nebraska Information Technology Commission as necessary to carry out its duties.

Source: Laws 1998, LB 924, § 5; R.S.1943, (1999), § 86-1505; Laws 2002, LB 1105, § 285; Laws 2006, LB 1208, § 27; Laws 2007, LB603, § 32; Laws 2010, LB787, § 1.
Effective date July 15, 2010.

86-516 Commission; duties.

The commission shall:

(1) Annually by July 1, adopt policies and procedures used to develop, review, and annually update a statewide technology plan;

(2) Create an information technology clearinghouse to identify and share best practices and new developments, as well as identify existing problems and deficiencies;

(3) Review and adopt policies to provide incentives for investments in information technology infrastructure services;

(4) Determine a broad strategy and objectives for developing and sustaining information technology development in Nebraska, including long-range funding strategies, research and development investment, support and maintenance requirements, and system usage and assessment guidelines;

(5) Adopt guidelines regarding project planning and management and administrative and technical review procedures involving state-owned or state-supported technology and infrastructure. Governmental entities, state agencies, and noneducation political subdivisions shall submit all projects which use any combination of general funds, federal funds, or cash funds for information technology purposes to the process established by sections 86-512 to 86-524. The commission may adopt policies that establish the format and minimum requirements for project submissions. The commission may monitor the progress of any such project and may require progress reports;

(6) Adopt minimum technical standards, guidelines, and architectures upon recommendation by the technical panel. Such standards and guidelines shall not unnecessarily restrict the use of new technologies or prevent commercial competition, including competition with Network Nebraska;

(7) Establish ad hoc technical advisory groups to study and make recommendations on specific topics, including workgroups to establish, coordinate, and prioritize needs for education, local communities, intergovernmental data communications, and state agencies;

(8) By November 15 of each even-numbered year, make recommendations on technology investments to the Governor and the Legislature, including a prioritized list of projects, reviewed by the technical panel pursuant to section 86-521;

(9) Approve grants from the Community Technology Fund and Government Technology Collaboration Fund;

(10) Adopt schedules and procedures for reporting needs, priorities, and recommended projects;

(11) Assist the Chief Information Officer in developing and maintaining Network Nebraska pursuant to section 86-5,100; and

(12) Determine the format that state agencies, boards, and commissions shall use to report their information technology plans under section 86-524.01. The commission shall include an analysis of such plans in the statewide technology plan.

Source: Laws 1998, LB 924, § 6; Laws 1999, LB 446, § 12; R.S.1943, (1999), § 86-1506; Laws 2002, LB 1105, § 286; Laws 2005, LB 343, § 9; Laws 2006, LB 1208, § 28; Laws 2008, LB823, § 3; Laws 2010, LB1071, § 40.

Operative date April 15, 2010.

86-520 Chief Information Officer; duties.

The Chief Information Officer shall:

- (1) Maintain, in cooperation with the Department of Administrative Services, an inventory of noneducation state government technology assets, including hardware, applications, and data bases;
- (2) Recommend policies and guidelines for acceptable and cost-effective use of information technology in noneducation state government;
- (3) Advise the Governor and Legislature on policy issues affecting noneducation state government related to information technology;
- (4) Coordinate efforts among other noneducation state government technology agencies and coordinating bodies;
- (5) Implement a strategic, tactical, and project planning process for noneducation state government information technology that is linked to the budget process;
- (6) Assist the budget division of the Department of Administrative Services and Legislative Fiscal Analyst in evaluating technology-related budget requests;
- (7) Work with each governmental department and noneducation state agency to evaluate and act upon opportunities to more efficiently and effectively deliver government services through the use of information technology;
- (8) Recommend to the Governor and Legislature methods for improving the organization and management of data by noneducation agencies to achieve the goals of making information sharable and reusable, eliminating redundancy of data and programs, improving the quality and usefulness of data, and improving access to data, and implement such recommendations as the Governor or Legislature may direct;
- (9) Monitor the status of major noneducation state government technology projects;
- (10) Establish and maintain Network Nebraska pursuant to section 86-5,100;
- (11) Apply in aggregate for reimbursements from the federal Universal Service Fund pursuant to section 254 of the Telecommunications Act of 1996, 47 U.S.C. 254, as such section existed on January 1, 2006, on behalf of school districts requesting to be included in such aggregated application;
- (12) Administer such funds as may be appropriated to the Chief Information Officer by the Legislature;
- (13) Monitor the status of information technology projects that are enterprise projects;
- (14) Collect information from state agencies, boards, and commissions as provided in section 86-524.01; and
- (15) Complete other tasks as assigned by the Governor.

Source: Laws 1998, LB 924, § 10; R.S.1943, (1999), § 86-1510; Laws 2002, LB 1105, § 290; Laws 2006, LB 1208, § 29; Laws 2008, LB823, § 4; Laws 2010, LB1071, § 41.
Operative date April 15, 2010.

86-520.01 Information technology purchases; standards; use of Network Nebraska; notice required; when.

Information technology purchases made with state funds or local tax receipts by education-related political subdivisions shall meet or exceed any applicable

technical standards established by the commission. The Chief Information Officer may bid for such equipment and allow education-related political subdivisions to participate in leasing or purchasing contracts. An education-related political subdivision shall provide notice in writing, if required by guidelines established by the University of Nebraska and the Chief Information Officer for participation in Network Nebraska, to the distance education director of the Educational Service Unit Coordinating Council, the University of Nebraska, and the Chief Information Officer prior to the use of any new or additional equipment that will impact the use of Network Nebraska by such education-related political subdivision or other education-related political subdivisions.

Source: Laws 2010, LB1071, § 42.
Operative date April 15, 2010.

(h) RETAIL OR WHOLESALE SERVICES

86-593 Terms, defined.

For purposes of sections 86-593 to 86-598:

(1) Broadband services means the offering of a capability for high-speed broadband telecommunications capability at a speed or bandwidth in excess of two hundred kilobits per second that enables users to originate and receive high-quality voice, data, and video telecommunications using any technology;

(2) Internet services means the offering of Internet service provider services, providing voice over Internet protocol services, or providing Internet protocol-based video services;

(3) Public power supplier means a public power district, a public power and irrigation district, a municipal electric system, a joint entity formed under the Interlocal Cooperation Act, a joint public agency formed under the Joint Public Agency Act, an agency formed under the Municipal Cooperative Financing Act, or any other governmental entity providing electric service;

(4) Telecommunications has the same meaning as telecommunications defined in section 86-117;

(5) Telecommunications services has the same meaning as telecommunications service defined in section 86-121; and

(6) Video services means the delivery of any subscription video service except those described in section 70-625.

Source: Laws 2005, LB 645, § 1; Laws 2009, LB154, § 22.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Municipal Cooperative Financing Act, see section 18-2401.

86-597 Retail or wholesale service; how construed.

(1) For purposes of sections 86-594 to 86-596, providing a service on a retail or wholesale basis shall not include an agency or political subdivision of the state, whether or not a public power supplier, deploying or utilizing broadband services, Internet services, telecommunications services, or video services, for its own use either individually or jointly through the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act for the

internal use and purpose of the agency, political subdivision, or public power supplier or to carry out the public purposes of the agency, political subdivision, or public power supplier.

(2) Nothing in sections 86-593 to 86-598 prohibits or restricts the ability of an agency, political subdivision, or public power supplier from deploying or utilizing broadband services, Internet services, telecommunications services, or video services for the internal use and purpose of the agency, political subdivision, or public power supplier, or to carry out the public purposes of the agency, political subdivision, or public power supplier.

Source: Laws 2005, LB 645, § 5; Laws 2009, LB154, § 23.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Municipal Cooperative Financing Act, see section 18-2401.

86-598 Sections; how construed.

Except as otherwise provided in sections 86-595 and 86-596, nothing in sections 86-593 to 86-598 shall be construed to restrict or expand any authority of a public power supplier as that authority existed prior to September 4, 2005.

Source: Laws 2005, LB 645, § 6; Laws 2009, LB154, § 24.

86-599 Repealed. Laws 2009, LB 154, § 27.

(i) NETWORK NEBRASKA

86-5,100 Network Nebraska; development and maintenance; access; Chief Information Officer; duties; cost; report.

The Chief Information Officer, in partnership with the University of Nebraska, shall develop and maintain a statewide, multipurpose, high capacity, scalable telecommunications network to be called Network Nebraska. The network shall consist of contractual arrangements with providers to meet the demand of state agencies, local governments, and educational entities as defined in section 79-1201.01. Such network shall provide access to a reliable and affordable infrastructure capable of carrying a spectrum of services and applications, including distance education, across the state. The Chief Information Officer shall provide access to each school district, each educational service unit, each community college, each state college, and the University of Nebraska at the earliest feasible date and no later than July 1, 2012. Access may be provided through educational service units or other aggregation points. Participation in Network Nebraska shall not be required for any educational entity. The Chief Information Officer shall aggregate demand for those state agencies and educational entities choosing to participate and shall reduce costs for participants whenever feasible. The Chief Information Officer shall establish a cost structure based on actual costs, including necessary administrative expenses but not including administrative travel or conference expenses, and shall charge participants according to such cost structure. The Chief Information Officer shall annually provide a detailed report of such costs to each participant and to the Legislative Fiscal Analyst.

Source: Laws 2006, LB 1208, § 30; Laws 2007, LB603, § 33; Laws 2010, LB1071, § 43.

Operative date April 15, 2010.

86-5,101 Repealed. Laws 2009, LB 545, § 26.

**ARTICLE 8
KELSEY SMITH ACT**

Section

86-801. Act, how cited.

86-802. Terms, defined.

86-803. Wireless carrier; provide call location information.

86-804. Limitation on liability.

86-805. Wireless carrier; provide contact information; Nebraska State Patrol; duties.

86-806. Nebraska State Patrol; provide information to law enforcement agencies.

86-807. Voluntary disclosure of call location information.

86-801 Act, how cited.

Sections 86-801 to 86-807 shall be known and may be cited as the Kelsey Smith Act.

Source: Laws 2010, LB735, § 1.

Effective date July 15, 2010.

86-802 Terms, defined.

For purposes of the Kelsey Smith Act:

(1) Call location information means the best available location information, including, but not limited to, information obtained using historical cellular site information or a mobile locator tool;

(2) Law enforcement agency means a police department, a town marshal, the office of sheriff, and the Nebraska State Patrol;

(3) Wireless carrier has the same meaning as in section 86-456; and

(4) Wireless communication device means any wireless electronic communication device that provides for voice or data communication between two or more parties, including a mobile or cellular telephone.

Source: Laws 2010, LB735, § 2.

Effective date July 15, 2010.

86-803 Wireless carrier; provide call location information.

Upon request of any law enforcement agency, a wireless carrier shall provide call location information concerning the wireless communication device of a user as soon as practicable following receipt of the request to facilitate the response to a call for emergency services or in an emergency situation that involves the risk or threat of death or serious physical harm.

Source: Laws 2010, LB735, § 3.

Effective date July 15, 2010.

86-804 Limitation on liability.

No cause of action shall lie in any court against any wireless carrier or its officers, employees, agents, or assigns for providing call location information while acting at the request of a law enforcement agency in accordance with the provisions of the Kelsey Smith Act. All wireless carriers shall be held harmless from any and all claims, damages, costs, and expenses, including attorney's

fees, arising from or related to the release of call location information while acting at the request of a law enforcement agency.

Source: Laws 2010, LB735, § 4.
Effective date July 15, 2010.

86-805 Wireless carrier; provide contact information; Nebraska State Patrol; duties.

(1) Any wireless carrier authorized to do business in this state or submitting to the jurisdiction of this state shall provide updated contact information to the Nebraska State Patrol on a semiannual basis or within three working days after a change in such information that would render previous contact information invalid or inefficient for use under the Kelsey Smith Act.

(2) The Nebraska State Patrol shall collect and maintain a register of contact information for all such wireless carriers.

Source: Laws 2010, LB735, § 5.
Effective date July 15, 2010.

86-806 Nebraska State Patrol; provide information to law enforcement agencies.

The Nebraska State Patrol shall provide the information collected pursuant to section 86-805 to all law enforcement agencies in this state on a quarterly basis or as soon as practicable if a change in such information has occurred.

Source: Laws 2010, LB735, § 6.
Effective date July 15, 2010.

86-807 Voluntary disclosure of call location information.

Notwithstanding any other provision of law to the contrary, nothing in the Kelsey Smith Act shall prohibit a wireless carrier from establishing protocols by which the wireless carrier could voluntarily disclose call location information.

Source: Laws 2010, LB735, § 7.
Effective date July 15, 2010.



CHAPTER 87

TRADE PRACTICES

Article.

2. Trade Names. 87-214, 87-219.
3. Deceptive Trade Practices.
 - (a) Uniform Deceptive Trade Practices Act. 87-301 to 87-306.

ARTICLE 2

TRADE NAMES

Section

- 87-214. Registration; Secretary of State; cancel; when.
87-219. Trade name; publication; file; failure; effect.

87-214 Registration; Secretary of State; cancel; when.

The Secretary of State shall cancel from the register:

(1) Any registration concerning which the Secretary of State shall receive a voluntary request for cancellation from the registrant or the assignee of record;

(2) Any registration granted under sections 87-208 to 87-220 and not renewed in accordance with such sections;

(3) Any registration concerning which a court of competent jurisdiction shall find:

- (a) That the registered trade name has been abandoned;
- (b) That the registrant is not the owner of the trade name;
- (c) That the registration was granted improperly; or
- (d) That the registration was obtained fraudulently;

(4) Any registration that a court of competent jurisdiction shall order canceled on any ground; and

(5) Any registration where the registrant has failed to publish such trade name within forty-five days from the filing in the office of the Secretary of State and filing proof of publication with the Secretary of State and county clerk within the forty-five days.

Source: Laws 1967, c. 628, § 7, p. 2102; Laws 1997, LB 453, § 12; Laws 2010, LB690, § 1.
Effective date July 15, 2010.

87-219 Trade name; publication; file; failure; effect.

Every duplicate of the registration of a trade name shall be published by the applicant once in a newspaper of general circulation published in the city or village where the business is to be located, or, if there is no newspaper in the city or village, in some newspaper of general circulation in the county. Proof of such publication shall be filed in the office of the Secretary of State and with the county clerk of the county wherein the principal office is located, within forty-five days from the date of registration in the office of the Secretary of

State. If proof of publication is not filed with the Secretary of State and county clerk within the forty-five days, the registration shall be canceled by the Secretary of State.

Source: Laws 1967, c. 628, § 13, p. 2104; Laws 2010, LB690, § 2.
Effective date July 15, 2010.

ARTICLE 3

DECEPTIVE TRADE PRACTICES

(a) UNIFORM DECEPTIVE TRADE PRACTICES ACT

Section

- 87-301. Terms, defined.
- 87-302. Deceptive trade practices; enumerated.
- 87-303. Deceptive trade practices; damages; injunction; costs; additional remedy.
- 87-303.02. Deceptive trade practice or unconscionable act; Attorney General; powers.
- 87-303.03. Attorney General; additional powers.
- 87-303.12. Copy of pleadings, orders, judgments, and notices; provided to Attorney General; right to intervene.
- 87-306. Act, how cited.

(a) UNIFORM DECEPTIVE TRADE PRACTICES ACT

87-301 Terms, defined.

For purposes of the Uniform Deceptive Trade Practices Act, unless the context otherwise requires:

(1) Access software provider means a provider of software, including client or server software, or enabling tools that do any one or more of the following: (a) Filter, screen, allow, or disallow content; (b) pick, choose, analyze, or digest content; or (c) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content;

(2) Appropriate inventory repurchase program means a program by which a plan or operation repurchases, upon request and upon commercially reasonable terms, when the salesperson's business relationship with the company ends, current and marketable inventory in the possession of the salesperson that was purchased by the salesperson for resale. Any such plan or operation shall clearly describe the program in its recruiting literature, sales manual, or contract with independent salespersons, including the disclosure of any inventory that is not eligible for repurchase under the program;

(3) Article means a product as distinguished from its trademark, label, or distinctive dress in packaging;

(4) Attorney General means the Attorney General of the State of Nebraska or the county attorney of any county with the consent and advice of the Attorney General;

(5) Cable operator means any person or group of persons (a) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system or (b) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system;

(6) Certification mark means a mark used in connection with the goods or services of a person other than the certifier to indicate geographic origin, material, mode of manufacture, quality, accuracy, or other characteristics of

the goods or services or to indicate that the work or labor on the goods or services was performed by members of a union or other organization;

(7) Collective mark means a mark used by members of a cooperative, association, or other collective group or organization to identify goods or services and distinguish them from those of others, or to indicate membership in the collective group or organization;

(8) Commercially reasonable terms means the repurchase of current and marketable inventory within twelve months from the date of purchase at not less than ninety percent of the original net cost, less appropriate setoffs and legal claims, if any;

(9) Compensation means a payment of any money, thing of value, or financial benefit;

(10) Consideration means anything of value, including the payment of cash or the purchase of goods, services, or intangible property. The term does not include the purchase of goods or services furnished at cost to be used in making sales and not for resale or time and effort spent in pursuit of sales or recruiting activities;

(11) Covered file-sharing program means a computer program, application, or software that enables the computer on which such program, application, or software is installed to designate files as available for searching by and copying to one or more other computers, to transmit such designated files directly to one or more other computers, and to request the transmission of such designated files directly from one or more other computers. Covered file-sharing program does not mean a program, application, or software designed primarily to operate as a server that is accessible over the Internet using the Internet Domain Name System, to transmit or receive email messages, instant messaging, real-time audio or video communications, or real-time voice communications, or to provide network or computer security, network management, hosting and backup services, maintenance, diagnostics, technical support or repair, or to detect or prevent fraudulent activities;

(12) Current and marketable has its plain and ordinary meaning but excludes inventory that is no longer within its commercially reasonable use or shelf-life period, was clearly described to salespersons prior to purchase as seasonal, discontinued, or special promotion products not subject to the plan or operation's inventory repurchase program, or has been used or opened;

(13) Information content provider means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service;

(14) Interactive computer service means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions;

(15) Inventory includes both goods and services, including company-produced promotional materials, sales aids, and sales kits that the plan or operation requires independent salespersons to purchase;

(16) Inventory loading means that the plan or operation requires or encourages its independent salespersons to purchase inventory in an amount which

exceeds that which the salesperson can expect to resell for ultimate consumption or to a consumer in a reasonable time period, or both;

(17) Investment means any acquisition, for a consideration other than personal services, of personal property, tangible or intangible, for profit or business purposes, and includes, without limitation, franchises, business opportunities, and services. It does not include real estate, securities registered under the Securities Act of Nebraska, or sales demonstration equipment and materials furnished at cost for use in making sales and not for resale;

(18) Mark means a word, name, symbol, device, or any combination of a word, name, symbol, or device in any form or arrangement;

(19) Person means a natural person, a corporation, a government, or a governmental subdivision or agency, a business trust, an estate, a trust, a partnership, a joint venture, a limited liability company, an unincorporated association, a sole proprietorship, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;

(20) Pyramid promotional scheme means any plan or operation in which a participant gives consideration for the right to receive compensation that is derived primarily from the recruitment of other persons as participants in the plan or operation rather than from the sales of goods, services, or intangible property to participants or by participants to others. A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility, or upon payment of anything of value by a person whereby the person obtains any other property in addition to the right to receive consideration, does not change the identity of the scheme as a pyramid promotional scheme;

(21) Referral or chain referral sales or leases means any sales technique, plan, arrangement, or agreement whereby the seller or lessor gives or offers to give a rebate or discount or otherwise pays or offers to pay value to the buyer or lessee as an inducement for a sale or lease in consideration of the buyer or lessee giving to the seller or lessor the names of prospective buyers or lessees or otherwise aiding the seller or lessor in making a sale or lease to another person if the earning of the rebate, discount, or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease;

(22) Service mark means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others;

(23) Telecommunications service means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used;

(24) Trademark means any word, name, symbol, or device or any combination thereof adopted and used by a person to identify goods made or sold by such person and to distinguish such goods from goods made or sold by others;

(25) Trade name means a word or a name, or any combination of the foregoing in any form or arrangement used by a person to identify such person's business, vocation, or occupation and distinguish such business, vocation, or occupation from the business, vocation, or occupation of others; and

(26) Use or promote the use of, for purposes of subdivision (a)(12) of section 87-302, means contrive, prepare, establish, plan, operate, advertise, or other-

wise induce or attempt to induce another person to participate in a pyramid promotional scheme, including a pyramid promotional scheme run through the Internet, email, or other electronic communications.

Source: Laws 1969, c. 855, § 1, p. 3221; Laws 1974, LB 327, § 1; Laws 1993, LB 121, § 557; Laws 2002, LB 857, § 6; Laws 2010, LB801, § 1.

Effective date July 15, 2010.

Cross References

Securities Act of Nebraska, see section 8-1123.

87-302 Deceptive trade practices; enumerated.

(a) A person engages in a deceptive trade practice when, in the course of his or her business, vocation, or occupation, he or she:

- (1) Passes off goods or services as those of another;
- (2) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
- (3) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;
- (4) Uses deceptive representations or designations of geographic origin in connection with goods or services;
- (5) Represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he or she does not have;
- (6) Represents that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand, except that sellers may repair damage to and make adjustments on or replace parts of otherwise new goods in an effort to place such goods in compliance with factory specifications;
- (7) Represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;
- (8) Disparages the goods, services, or business of another by false or misleading representation of fact;
- (9) Advertises goods or services with intent not to sell them as advertised or advertises the price in any manner calculated or tending to mislead or in any way deceive a person;
- (10) Advertises goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;
- (11) Makes false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;
- (12) Uses or promotes the use of or establishes, operates, or participates in a pyramid promotional scheme in connection with the solicitation of such scheme to members of the public. This subdivision shall not be construed to prohibit a plan or operation, or to define a plan or operation as a pyramid promotional scheme, based on the fact that participants in the plan or operation give consideration in return for the right to receive compensation based upon purchases of goods, services, or intangible property by participants for personal use, consumption, or resale so long as the plan or operation does not

promote or induce inventory loading and the plan or operation implements an appropriate inventory repurchase program;

(13) With respect to a sale or lease to a natural person of goods or services purchased or leased primarily for personal, family, household, or agricultural purposes, uses or employs any referral or chain referral sales technique, plan, arrangement, or agreement;

(14) Knowingly makes a false or misleading statement in a privacy policy, published on the Internet or otherwise distributed or published, regarding the use of personal information submitted by members of the public;

(15) Uses any scheme or device to defraud by means of:

(i) Obtaining money or property by knowingly false or fraudulent pretenses, representations, or promises; or

(ii) Selling, distributing, supplying, furnishing, or procuring any property for the purpose of furthering such scheme;

(16) Offers an unsolicited check, through the mail or by other means, to promote goods or services if the cashing or depositing of the check obligates the endorser or payee identified on the check to pay for goods or services. This subdivision does not apply to an extension of credit or an offer to lend money;

(17) Mails or causes to be sent an unsolicited billing statement, invoice, or other document that appears to obligate the consumer to make a payment for services or merchandise he or she did not order;

(18)(i) Installs, offers to install, or makes available for installation or download a covered file-sharing program on a computer not owned by such person without providing clear and conspicuous notice to the owner or authorized user of the computer that files on that computer will be made available to the public and without requiring intentional and affirmative activation of the file-sharing function of such covered file-sharing program by the owner or authorized user of the computer; or

(ii) Prevents reasonable efforts to block the installation, execution, or disabling of a covered file-sharing program; or

(19) Violates any provision of the Nebraska Foreclosure Protection Act.

(b) In order to prevail in an action under the Uniform Deceptive Trade Practices Act, a complainant need not prove competition between the parties.

(c) This section does not affect unfair trade practices otherwise actionable at common law or under other statutes of this state.

Source: Laws 1969, c. 855, § 2, p. 3222; Laws 1974, LB 327, § 2; Laws 1976, LB 820, § 1; Laws 1979, LB 257, § 1; Laws 1988, LB 180, § 1; Laws 1991, LB 408, § 1; Laws 1993, LB 305, § 32; Laws 2003, LB 118, § 1; Laws 2008, LB123, § 29; Laws 2008, LB781, § 1; Laws 2009, LB155, § 18; Laws 2010, LB801, § 2.
Effective date July 15, 2010.

Cross References

Nebraska Foreclosure Protection Act, see section 76-2701.

87-303 Deceptive trade practices; damages; injunction; costs; additional remedy.

(a) A person likely to be damaged by a deceptive trade practice of another may bring an action for, and the court may grant, an injunction under the

principles of equity against the person committing the deceptive trade practice. The court may order such additional equitable relief as it deems necessary to protect the public from further violations, including temporary and permanent injunctive relief. Proof of monetary damage, loss of profits, or intent to deceive is not required. Relief granted for the copying of an article shall be limited to the prevention of confusion or misunderstanding as to source.

(b) Costs shall be allowed to the prevailing party unless the court otherwise directs. The court in its discretion may award attorneys' fees to the prevailing party if (1) the party complaining of a deceptive trade practice has brought an action which he knew to be groundless or (2) the party charged with a deceptive trade practice has willfully engaged in the trade practice knowing it to be deceptive.

(c) A claim filed for a violation of the Uniform Deceptive Trade Practices Act shall be proved by a preponderance of the evidence.

(d) The relief provided in this section is in addition to remedies otherwise available against the same conduct under the common law or other statutes of this state.

(e) Subdivision (a)(12) of section 87-302 shall not be construed to authorize a civil action against an interactive computer service, provider of telecommunications service, or cable operator for the actions of an information content provider.

Source: Laws 1969, c. 855, § 3, p. 3223; Laws 2010, LB801, § 3.
Effective date July 15, 2010.

87-303.02 Deceptive trade practice or unconscionable act; Attorney General; powers.

When the Attorney General has cause to believe that any person has engaged in or is engaging in any deceptive trade practice or unconscionable act listed in section 87-302 or 87-303.01, the Attorney General may:

(a) Require such person to file a statement or report in writing under oath or otherwise, on such forms as shall be prescribed by the Attorney General, as to all facts and circumstances concerning the sale, offer, or advertisement of property by such person, and such other data and information as the Attorney General deems necessary;

(b) Examine under oath any person in connection with the sale or advertisement of any property;

(c) Examine any property or sample thereof, record, book, document, account, or paper as the Attorney General deems necessary; or

(d) Pursuant to an order of any district court, impound any record, book, document, account, paper, or sample of property which is material to such practice and retain the same in his or her possession until the completion of all proceedings undertaken under the Uniform Deceptive Trade Practices Act.

Source: Laws 1974, LB 327, § 4; Laws 2008, LB781, § 3; Laws 2010, LB801, § 5.
Effective date July 15, 2010.

87-303.03 Attorney General; additional powers.

(1) The Attorney General, in addition to other powers conferred upon him or her by the Uniform Deceptive Trade Practices Act:

(a) May issue subpoenas to require the attendance of witnesses or the production of documents, administer oaths, conduct hearings in aid of any investigation or inquiry, and prescribe such forms and adopt and promulgate such rules as may be necessary to administer the act; and

(b) May issue a cease and desist order, with or without prior hearing, against any person engaged in activities in violation of the act, directing such person to cease and desist from such activity.

(2) Service of any notice or subpoena may be made in the manner prescribed by the rules of civil procedure.

Source: Laws 1974, LB 327, § 5; Laws 2008, LB781, § 4; Laws 2010, LB801, § 6.

Effective date July 15, 2010.

87-303.12 Copy of pleadings, orders, judgments, and notices; provided to Attorney General; right to intervene.

(1) A party filing a petition, counterclaim, cross-petition, or pleading in intervention alleging a violation under the Uniform Deceptive Trade Practices Act, within seven days following the date of filing such pleading, shall provide a copy to the Attorney General and, within seven days following entry of any final judgment in the action, shall provide a copy of the judgment to the Attorney General. This subsection does not apply to Small Claims Court actions, except as provided in subsection (2) of this section.

(2) A party appealing a Small Claims Court order or judgment to district court involving an issue raised under the act, within seven days of providing notice of the appeal, shall notify the Attorney General in writing and provide a copy of the pleading raising the issue and a copy of the Small Claims Court order or judgment.

(3) A party appealing an order or judgment involving an issue raised under the act, within seven days following the date such notice of appeal is filed with the court, shall notify the Attorney General in writing and provide a copy of the pleading raising the issue and a copy of the court order or judgment being appealed.

(4) Upon timely application to the court in which an action involving an issue raised under the act is pending, the Attorney General may intervene as a party at any time or may be heard at any time. The Attorney General's failure to intervene shall not preclude the Attorney General from bringing a separate enforcement action.

(5) All copies of pleadings, orders, judgments, and notices required by this section to be sent to the Attorney General shall be sent by certified mail unless the Attorney General has previously been provided such copies of the pleadings, orders, judgments, or notices in the same action by certified mail, in which case subsequent mailings may be made by regular mail. Failure to provide the required mailings to the Attorney General shall not be grounds for dismissal of an action under the act, but may be grounds for a subsequent action by the Attorney General to vacate or modify the judgment.

Source: Laws 2010, LB801, § 4.

Effective date July 15, 2010.

87-306 Act, how cited.

Sections 87-301 to 87-306 shall be known and may be cited as the Uniform Deceptive Trade Practices Act.

Source: Laws 1969, c. 855, § 6, p. 3224; Laws 1974, LB 327, § 14; Laws 1990, LB 656, § 26; Laws 2010, LB801, § 7.
Effective date July 15, 2010.



CHAPTER 88

WAREHOUSES

Article.

5. Grain Warehouses. 88-545.01, 88-552.

ARTICLE 5

GRAIN WAREHOUSES

Section

- 88-545.01. Commission; contracts for audit or examination work authorized; Grain Warehouse Auditing Fund; created; use; investment.
- 88-552. Nebraska Grain Warehouse Surveillance Cash Fund; created; use; investment.

88-545.01 Commission; contracts for audit or examination work authorized; Grain Warehouse Auditing Fund; created; use; investment.

(1) The commission may enter into contracts with public or private entities which provide a benefit for both parties for purposes of performing audit or examination work. The commission shall conduct the work as time permits and shall not allow the work to conflict with the commission's primary responsibility of performing grain warehouse examinations within the prescribed statutory time.

(2) Fees from audit or examination contracts shall be remitted by the commission to the State Treasurer for credit to the Grain Warehouse Auditing Fund which is created. The fund shall be available to the commission to buy material and equipment for performing audits and examinations or to offset the cost of performing audits and examinations. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Grain Warehouse Auditing 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 1123, § 7; Laws 2009, First Spec. Sess., LB3, § 99.

Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

88-552 Nebraska Grain Warehouse Surveillance Cash Fund; created; use; investment.

There is hereby created in the state treasury a fund to be known as the Nebraska Grain Warehouse Surveillance Cash Fund. Such fund shall be used solely for disbursing funds and receiving reimbursement for services performed by the commission in the suspension or termination of a warehouse operation, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. All money received by the commission for such

services shall be remitted to the State Treasurer for credit to the Nebraska Grain Warehouse Surveillance 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 1986, LB 137, § 1; R.S.1943, (1981), § 88-502.02; Laws 1987, LB 164, § 28; Laws 1995, LB 7, § 154; Laws 2009, First Spec. Sess., LB3, § 100.
Effective date November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 89

WEIGHTS AND MEASURES

Article.

1. General Provisions.
 - (b) Weights and Measures Act. 89-1,100.

ARTICLE 1

GENERAL PROVISIONS

(b) WEIGHTS AND MEASURES ACT

Section

89-1,100. Weights and Measures Administrative Fund; created; use; investment; fees, penalties, and other money; lien.

(b) WEIGHTS AND MEASURES ACT

89-1,100 Weights and Measures Administrative Fund; created; use; investment; fees, penalties, and other money; lien.

The director shall collect registration, permit, laboratory, test, and inspection fees, penalties, and money required to be reimbursed as provided for in the Weights and Measures Act and shall remit such funds to the State Treasurer. The State Treasurer shall credit such funds to the Weights and Measures Administrative Fund, which fund is hereby created. All fees, penalties, and reimbursements collected pursuant to the act and credited to the 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 unexpended balance in the Weights and Measures 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. The registration, permit, laboratory, test, and inspection fees, penalties, and money required to be reimbursed as provided for in the Weights and Measures Act shall constitute a lien on the weighing and measuring devices or standards required to be registered or approved for use in this state until such fees, penalties, and reimbursements are paid. The director may sue for such fees, penalties, and reimbursements and may seek to foreclose on any lien in the name of the state. The county attorney of the county in which the device is located or the Attorney General's office shall, upon the request of the director, take appropriate action to establish and foreclose on any such lien.

Source: Laws 1972, LB 1413, § 18; Laws 1974, LB 17, § 2; Laws 1986, LB 258, § 45; Laws 1991, LB 356, § 30; Laws 1994, LB 1066, § 142; Laws 2001, LB 541, § 9; Laws 2003, LB 161, § 7; Laws 2009, First Spec. Sess., LB3, § 101.
Effective date November 21, 2009.

§ 89-1,100

WEIGHTS AND MEASURES

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 90 SPECIAL ACTS

Article.

2. Specific Conveyances. 90-215 to 90-273.
3. Capitol Environs. 90-303.
5. Appropriations. 90-501 to 90-520.

ARTICLE 2 SPECIFIC CONVEYANCES

Section

- 90-215. Repealed. Laws 2010, LB 743, § 6.
90-272. Game and Parks Commission; convey property to village of Arnold.
90-273. Game and Parks Commission; convey property to city of Atkinson.

90-215 Repealed. Laws 2010, LB 743, § 6.

90-272 Game and Parks Commission; convey property to village of Arnold.

The Game and Parks Commission is authorized to convey to the village of Arnold for public park purposes the following described real estate now known as Arnold State Recreation Area, situated in the county of Custer, in the State of Nebraska, to-wit: A tract of land in the northwest quarter of the southeast quarter of section 28, township 17 north, range 25 west of the 6th principal meridian, described as follows: Beginning at the northeast corner of said northwest quarter of the southeast quarter, running thence west 660.0 feet, thence south 330.0 feet, thence south 45 degrees east to a point 330.0 feet north of the southeast corner of said northwest quarter of the southeast quarter, thence north 990.0 feet to the place of beginning, and containing 10 acres more or less; and a tract of land in the northeast quarter of the southeast quarter of section 28, township 17 north, range 25 west of the 6th principal meridian, described as follows: Beginning at the northwest corner of said northeast quarter of the southeast quarter, running thence east 660.0 feet, more or less, to the center of the channel of the South Loup River, thence in a southerly and easterly direction along the center of the channel of said river to its intersection with the east line of said northeast quarter of the southeast quarter, said point of intersection being 528.0 feet, more or less, south of the northeast corner of said northeast quarter of the southeast quarter, thence south along said east line 630.0 feet, thence west 1,320.0 feet, more or less, to the west line of said northeast quarter of the southeast quarter, thence north along said west line 1,158.0 feet to the place of beginning, and containing 30 acres, more or less, except that if the village of Arnold ceases to operate the lands conveyed as a public park and recreation area, title to such lands shall revert to the Game and Parks Commission.

Source: Laws 2010, LB743, § 1.
Effective date March 4, 2010.

90-273 Game and Parks Commission; convey property to city of Atkinson.

The Game and Parks Commission is authorized to convey to the city of Atkinson for public park purposes the following described real estate now known as Atkinson State Recreation Area, situated in the county of Holt, in the State of Nebraska, to-wit: A tract of land in Blocks 53, 54, 55, 56, 57, 58, 59, and 60, all in Mathew's Addition to Atkinson, Holt County, Nebraska; and the southeast quarter of the southwest quarter of section 30, township 30 north, range 14 west of the 6th principal meridian, excepting therefrom a parcel described as follows: Commencing at the southwest corner of the southeast quarter of the southwest quarter, section 30, township 30 north, range 14 west of the 6th principal meridian, thence running due north 42.42 rods; thence running due east 36.36 rods; thence running due south 24.24 rods; thence running due east 18.18 rods; thence running due south 18.18 rods; thence running due west 54.54 rods to the place of beginning, containing 49.51 acres, more or less, Holt County, Nebraska; the southwest quarter of section 30, township 30 north, range 14 west, Holt County, Nebraska; and that part of the southwest quarter of the southeast quarter of section 30, township 30 north, range 14 west of the 6th principal meridian, Holt County, Nebraska, described as follows: Commencing at the northwest corner of the southwest quarter of the southeast quarter of said section 30, thence running on a line south 57 degrees, 35 minutes, east a distance of 347.56 feet, thence due south a distance of 433.75 feet, thence due west a distance of 293.38 feet, thence due north a distance of 620.1 feet to the point of beginning containing 3.55 acres, more or less, except that if the city of Atkinson ceases to operate the lands conveyed as a public park and recreation area, title to such lands shall revert to the Game and Parks Commission.

Source: Laws 2010, LB743, § 2.
Effective date March 4, 2010.

ARTICLE 3 CAPITOL ENVIRONS

Section

90-303. Nebraska State Capitol Environs District; maximum height restrictions; enforcement; exemptions; city of Lincoln; powers and duties.

90-303 Nebraska State Capitol Environs District; maximum height restrictions; enforcement; exemptions; city of Lincoln; powers and duties.

(1) The maximum height of any buildings and structures built after March 8, 1977, shall be restricted as follows:

(a) The maximum height of buildings and structures shall be forty-five feet or National Geodetic Survey elevation 1235.0 feet, whichever is lower, within an area bounded on the west by Seventeenth Street, on the north by K Street, on the east by a boundary formed by a line extending in a true south direction as an extension of the east property line of Twenty-fourth Street, and on the south by a boundary formed by a line extending directly in a true east direction to the east property line of Twenty-fourth Street from the centerpoint of the intersection of Seventeenth and H Streets, all streets in the city of Lincoln, Lancaster County, Nebraska;

(b) The maximum height of buildings and structures shall be forty-five feet or National Geodetic Survey elevation 1235.0 feet, whichever is lower, within an area bounded on the west by Fourteenth Street, on the north by G Street, on

the east by Sixteenth Street, and on the south by Washington Street, all streets in the city of Lincoln, Lancaster County, Nebraska;

(c) The maximum height of the buildings and structures shall be fifty-seven feet or National Geodetic Survey elevation 1247.0 feet, whichever is lower, within an area bounded on the west by Thirteenth Street, on the north by L Street, on the east by Seventeenth Street, and on the south by G Street, all streets in the city of Lincoln, Lancaster County, Nebraska;

(d) The maximum height of the buildings and structures shall be fifty-seven feet or National Geodetic Survey elevation 1247.0 feet, whichever is lower, within an area bounded on the west by Fourteenth Street, on the north by S Street, on the east by Sixteenth Street, and on the south by L Street, all streets in the city of Lincoln, Lancaster County, Nebraska; and

(e) The maximum height of the buildings and structures shall be fifty-seven feet or National Geodetic Survey elevation 1247.0 feet, whichever is lower, within an area bounded on the west by Fifth Street, on the north by K Street, on the east by Thirteenth Street, and on the south by H Street, all streets in the city of Lincoln, Lancaster County, Nebraska.

(2) For the purposes of the Nebraska State Capitol Environs Act, the areas and the full width of the right-of-way boundary streets described in subsections (1) and (3) of this section shall together constitute and be defined as the Nebraska State Capitol Environs District.

(3) Design approval shall be required for all aboveground utility, construction, and landscape improvements in the public right-of-way bounded on the north and south by the property lines of J Street, on the west by a boundary formed by a line extending in a true south direction as an extension of the east property line of Twenty-fourth Street, and on the east by a line extending in a true north direction as an extension of the east property line of Thirty-fifth Street.

(4) The city of Lincoln shall insure, through its inspection and permit procedures, that the maximum height restrictions and design review process prescribed by this section for the Nebraska State Capitol Environs District are enforced.

(5) The height restrictions and design review process required by this section shall apply, within the Nebraska State Capitol Environs District, to all real estate in private or quasi-public ownership and to real estate owned by the State of Nebraska and local governmental units of all types.

(6) The following appurtenances shall be exempt from the height restrictions required by this section, but such appurtenances shall not exceed twenty feet in height above the maximum height permitted in subsection (1) of this section and shall be set back a minimum of fifteen feet from all faces of a building when such faces are adjacent to a street: Church spires, cooling towers with approved screening, elevator bulkheads, fire towers, monuments, stage towers or scenery lofts, ornamental towers, and spires.

(7) Nothing in the act shall be construed as limiting the authority of the city of Lincoln to impose lower height restrictions than those maximum height limits established by subsection (1) of this section or in establishing lower height restrictions for appurtenances than those required by subsection (6) of this section.

(8) The city of Lincoln shall review and approve or disapprove plans and proposals for demolition, exterior alteration, and construction of structures and other improvements in the Nebraska State Capitol Environs District. The city of Lincoln shall adopt regulations within its zoning code vesting responsibility for review, approval, and disapproval of projects with the Nebraska State Capitol Environs Commission established by the city of Lincoln.

(9) The regulations of the city of Lincoln for design review in the Nebraska State Capitol Environs District shall emphasize the long-term enhancement of the State Capitol's setting and of enjoyment of the State Capitol by the citizens while respecting the interests of property owners, including economic interests and the desirability of predictable, expeditious review.

Source: Laws 1977, LB 172, § 3; Laws 1993, LB 271, § 3; Laws 2002, LB 729, § 13; Laws 2009, LB450, § 1.

ARTICLE 5 APPROPRIATIONS

Section

- 90-501. Transfer to Personnel Division Revolving Fund.
- 90-502. Transfer to Personnel Division Revolving Fund.
- 90-503. Transfer to Ethanol Production Incentive Cash Fund.
- 90-504. Transfer to Ethanol Production Incentive Cash Fund.
- 90-505. Repealed. Laws 2009, First Spec. Sess., LB 2, § 9.
- 90-506. Transfer to Water Resources Cash Fund.
- 90-507. Transfer to Water Resources Cash Fund.
- 90-508. Transfer to Ethanol Production Incentive Cash Fund.
- 90-509. Transfer to Ethanol Production Incentive Cash Fund.
- 90-510. Transfer to Property Tax Credit Cash Fund.
- 90-511. Transfer to Property Tax Credit Cash Fund.
- 90-512. Transfer to Joseph Soukup Trust Fund.
- 90-513. Transfer to Nebraska Cultural Preservation Endowment Fund.
- 90-514. Transfer to Nebraska Cultural Preservation Endowment Fund.
- 90-515. Transfer to Ethanol Production Incentive Cash Fund.
- 90-516. Transfer to Ethanol Production Incentive Cash Fund.
- 90-517. State aid for community college areas for FY2010-11.
- 90-518. Legislative Council.
- 90-519. State Department of Education.
- 90-520. Fund Transfers.

90-501 Transfer to Personnel Division Revolving Fund.

The State Treasurer shall transfer \$100,000 from the Department of Administrative Services Revolving Fund to the Personnel Division Revolving Fund, as soon as possible, on or after May 20, 2009.

Source: Laws 2009, LB316, § 1.

90-502 Transfer to Personnel Division Revolving Fund.

The State Treasurer shall transfer \$265,000 from the Accounting Division Revolving Fund to the Personnel Division Revolving Fund, as soon as possible, on or after May 20, 2009.

Source: Laws 2009, LB316, § 2.

90-503 Transfer to Ethanol Production Incentive Cash Fund.

The State Treasurer shall transfer \$2,500,000 from the General Fund to the Ethanol Production Incentive Cash Fund on or before June 30, 2010, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to subdivision (2)(g) of section 66-1345.04.

Source: Laws 2009, LB316, § 3.

90-504 Transfer to Ethanol Production Incentive Cash Fund.

The State Treasurer shall transfer \$2,500,000 from the General Fund to the Ethanol Production Incentive Cash Fund on or before June 30, 2011, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to subdivision (2)(g) of section 66-1345.04.

Source: Laws 2009, LB316, § 4.

90-505 Repealed. Laws 2009, First Spec. Sess., LB 2, § 9.

90-506 Transfer to Water Resources Cash Fund.

The State Treasurer shall transfer \$2,700,000 from the General Fund to the Water Resources Cash Fund on or before June 30, 2010, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to section 61-218.

Source: Laws 2009, LB316, § 6.

90-507 Transfer to Water Resources Cash Fund.

The State Treasurer shall transfer \$2,700,000 from the General Fund to the Water Resources Cash Fund on or before June 30, 2011, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to section 61-218.

Source: Laws 2009, LB316, § 7.

90-508 Transfer to Ethanol Production Incentive Cash Fund.

The State Treasurer shall transfer \$8,250,000 from the General Fund to the Ethanol Production Incentive Cash Fund on or before June 30, 2010, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to subdivision (2)(j) of section 66-1345.04.

Source: Laws 2009, LB316, § 8.

90-509 Transfer to Ethanol Production Incentive Cash Fund.

The State Treasurer shall transfer \$3,000,000 from the General Fund to the Ethanol Production Incentive Cash Fund on or before June 30, 2011, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to subdivision (2)(k) of section 66-1345.04.

Source: Laws 2009, LB316, § 9.

90-510 Transfer to Property Tax Credit Cash Fund.

The State Treasurer shall transfer \$112,000,000 from the General Fund to the Property Tax Credit Cash Fund on or before December 31, 2009, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2009, LB316, § 10.

90-511 Transfer to Property Tax Credit Cash Fund.

The State Treasurer shall transfer \$112,000,000 from the General Fund to the Property Tax Credit Cash Fund on or before December 31, 2010, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2009, LB316, § 11.

90-512 Transfer to Joseph Soukup Trust Fund.

The State Treasurer shall transfer \$100,000 from the Nebraska Health Care Cash Fund to the Joseph Soukup Trust Fund before July 1, 2009.

Source: Laws 2009, LB316, § 12.

90-513 Transfer to Nebraska Cultural Preservation Endowment Fund.

The State Treasurer shall transfer an amount as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to subdivisions (3) and (4) of section 82-331, not to exceed \$500,000, from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31, 2009, or as soon thereafter as administratively possible.

Source: Laws 2009, LB316, § 13.

90-514 Transfer to Nebraska Cultural Preservation Endowment Fund.

The State Treasurer shall transfer an amount as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to subdivisions (3) and (4) of section 82-331, not to exceed \$500,000, plus an amount equal to unused transfer authority from the prior fiscal year, from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31, 2010, or as soon thereafter as administratively possible.

Source: Laws 2009, LB316, § 14.

90-515 Transfer to Ethanol Production Incentive Cash Fund.

The State Treasurer shall transfer \$214,008 from the Agricultural Alcohol Fuel Tax Fund to the Ethanol Production Incentive Cash Fund on or before June 30, 2010, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to section 66-1334.

Source: Laws 2009, First Spec. Sess., LB2, § 5.
Effective date November 21, 2009.

90-516 Transfer to Ethanol Production Incentive Cash Fund.

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The State Treasurer shall transfer \$28,016 from the Agricultural Alcohol Fuel Tax Fund to the Ethanol Production Incentive Cash Fund on or before June 30, 2011, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to section 66-1334.

Source: Laws 2009, First Spec. Sess., LB2, § 6.
Effective date November 21, 2009.

90-517 State aid for community college areas for FY2010-11.

(1) Notwithstanding the Community College Foundation and Equalization Aid Act or any other provision of law, state aid for each community college area for fiscal year 2010-11 shall equal:

- (a) For the Central Community College Area, \$8,289,499;
- (b) For the Metropolitan Community College Area, \$18,389,499;
- (c) For the Mid-Plains Community College Area, \$8,251,373;
- (d) For the Northeast Community College Area, \$12,784,454, including \$38,815 for Nebraska Indian Community College and \$13,120 for Little Priest Tribal College;
- (e) For the Southeast Community College Area, \$27,133,220; and
- (f) For the Western Community College Area, \$11,909,980;

(2) The Department of Administrative Services shall distribute the amounts provided in subsection (1) of this section to each community college area in ten as nearly as possible equal monthly payments between the fifth and the twentieth day of each month beginning in September 2010.

Source: Laws 2010, LB1072, § 10.
Effective date April 15, 2010.

Cross References

Community College Foundation and Equalization Aid Act, see section 85-2201.

90-518 Legislative Council.

AGENCY NO. 3 — LEGISLATIVE COUNCIL

Program No. 122 - Legislative Services

	FY2009-10	FY2010-11
GENERAL FUND	8,141,163	8,209,452
CASH FUND	194,480	209,174
FEDERAL FUND est.	39,270	39,270
PROGRAM TOTAL	8,374,913	8,457,896
SALARY LIMIT	6,072,714	6,222,174

There is included in the appropriation to this program for FY2009-10 \$84,802 Cash Funds and for FY2010-11 \$100,000 Cash Funds from the Nebraska Health Care Cash Fund for the purpose of ongoing health-related research and public policy development by the Health and Human Services Committee of the Legislature. Such funds may be used for, but shall not be limited to, hiring temporary legal research assistance, consulting and research contracts, reimbursement for necessary and appropriate expenses incurred in connection with such research and policy development, and actual and necessary travel reimbursement for task forces and committees established to conduct health policy work.

The unexpended General Fund appropriation balance existing on June 30, 2009, less \$59,448, is hereby reappropriated.

The unexpended Cash Fund appropriation balance existing on June 30, 2009, less \$206,692, is hereby reappropriated and less \$184,802 from the Nebraska Health Care Cash Fund.

Source: Laws 2009, First Spec. Sess., LB1, § 15; Laws 2010, LB935, § 20; Laws 2010, LB987A, § 2.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB987A, section 2, with LB935, section 20, to reflect all amendments.

Note: Changes made by LB935 became effective April 2, 2010. Changes made by LB987A became effective April 15, 2010.

90-519 State Department of Education.

AGENCY NO. 13 — STATE DEPARTMENT OF EDUCATION

Program No. 158 - Education Aid

	FY2009-10	FY2010-11
GENERAL FUND	1,034,668,501	1,004,793,095
CASH FUND	3,290,938	3,290,938
FEDERAL FUND est.	373,683,935	431,176,314
PROGRAM TOTAL	1,411,643,374	1,439,260,347

There is included in the appropriation to this program for FY2009-10 \$1,034,668,501 General Funds, \$3,290,938 Cash Funds, and \$373,683,935 Federal Funds estimate for state aid, which shall only be used for such purpose. There is included in the appropriation to this program for FY2010-11 \$1,004,793,095 General Funds, \$3,290,938 Cash Funds, and \$431,176,314 Federal Funds estimate for state aid, which shall only be used for such purpose.

There is included in the amount shown for FY2009-10 \$824,960,159 General Funds which are hereby appropriated to the Tax Equity and Educational Opportunities Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportunities Support Act. There is included in the amount shown for FY2010-11 \$796,734,560 General Funds which are hereby appropriated to the Tax Equity and Educational Opportunities Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportunities Support Act.

There is included in the amount shown for FY2009-10 \$93,668,750 Federal Funds estimate pursuant to the American Recovery and Reinvestment Act of 2009 which are hereby appropriated to the Tax Equity and Educational Opportunities Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportunities Support Act. There is included in the amount shown for FY2010-11 \$140,287,176 Federal Funds estimate pursuant to the American Recovery and Reinvestment Act of 2009 which are hereby appropriated to the Tax Equity and Educational Opportunities Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportunities Support Act.

There is included in the amount shown for this program \$184,893,842 General Funds provided as state aid for FY2009-10 for special education reimbursement. There is included in the amount shown for this program

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\$184,893,842 General Funds provided as state aid for FY2010-11 for special education reimbursement.

There is included in the amount shown for this program \$487,500 General Funds provided as state aid for FY2009-10 and \$465,500 General Funds provided as state aid for FY2010-11 to carry out the provisions of subsection (2) of section 79-734.

There is included in the amount shown for this program \$3,604,328 General Funds provided as state aid for FY2009-10 and \$3,365,962 General Funds provided as state aid for FY2010-11 for early childhood education projects.

There is included in the amount shown for this program \$11,858,793 General Funds provided as state aid for FY2009-10 and \$11,040,536 General Funds provided as state aid for FY2010-11 for core services for educational service units.

There is included in the amount shown for this program \$3,700,477 General Funds provided as state aid for FY2009-10 and \$3,445,144 General Funds provided as state aid for FY2010-11 for technology infrastructure for educational service units.

There is included in the amount shown for this program \$328,300 General Funds provided as state aid for FY2009-10 and \$305,647 General Funds provided as state aid for FY2010-11 for distance education aid to educational service units.

There is included in the amount shown for this program \$2,336,921 General Funds provided as state aid for FY2009-10 and \$2,175,673 General Funds provided as state aid for FY2010-11 for programs for learners with high ability.

There is included in the amount shown for this program \$412,811 General Funds provided as state aid for FY2009-10 and \$427,260 General Funds provided as state aid for FY2010-11 for the school breakfast program.

There is included in the amount shown for this program \$410,560 General Funds provided as state aid for FY2009-10 and \$392,032 General Funds provided as state aid for FY2010-11 for the school lunch program.

There is included in the amount shown for this program \$224,810 General Funds provided as state aid for FY2009-10 and \$214,664 General Funds provided as state aid for FY2010-11 for adult basic education programs.

There is included in the amount shown for this program \$450,000 General Funds provided as state aid for FY2009-10 and \$450,000 General Funds provided as state aid for FY2010-11 for the Career Education Partnership Act.

There is included in the amount shown for this program \$1,000,000 General Funds provided as state aid for FY2009-10 and \$882,275 General Funds provided as state aid for FY2010-11 for learning community aid.

On or before October 1 of each year, the Department of Health and Human Services and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the amount of federal medicaid funds paid to school districts pursuant to the Early Intervention Act for special education services for children age five years and older. The General Fund appropriation to the State Department of Education, Program 158, for state special education aid shall be decreased by an amount equal to the amount that would have been reimbursed with state General Funds to the school districts through the special education reimbursement process for special education services for children age five years

and older that was paid to school districts or approved cooperatives with federal medicaid funds. There is hereby appropriated from the General Fund an amount equal to the amount certified to the budget administrator for FY2009-10 and FY2010-11 to the Department of Health and Human Services to aid in carrying out the provisions of Laws 1991, LB 701. The budget administrator shall distribute the amount appropriated between budget programs according to percentages certified by the Department of Health and Human Services.

Notwithstanding other provisions of this act, all appropriations within this program existing on June 30, 2009, in excess of expended or encumbered amounts are hereby lapsed.

Source: Laws 2010, LB935, § 128; Laws 2010, LB937A, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB935, section 128, with LB937A, section 1, to reflect all amendments.

Note: Changes made by LB935 became effective April 2, 2010. Changes made by LB937A became effective April 6, 2010.

Cross References

Early Intervention Act, see section 43-2501.

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

90-520 Fund Transfers.

FUND TRANSFERS

The State Treasurer shall, on or before June 30 in each fiscal year on such dates as directed by the budget administrator of the budget division of the Department of Administrative Services, transfer the amounts shown in this section to the General Fund from the specified cash funds:

AG#	Fund Name	FY2009-10	FY2010-11
3	Clerk of the Legislature Cash Fund	1,220	145,539
3	Nebraska Legislative Shared Information System Cash Fund	10,505	11,009
5	Supreme Court Automation Cash Fund	0	201,502
5	Probation Program Cash Fund	0	479,572
9	Administration Cash Fund	3,890	7,977
9	Corporation Cash Fund	16,055	32,762
9	Records Management Cash Fund	71,543	118,154
9	Uniform Commercial Code Cash Fund	28,706	58,366
9	Nebraska Collection Agency Fund	2,023	4,156
11	State Settlement Cash Fund	26,587	53,896
12	Unclaimed Property Cash Fund	16,060	32,866
12	Treasury Management Cash Fund	16,711	34,177
12	Educational Savings Plan Administrative Fund	1,262,619	0
12	College Savings Plan Expense Fund	0	25,636
13	Professional Practices Commission Fund	3,773	6,485
13	State Department of Education Cash Fund	47,605	97,468
14	Municipal Rate Negotiations Revolving Loan Fund	43,253	87,175
14	Nebraska Competitive Telephone Marketplace Fund	225	100
14	Nebraska Telecommunications Relay System Fund	39,931	80,016
14	Enhanced Wireless 911 Fund	3,400,000	0
14	Grain Warehouse Auditing Fund	725	1,590
14	Nebraska Grain Warehouse Surveillance Cash Fund	242	530
14	Nebraska Internet Enhancement Fund	1,819	3,663
16	Charitable Gaming Operations Fund	556,734	116,817

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AG#	Fund Name	FY2009-10	FY2010-11
16	Motor Fuel Tax Enforcement and Collection Cash Fund	905,300	94,700
16	Petroleum Release Remedial Action Collection Fund	3,748	7,800
16	Department of Revenue Miscellaneous Receipts Fund	1,717	3,453
16	Department of Revenue Property Assessment Division Cash Fund	1,250,000	1,000,000
16	Marijuana and Controlled Substances Tax Administration Cash Fund	578	1,162
16	Department of Revenue Enforcement Fund	27,919	56,151
16	Waste Reduction and Recycling Incentive Fees Collection Fund	1,328	2,671
16	Severance Tax Administration Fund	100,000	0
16	Nebraska Incentives Fund	7,748	15,583
16	Tobacco Products Administration Cash Fund	500,000	500,000
16	State Athletic Commissioner's Cash Fund	300,000	0
17	Department of Aeronautics Cash Fund	87,127	154,510
18	Buffer Strip Incentive Fund	150,000	48,002
18	Commercial Feed Administration Cash Fund	650,000	0
18	Weed Book Cash Fund	19,999	19,997
18	Nebraska Seed Administrative Cash Fund	20,001	20,001
18	Pure Food Cash Fund	0	29,998
18	Weights and Measures Administrative Fund	20,027	19,997
19	Securities Act Cash Fund	4,286,041	17,322,121
21	Nebraska Natural Gas Pipeline Safety Cash Fund	200,000	0
21	State Fire Marshal Cash Fund	140,429	84,009
21	Training Division Cash Fund	566	1,135
21	Underground Storage Tank Fund	100,000	0
22	Department of Insurance Cash Fund	3,000,000	5,500,000
24	Motorcycle Safety Education Fund	4,583	9,650
24	Department of Motor Vehicles Cash Fund	1,174,344	328,407
25	Professional and Occupational Credentialing Cash Fund	126,959	258,672
25	Rural Health Professional Incentive Fund	38,600	77,201
25	Tobacco Prevention and Control Cash Fund	75,150	650,300
25	Health and Human Services Cash Fund	3,419,720	2,559,140
27	State Recreation Road Fund	378,306	1,064,006
29	Small Watersheds Flood Control Fund	12,500	25,000
29	Nebraska Soil and Water Conservation Fund	10,125	20,250
29	Nebraska Resources Development Fund	1,250	2,500
29	Natural Resources Water Quality Fund	31,250	62,500
29	Water Well Decommissioning Fund	6,021	12,042
29	Department of Natural Resources Cash Fund	12,456	24,913
29	Water Resources Cash Fund	75,000	150,000
30	Electrical Division Fund	160,430	203,396
31	Military Department Cash Fund	11,415	22,829
32	Surveyors' Cash Fund	90	176
32	Survey Record Repository Fund	500	975
33	Nebraska Outdoor Recreation Development Cash Fund	378,307	1,064,007
33	Nebraska Snowmobile Trail Cash Fund	250,000	0
33	Niobrara Council Fund	25	50
35	Nebraska Liquor Control Commission Rule and Regulation Cash Fund	1,861	3,722
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AG#	Fund Name	FY2009-10	FY2010-11
37	Compensation Court Cash Fund	1,000,000	1,000,000
40	Nebraska Motor Vehicle Industry Licensing Fund	17,477	35,988
41	State Real Estate Commission's Fund	27,887	57,449
45	Board of Barber Examiners Fund	17,261	7,739
46	Department of Correctional Services Facility Cash Fund	2,388	4,775
47	State Educational Telecommunications Fund	6,388	12,777
48	Coordinating Commission for Postsecondary Education Cash Fund	251	502
53	Real Property Appraiser Fund	35,441	14,559
54	Historical Society Fund	43,425	92,400
57	Oil and Gas Conservation Fund	19,719	39,503
58	Engineers and Architects Regulation Fund	169,464	39,745
59	Geologists Regulation Fund	812	1,650
62	Land Surveyor Examiner's Fund	747	1,494
63	Certified Public Accountants Fund	78,310	21,690
64	Carrier Enforcement Cash Fund	446,890	459,035
64	Nebraska State Patrol Drug Control and Education Cash Fund	36,500	74,450
65	Communications Cash Fund	115,307	229,771
65	Vacant Building and Excess Land Cash Fund	6,038	12,075
65	State Building Renewal Assessment Fund	12,007	23,958
65	Resource Recovery Fund	1,677	3,353
65	Capitol Restoration Cash Fund	931	1,863
66	Abstracters Board of Examiners Cash Fund	1,151	2,368
71	State Energy Office Cash Fund	10,655	20,307
71	School Weatherization Fund	756	1,510
72	Local Civic, Cultural, and Convention Center Financing Fund	16,250	32,500
72	Job Training Cash Fund	5,000,340	680
72	Administrative Cash Fund	6,112	12,242
72	Nebraska Agricultural Products Research Fund	375	750
72	Affordable Housing Trust Fund	340	1,609,680
73	State Board of Landscape Architects Cash Fund	572	1,143
74	Nebraska Power Review Fund	10,052	20,583
78	Community Corrections Uniform Data Analysis Cash Fund	12,914	21,364
78	Nebraska Law Enforcement Training Center Cash Fund	16,039	32,456
78	Law Enforcement Improvement Fund	12,051	24,145
81	Commission for the Blind and Visually Impaired Cash Fund	1,461	4,531
82	Commission for the Deaf and Hard of Hearing Fund	148	672
84	Chemigation Costs Fund	150,000	0
84	Livestock Waste Management Cash Fund	200,000	100,000
84	Waste Reduction and Recycling Incentive Fund	1,608,863	1,517,501
84	Superfund Cost Share Cash Fund	64,686	0
87	Nebraska Accountability and Disclosure Commission Cash Fund	4,095	8,423
87	Campaign Finance Limitation Cash Fund	21,588	48,495
93	Tax Equalization and Review Commission Cash Fund	77,500	5,000
94	Commission on Public Advocacy Operations Cash Fund	258,374	288,247

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Source: Laws 2010, LB197, § 8; Laws 2010, LB935, § 129.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB197, section 8, with LB935, section 129, to reflect all amendments.

Note: Changes made by LB935 became effective April 2, 2010. Changes made by LB197 became operative July 1, 2010.



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 - Part 2. General Definitions and Principles of Interpretation. 1-201 to 1-206.
 - Part 3. Territorial Applicability and General Rules. 1-301 to 1-310.
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 - Part 1. Short Title, General Construction, and Subject Matter. 2-103, 2-104.
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ARTICLE 1

GENERAL PROVISIONS

Part 1. GENERAL PROVISIONS

Section

- 1-101. Short titles.
- 1-102. Scope of article.
- 1-103. Construction of Uniform Commercial Code to promote its purposes and policies; applicability of supplemental principles of law.
- 1-104. Construction against implied repeal.
- 1-105. Severability.
- 1-106. Use of singular and plural; gender.
- 1-107. Section captions.
- 1-108. Relation to Electronic Signatures in Global and National Commerce Act.
- 1-109. Repealed. Laws 2005, LB 570, § 116.
- 1-110. Repealed. Laws 2005, LB 570, § 116.

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- 1-201. General definitions.
- 1-202. Notice; knowledge.
- 1-203. Lease distinguished from security interest.
- 1-204. Value.
- 1-205. Reasonable time; seasonableness.
- 1-206. Presumptions.

Part 3. TERRITORIAL APPLICABILITY AND GENERAL RULES

- 1-301. Territorial applicability; parties' power to choose applicable law.
- 1-302. Variation by agreement.
- 1-303. Course of performance, course of dealing, and usage of trade.
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- 1-306. Waiver or renunciation of claim or right after breach.
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Part 1

GENERAL PROVISIONS

1-101 Short titles.

- (a) Sections 1-101 to 10-103 may be cited as the Uniform Commercial Code.
- (b) This article may be cited as Uniform Commercial Code—General Provisions.

Source: Laws 2005, LB 570, § 6.

COMMENT

Source: Former section 1-101.

Changes from former law: Subsection (b) is new. It is added in order to make the structure of article 1 parallel with that of the other articles of the Uniform Commercial Code.

1. Each other article of the Uniform Commercial Code (except articles 10 and 11) may also be cited by its own short title. See sections 2-101, 2A-101, 3-101, 4-101, 4A-101, 5-101, 6-101, 7-101, 8-101, and 9-101.

1-102 Scope of article.

This article applies to a transaction to the extent that it is governed by another article of the Uniform Commercial Code.

Source: Laws 2005, LB 570, § 7.

COMMENT

Source: New.

1. This section is intended to resolve confusion that has occasionally arisen as to the applicability of the substantive rules in this article. This section makes clear what has always

been the case—the rules in article 1 apply to transactions to the extent that those transactions are governed by one of the other articles of the Uniform Commercial Code. See comment 1 to section 1-301.

1-103 Construction of Uniform Commercial Code to promote its purposes and policies; applicability of supplemental principles of law.

(a) The Uniform Commercial Code must be liberally construed and applied to promote its underlying purposes and policies, which are:

(1) to simplify, clarify, and modernize the law governing commercial transactions;

(2) to permit the continued expansion of commercial practices through custom, usage, and agreement of the parties; and

(3) to make uniform the law among the various jurisdictions.

(b) Unless displaced by the particular provisions of the Uniform Commercial Code, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause supplement its provisions.

Source: Laws 2005, LB 570, § 8.

COMMENT

Source: Former section 1-102(1)-(2); former section 1-103.

Changes from former law: This section is derived from subsections (1) and (2) of former section 1-102 and from former section 1-103. Subsection (a) of this section combines subsections (1) and (2) of former section 1-102. Except for changing the form of reference to the Uniform Commercial Code and minor stylistic changes, its language is the same as subsections (1) and (2) of former section 1-102. Except for changing the form of reference to the Uniform Commercial Code and minor stylistic changes, subsection (b) of this section is identical to former section 1-103. The provisions have been combined in this section to reflect the interrelationship between them.

1. The Uniform Commercial Code is drawn to provide flexibility so that, since it is intended to be a semi-permanent and infrequently amended piece of legislation, it will provide its own machinery for expansion of commercial practices. It is intended to make it possible for the law embodied in the Uniform Commercial Code to be applied by the courts in the light of unforeseen and new circumstances and practices. The proper construction of the Uniform Commercial Code requires, of course, that its interpretation and application be limited to its reason.

Even prior to the enactment of the Uniform Commercial Code, courts were careful to keep broad acts from being hampered in their effects by later acts of limited scope. See *Pacific Wool Growers v. Draper & Co.*, 158 Or. 1, 73 P.2d 1391 (1937), and compare section 1-104. The courts have often recognized

that the policies embodied in an act are applicable in reason to subject matter that was not expressly included in the language of the act, *Commercial Nat. Bank of New Orleans v. Canal-Louisiana Bank & Trust Co.*, 239 U.S. 520, 36 S.Ct. 194, 60 L.Ed. 417 (1916) (bona fide purchase policy of Uniform Warehouse Receipts Act extended to case not covered but of equivalent nature), and did the same where reason and policy so required, even where the subject matter had been intentionally excluded from the act in general. *Agar v. Orda*, 264 N.Y. 248, 190 N.E. 479 (1934) (Uniform Sales Act change in seller's remedies applied to contract for sale of choses in action even though the general coverage of that act was intentionally limited to goods "other than things in action".) They implemented a statutory policy with liberal and useful remedies not provided in the statutory text. They disregarded a statutory limitation of remedy where the reason of the limitation did not apply. *Fiterman v. J. N. Johnson & Co.*, 156 Minn. 201, 194 N.W. 399 (1923) (requirement of return of the goods as a condition to rescission for breach of warranty; also, partial rescission allowed). Nothing in the Uniform Commercial Code stands in the way of the continuance of such action by the courts.

The Uniform Commercial Code should be construed in accordance with its underlying purposes and policies. The text of each section should be read in the light of the purpose and policy of the rule or principle in question, as also of the Uniform Commercial Code as a whole, and the application of the lan-

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guage should be construed narrowly or broadly, as the case may be, in conformity with the purposes and policies involved.

2. Applicability of supplemental principles of law. Subsection (b) states the basic relationship of the Uniform Commercial Code to supplemental bodies of law. The Uniform Commercial Code was drafted against the backdrop of existing bodies of law, including the common law and equity, and relies on those bodies of law to supplement its provisions in many important ways. At the same time, the Uniform Commercial Code is the primary source of commercial law rules in areas that it governs, and its rules represent choices made by its drafters and the enacting legislatures about the appropriate policies to be furthered in the transactions it covers. Therefore, while principles of common law and equity may supplement provisions of the Uniform Commercial Code, they may not be used to supplant its provisions, or the purposes and policies those provisions reflect, unless a specific provision of the code provides otherwise. In the absence of such a provision, the Uniform Commercial Code preempts principles of common law and equity that are inconsistent with either its provisions or its purposes and policies.

The language of subsection (b) is intended to reflect both the concept of supplementation and the concept of preemption. Some courts, however, had difficulty in applying the identical language of former section 1-103 to determine when other law appropriately may be applied to supplement the Uniform Commercial Code, and when that law has been displaced by the code. Some decisions applied other law in situations in which that application, while not inconsistent with the text of any particular provision of the code, clearly was inconsistent with the underlying purposes and policies reflected in the relevant provisions of the code. See, e.g., *Sheerbonnet, Ltd. v. American Express Bank, Ltd.*, 951 F. Supp. 403 (S.D.N.Y. 1995). In part, this difficulty arose from comment 1 to former section 1-103, which stated that “this section indicates the continued applicability to commercial contracts of all supplemental bodies of law except insofar as they are explicitly displaced by this act”. The “explicitly displaced” language of that comment did not accurately reflect the proper scope of Uniform Commercial Code preemption, which extends to displacement of other law that is inconsistent with the purposes and policies of the Uniform Commercial Code, as well as with its text.

3. Application of subsection (b) to statutes. The primary focus of section 1-103 is on the relationship between the Uniform Commercial Code and principles of common law and equity as developed by the courts. State law, however, increasingly is statutory. Not only are there a growing number of state statutes addressing specific issues that come within the scope of the Uniform Commercial Code, but in some states many general principles of common law and equity have been codified. When the other law relating to a matter within the scope of the Uniform Commercial Code is a statute, the principles of subsection (b) remain relevant to the court’s analysis of the relationship between that statute and the Uniform Commercial Code, but other principles of statutory interpretation that specifically address the interrelationship between statutes will be relevant as well. In some situations, the principles of subsection (b) still will be determinative. For example, the mere fact that an equitable principle is stated in statutory form rather than in judicial decisions should not change the court’s analysis of whether the principle can be used to supplement the Uniform Commercial Code—under subsection (b), equitable principles may supplement provisions of the Uniform Commercial Code only if they are consistent with the purposes and policies of the Uniform Commercial Code as well as its text. In other situations, however, other interpretive principles addressing the interrelationship between statutes may lead the court to conclude that the other statute is controlling, even though it conflicts with the Uniform Commercial Code. This, for example, would be the result in a situation where the other statute was specifically intended to provide additional protection to a class of individuals engaging in transactions covered by the Uniform Commercial Code.

4. Listing not exclusive. The list of sources of supplemental law in subsection (b) is intended to be merely illustrative of the other law that may supplement the Uniform Commercial Code, and is not exclusive. No listing could be exhaustive. Further, the fact that a particular section of the Uniform Commercial Code makes express reference to other law is not intended to suggest the negation of the general application of the principles of subsection (b). Note also that the word “bankruptcy” in subsection (b), continuing the use of that word from former section 1-103, should be understood not as a specific reference to federal bankruptcy law but, rather as a reference to general principles of insolvency, whether under federal or state law.

1-104 Construction against implied repeal.

The Uniform Commercial Code being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

Source: Laws 2005, LB 570, § 9.

COMMENT

Source: Former section 1-104.

Changes from former law: Except for changing the form of reference to the Uniform Commercial Code, this section is identical to former section 1-104.

1. This section embodies the policy that an act that bears evidence of carefully considered permanent regulative intention

should not lightly be regarded as impliedly repealed by subsequent legislation. The Uniform Commercial Code, carefully integrated and intended as a uniform codification of permanent character covering an entire “field” of law, is to be regarded as particularly resistant to implied repeal.

1-105 Severability.

If any provision or clause of the Uniform Commercial Code or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the code which can be given effect without the invalid provision or application, and to this end the provisions of the code are severable.

Source: Laws 2005, LB 570, § 10.

COMMENT

Source: Former section 1-108.

Changes from former law: Except for changing the form of reference to the Uniform Commercial Code, this section is identical to former section 1-108.

1. This is the model severability section recommended by the National Conference of Commissioners on Uniform State Laws for inclusion in all acts of extensive scope.

1-106 Use of singular and plural; gender.

In the Uniform Commercial Code, unless the statutory context otherwise requires:

- (1) words in the singular number include the plural, and those in the plural include the singular; and
- (2) words of any gender also refer to any other gender.

Source: Laws 2005, LB 570, § 11.

COMMENT

Source: Former section 1-102(5). See also 1 U.S.C. section 1.

Changes from former law: Other than minor stylistic changes, this section is identical to former section 1-102(5).

1. This section makes it clear that the use of singular or plural in the text of the Uniform Commercial Code is generally only a

matter of drafting style—singular words may be applied in the plural, and plural words may be applied in the singular. Only when it is clear from the statutory context that the use of the singular or plural does not include the other is this rule inapplicable. See, e.g., section 9-322.

1-107 Section captions.

Section captions are part of the Uniform Commercial Code.

Source: Laws 2005, LB 570, § 12.

COMMENT

Source: Former section 1-109.

Changes from former law: None.

1. Section captions are a part of the text of the Uniform Commercial Code, and not mere surplusage. This is not the

case, however, with respect to subsection headings appearing in article 9. See comment 3 to section 9-101 ("subsection headings are not a part of the official text itself and have not been approved by the sponsors").

1-108 Relation to Electronic Signatures in Global and National Commerce Act.

This article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. section 7001 et seq., except that nothing in this article modifies, limits, or supersedes section 7001(c) of that act or authorizes electronic delivery of any of the notices described in section 7003(b) of that act.

Source: Laws 2005, LB 570, § 13.

COMMENT

Source: New.

1. The federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. section 7001 et seq. became effective in 2000. Section 102(a) of that act provides that a state statute may modify, limit, or supersede the provisions of section 101 of that act with respect to state law if such statute, inter alia, specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability of contracts or other records, and (i) such alternative procedures or requirements are consistent with Titles I and II of that act, (ii) such alternative procedures or requirements do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical

specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures, and (iii) if enacted or adopted after the date of the enactment of that act, makes specific reference to that act. Article 1 fulfills the first two of those three criteria; this section fulfills the third criterion listed above.

2. As stated in this section, however, article 1 does not modify, limit, or supersede section 101(c) of the Electronic Signatures in Global and National Commerce Act (requiring affirmative consent from a consumer to electronic delivery of transactional disclosures that are required by state law to be in writing); nor does it authorize electronic delivery of any of the notices described in section 103(b) of that act.

1-109 Repealed. Laws 2005, LB 570, § 116.

1-110 Repealed. Laws 2005, LB 570, § 116.

Part 2

GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1-201 General definitions.

(a) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other articles of the Uniform Commercial Code that apply to particular articles or parts thereof, have the meanings stated.

(b) Subject to definitions contained in other articles of the code that apply to particular articles or parts thereof:

(1) "Action", in the sense of a judicial proceeding, includes recoupment, counterclaim, setoff, suit in equity, and any other proceeding in which rights are determined.

(2) "Aggrieved party" means a party entitled to pursue a remedy.

(3) "Agreement", as distinguished from "contract", means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in section 1-303.

(4) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company.

(5) "Bearer" means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, negotiable tangible document of title, or certificated security that is payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under article 2 may be a buyer in ordinary course of business. "Buyer in ordinary course of business" does not include a person that acquires

goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) “Conspicuous”, with reference to a term, means so written, displayed, or presented that a reasonable person against which it is to operate ought to have noticed it. Whether a term is “conspicuous” or not is a decision for the court. Conspicuous terms include the following:

(A) a heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(B) language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

(11) “Consumer” means an individual who enters into a transaction primarily for personal, family, or household purposes.

(12) “Contract”, as distinguished from “agreement”, means the total legal obligation that results from the parties’ agreement as determined by the Uniform Commercial Code as supplemented by any other applicable laws.

(13) “Creditor” includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and a personal representative, an executor, or an administrator of an insolvent debtor’s or assignor’s estate.

(14) “Defendant” includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim.

(15) “Delivery” with respect to an electronic document of title means voluntary transfer of control and with respect to an instrument, a tangible document of title, or chattel paper means voluntary transfer of possession.

(16) “Document of title” means a record (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods the record covers and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee’s possession which are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.

(17) “Fault” means a default, breach, or wrongful act or omission.

(18) “Fungible goods” means:

(A) goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

(B) goods that by agreement are treated as equivalent.

(19) “Genuine” means free of forgery or counterfeiting.

(20) “Good faith” means honesty in fact in the conduct or transaction concerned.

(21) "Holder" means:

(A) the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;

(B) the person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) the person in control of a negotiable electronic document of title.

(22) "Insolvency proceeding" includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved.

(23) "Insolvent" means:

(A) having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(B) being unable to pay debts as they become due; or

(C) being insolvent within the meaning of federal bankruptcy law.

(24) "Money" means a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries.

(25) "Organization" means a person other than an individual.

(26) "Party", as distinguished from "third party", means a person that has engaged in a transaction or made an agreement subject to the Uniform Commercial Code.

(27) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(28) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

(29) "Purchase" means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(30) "Purchaser" means a person that takes by purchase.

(31) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(32) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(33) "Representative" means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, a personal representative, an executor, or an administrator of an estate.

(34) "Right" includes remedy.

(35) “Security interest” means an interest in personal property or fixtures which secures payment or performance of an obligation. “Security interest” includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to article 9. “Security interest” does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under section 2-401, but a buyer may also acquire a “security interest” by complying with article 9. Except as otherwise provided in section 2-505, the right of a seller or lessor of goods under article 2 or 2A to retain or acquire possession of the goods is not a “security interest”, but a seller or lessor may also acquire a “security interest” by complying with article 9. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under section 2-401 is limited in effect to a reservation of a “security interest”. Whether a transaction in the form of a lease creates a “security interest” is determined pursuant to section 1-203. “Security interest” does not include a consumer rental purchase agreement as defined in the Consumer Rental Purchase Agreement Act.

(36) “Send” in connection with a writing, record, or notice means:

(A) to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or

(B) in any other way to cause to be received any record or notice within the time it would have arrived if properly sent.

(37) “Signed” includes using any symbol executed or adopted with present intention to adopt or accept a writing.

(38) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(39) “Surety” includes a guarantor or other secondary obligor.

(40) “Term” means a portion of an agreement that relates to a particular matter.

(41) “Unauthorized signature” means a signature made without actual, implied, or apparent authority. The term includes a forgery.

(42) “Warehouse receipt” means a receipt issued by a person engaged in the business of storing goods for hire.

(43) “Writing” includes printing, typewriting, or any other intentional reduction to tangible form. “Written” has a corresponding meaning.

Source: Laws 2005, LB 570, § 14.

Cross References

Consumer Rental Purchase Agreement Act, see section 69-2101.

COMMENT

Source: Former section 1-201.

Changes from former law: In order to make it clear that all definitions in the Uniform Commercial Code (not just those appearing in article 1, as stated in former section 1-201, but also those appearing in other articles) do not apply if the context otherwise requires, a new subsection (a) to that effect has been

added, and the definitions now appear in subsection (b). The reference in subsection (a) to the “context” is intended to refer to the context in which the defined term is used in the Uniform Commercial Code. In other words, the definition applies whenever the defined term is used unless the context in which the defined term is used in the statute indicates that the term was

not used in its defined sense. Consider, for example, sections 3-103(a)(9) (defining “promise”, in relevant part, as “a written undertaking to pay money signed by the person undertaking to pay”) and section 3-303(a)(1) (indicating that an instrument is issued or transferred for value if “the instrument is issued or transferred for a promise of performance, to the extent that the promise has been performed”). It is clear from the statutory context of the use of the word “promise” in section 3-303(a)(1) that the term was not used in the sense of its definition in section 3-103(a)(9). Thus, the section 3-103(a)(9) definition should not be used to give meaning to the word “promise” in section 3-303(a).

Some definitions in former section 1-201 have been reformulated as substantive provisions and have been moved to other sections. See sections 1-202 (explicating concepts of notice and knowledge formerly addressed in sections 1-201(25)-(27)), 1-204 (determining when a person gives value for rights, replacing the definition of “value” in former section 1-201(44)), and 1-206 (addressing the meaning of presumptions, replacing the definitions of “presumption” and “presumed” in former section 1-201(31)). Similarly, the portion of the definition of “security interest” in former section 1-201(37) which explained the difference between a security interest and a lease has been relocated to section 1-203.

Two definitions in former section 1-201 have been deleted. The definition of “honor” in former section 1-201(21) has been moved to section 2-103(1)(b), inasmuch as the definition only applies to the use of the word in article 2. The definition of “telegram” in former section 1-201(41) has been deleted because that word no longer appears in the definition of “conspicuous”.

Other than minor stylistic changes and renumbering, the remaining definitions in this section are as in former article 1 except as noted below.

1. **“Action”**. Unchanged from former section 1-201, which was derived from similar definitions in section 191, Uniform Negotiable Instruments Law; section 76, Uniform Sales Act; section 58, Uniform Warehouse Receipts Act; section 53, Uniform Bills of Lading Act.

2. **“Aggrieved party”**. Unchanged from former section 1-201.

3. **“Agreement”**. Derived from former section 1-201. As used in the Uniform Commercial Code the word is intended to include full recognition of usage of trade, course of dealing, course of performance and the surrounding circumstances as effective parts thereof, and of any agreement permitted under the provisions of the Uniform Commercial Code to displace a stated rule of law. Whether an agreement has legal consequences is determined by applicable provisions of the Uniform Commercial Code and, to the extent provided in section 1-103, by the law of contracts.

4. **“Bank”**. Derived from section 4A-104.

5. **“Bearer”**. Unchanged from former section 1-201, which was derived from section 191, Uniform Negotiable Instruments Law.

6. **“Bill of Lading”**. Derived from former section 1-201. The reference to, and definition of, an “airbill” has been deleted as no longer necessary.

7. **“Branch”**. Unchanged from former section 1-201.

8. **“Burden of establishing a fact”**. Unchanged from former section 1-201.

9. **“Buyer in ordinary course of business”**. Except for minor stylistic changes, identical to former section 1-201 (as amended in conjunction with the 1999 revisions to article 9). The major significance of the phrase lies in section 2-403 and in the Article on Secured Transactions (article 9).

The first sentence of paragraph (9) makes clear that a buyer from a pawnbroker cannot be a buyer in ordinary course of business. The second sentence explains what it means to buy “in the ordinary course”. The penultimate sentence prevents a buyer that does not have the right to possess as against the seller from being a buyer in ordinary course of business. Concerning when a buyer obtains possessory rights, see sections 2-502 and

2-716. However, the penultimate sentence is not intended to affect a buyer’s status as a buyer in ordinary course of business in cases (such as a “drop shipment”) involving delivery by the seller to a person buying from the buyer or a donee from the buyer. The requirement relates to whether as against the seller the buyer or one taking through the buyer has possessory rights.

10. **“Conspicuous”**. Derived from former section 1-201(10). This definition states the general standard that to be conspicuous a term ought to be noticed by a reasonable person. Whether a term is conspicuous is an issue for the court. Subparagraphs (A) and (B) set out several methods for making a term conspicuous. Requiring that a term be conspicuous blends a notice function (the term ought to be noticed) and a planning function (giving guidance to the party relying on the term regarding how that result can be achieved). Although these paragraphs indicate some of the methods for making a term attention-calling, the test is whether attention can reasonably be expected to be called to it. The statutory language should not be construed to permit a result that is inconsistent with that test.

11. **“Consumer”**. Derived from section 9-102(a)(25).

12. **“Contract”**. Except for minor stylistic changes, identical to former section 1-201.

13. **“Creditor”**. Unchanged from former section 1-201.

14. **“Defendant”**. Except for minor stylistic changes, identical to former section 1-201, which was derived from section 76, Uniform Sales Act.

15. **“Delivery”**. Derived from former section 1-201. The reference to certificated securities has been deleted in light of the more specific treatment of the matter in section 8-301.

16. **“Document of title”**. Unchanged from former section 1-201, which was derived from section 76, Uniform Sales Act. By making it explicit that the obligation or designation of a third party as “bailee” is essential to a document of title, this definition clearly rejects any such result as obtained in *Hixson v. Ward*, 254 Ill.App. 505 (1929), which treated a conditional sales contract as a document of title. Also the definition is left open so that new types of documents may be included. It is unforeseeable what documents may one day serve the essential purpose now filled by warehouse receipts and bills of lading. Truck transport has already opened up problems which do not fit the patterns of practice resting upon the assumption that a draft can move through banking channels faster than the goods themselves can reach their destination. There lie ahead air transport and such probabilities as teletype transmission of what may some day be regarded commercially as “Documents of Title”. The definition is stated in terms of the function of the documents with the intention that any document which gains commercial recognition as accomplishing the desired result shall be included within its scope. Fungible goods are adequately identified within the language of the definition by identification of the mass of which they are a part.

Dock warrants were within the Sales Act definition of document of title apparently for the purpose of recognizing a valid tender by means of such paper. In current commercial practice a dock warrant or receipt is a kind of interim certificate issued by steamship companies upon delivery of the goods at the dock, entitling a designated person to have issued to him or her at the company’s office a bill of lading. The receipt itself is invariably nonnegotiable in form although it may indicate that a negotiable bill is to be forthcoming. Such a document is not within the general compass of the definition, although trade usage may in some cases entitle such paper to be treated as a document of title. If the dock receipt actually represents a storage obligation undertaken by the shipping company, then it is a warehouse receipt within this section regardless of the name given to the instrument.

The goods must be “described”, but the description may be by marks or labels and may be qualified in such a way as to disclaim personal knowledge of the issuer regarding contents or condition. However, baggage and parcel checks and similar “tokens” of storage which identify stored goods only as those received in exchange for the token are not covered by this article.

The definition is broad enough to include an airway bill.

17. "Fault". Derived from former section 1-201. "Default" has been added to the list of events constituting fault.

18. "Fungible goods". Derived from former section 1-201. References to securities have been deleted because article 8 no longer uses the term "fungible" to describe securities. Accordingly, this provision now defines the concept only in the context of goods.

19. "Genuine". Unchanged from former section 1-201.

20. "Good faith". Former section 1-201(19) defined "good faith" simply as honesty in fact; the definition contained no element of commercial reasonableness. Initially, that definition applied throughout the code with only one exception. Former section 2-103(1)(b) provided that, in that article, "'good faith' in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade". This alternative definition was limited in applicability, though, because it applied only to transactions within the scope of article 2 and it applied only to merchants.

Over time, however, amendments to the Uniform Commercial Code brought the article 2 merchant concept of good faith (subjective honesty and objective commercial reasonableness) into other articles. First, article 2A explicitly incorporated the article 2 standard. See section 2A-103(7). Then, other articles broadened the applicability of that standard by adopting it for all parties rather than just for merchants. See, e.g., sections 3-103(a)(4), 4A-105(a)(6), 7-102(a)(6), 8-102(a)(10), and 9-102(a)(43). Finally, articles 2 and 2A were amended so as to apply the standard to nonmerchants as well as merchants. See sections 2-103(1)(j) and 2A-103(1)(m). All of these definitions are comprised of two elements—honesty in fact and the observance of reasonable commercial standards of fair dealing. Only revised article 5 defines "good faith" solely in terms of subjective honesty, and only article 6 (in the few states that have not chosen to delete the article) is without a definition of good faith. (It should be noted that, while revised article 6 did not define good faith, comment 2 to revised section 6-102 states that "this article adopts the definition of 'good faith' in article 1 in all cases, even when the buyer is a merchant".)

Thus, the definition of "good faith" in this section merely confirms what has been the case for a number of years as articles of the Uniform Commercial Code have been amended or revised—the obligation of "good faith", applicable in each article, is to be interpreted in the context of all articles except for article 5 as including both the subjective element of honesty in fact and the objective element of the observance of reasonable commercial standards of fair dealing. As a result, both the subjective and objective elements are part of the standard of "good faith", whether that obligation is specifically referenced in another article of the code (other than article 5) or is provided by this article.

Of course, as noted in the statutory text, the definition of "good faith" in this section does not apply when the narrower definition of "good faith" in revised article 5 is applicable.

As noted above, the definition of "good faith" in this section requires not only honesty in fact but also "observance of reasonable commercial standards of fair dealing". Although "fair dealing" is a broad term that must be defined in context, it is clear that it is concerned with the fairness of conduct rather than the care with which an act is performed. This is an entirely different concept than whether a party exercised ordinary care in conducting a transaction. Both concepts are to be determined in the light of reasonable commercial standards, but those standards in each case are directed to different aspects of commercial conduct. See e.g., sections 3-103(a)(9) and 4-104(c) and comment 4 to section 3-103.

21. "Holder". Derived from former section 1-201. The definition has been reorganized for clarity.

22. "Insolvency proceedings". Unchanged from former section 1-201.

23. "Insolvent". Derived from former section 1-201. The three tests of insolvency—generally ceased to pay debts in the ordinary course of business other than as a result of a bona fide

dispute as to them", "unable to pay debts as they become due", and "insolvent within the meaning of the federal bankruptcy law"—are expressly set up as alternative tests and must be approached from a commercial standpoint.

24. "Money". Substantively identical to former section 1-201. The test is that of sanction of government, whether by authorization before issue or adoption afterward, which recognizes the circulating medium as a part of the official currency of that government. The narrow view that money is limited to legal tender is rejected.

25. "Organization". The former definition of this word has been replaced with the standard definition used in acts prepared by the National Conference of Commissioners on Uniform State Laws.

26. "Party". Substantively identical to former section 1-201. Mention of a party includes, of course, a person acting through an agent. However, where an agent comes into opposition or contrast to the principal, particular account is taken of that situation.

27. "Person". The former definition of this word has been replaced with the standard definition used in acts prepared by the National Conference of Commissioners on Uniform State Laws.

28. "Present value". This definition was formerly contained within the definition of "security interest" in former section 1-201(37).

29. "Purchase". Derived from former section 1-201. The form of definition has been changed from "includes" to "means".

30. "Purchaser". Unchanged from former section 1-201.

31. "Record". Derived from section 9-102(a)(69).

32. "Remedy". Unchanged from former section 1-201. The purpose is to make it clear that both remedy and right (as defined) include those remedial rights of "self help" which are among the most important bodies of rights under the Uniform Commercial Code, remedial rights being those to which an aggrieved party may resort on its own.

33. "Representative". Derived from former section 1-201. Reorganized, and form changed from "includes" to "means".

34. "Right". Except for minor stylistic changes, identical to former section 1-201.

35. "Security interest". The definition is the first paragraph of the definition of "security interest" in former section 1-201, with minor stylistic changes. The remaining portion of that definition has been moved to section 1-203. Note that, because of the scope of article 9, the term includes the interest of certain outright buyers of certain kinds of property.

36. "Send". Derived from former section 1-201. Compare "notifies".

37. "Signed". Derived from former section 1-201. Former section 1-201 referred to "intention to authenticate"; because other articles now use the term "authenticate", the language has been changed to "intention to adopt or accept". The latter formulation is derived from the definition of "authenticate" in section 9-102(a)(7). This provision refers only to writings, because the term "signed", as used in some articles, refers only to writings. This provision also makes it clear that, as the term "signed" is used in the Uniform Commercial Code, a complete signature is not necessary. The symbol may be printed, stamped, or written; it may be by initials or by thumbprint. It may be on any part of the document and in appropriate cases may be found in a billhead or letterhead. No catalog of possible situations can be complete and the court must use common sense and commercial experience in passing upon these matters. The question always is whether the symbol was executed or adopted by the party with present intention to adopt or accept the writing.

38. "State". This is the standard definition of the term used in acts prepared by the National Conference of Commissioners on Uniform State Laws.

39. "Surety". This definition makes it clear that "surety" includes all secondary obligors, not just those whose obligation

refers to the person obligated as a surety. As to the nature of secondary obligations generally, see Restatement (Third), Suretyship and Guaranty, section 1 (1996).

40. “Term”. Unchanged from former section 1-201.

41. “Unauthorized signature”. Unchanged from former section 1-201.

42. “Warehouse receipt”. Unchanged from former section 1-201, which was derived from section 76(1), Uniform Sales Act; section 1, Uniform Warehouse Receipts Act. Receipts issued by a field warehouse are included, provided the warehouseman and the depositor of the goods are different persons.

43. “Written” or “writing”. Unchanged from former section 1-201.

1-202 Notice; knowledge.

(a) Subject to subsection (f), a person has “notice” of a fact if the person:

- (1) has actual knowledge of it;
- (2) has received a notice or notification of it; or
- (3) from all the facts and circumstances known to the person at the time in question, has reason to know that it exists.

(b) “Knowledge” means actual knowledge. “Knows” has a corresponding meaning.

(c) “Discover”, “learn”, or words of similar import refer to knowledge rather than to reason to know.

(d) A person “notifies” or “gives” a notice or notification to another person by taking such steps as may be reasonably required to inform the other person in ordinary course, whether or not the other person actually comes to know of it.

(e) Subject to subsection (f), a person “receives” a notice or notification when:

- (1) it comes to that person’s attention; or
- (2) it is duly delivered in a form reasonable under the circumstances at the place of business through which the contract was made or at another location held out by that person as the place for receipt of such communications.

(f) Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to the individual’s attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of the individual’s regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

Source: Laws 2005, LB 570, § 15.

COMMENT

Source: Derived from former section 1-201(25)-(27).

Changes from former law: These provisions are substantive rather than purely definitional. Accordingly, they have been relocated from section 1-201 to this section. The reference to the “forgotten notice” doctrine has been deleted.

1. Under subsection (a), a person has notice of a fact when, *inter alia*, the person has received a notification of the fact in question.

2. As provided in subsection (d), the word “notifies” is used when the essential fact is the proper dispatch of the notice, not

its receipt. Compare “Send”. When the essential fact is the other party’s receipt of the notice, that is stated. Subsection (e) states when a notification is received.

3. Subsection (f) makes clear that notice, knowledge, or a notification, although “received”, for instance, by a clerk in Department A of an organization, is effective for a transaction conducted in Department B only from the time when it was or should have been communicated to the individual conducting that transaction.

1-203 Lease distinguished from security interest.

(a) Whether a transaction in the form of a lease creates a lease or security interest is determined by the facts of each case.

(b) A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee, and:

(1) the original term of the lease is equal to or greater than the remaining economic life of the goods;

(2) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(3) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement; or

(4) the lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement.

(c) A transaction in the form of a lease does not create a security interest merely because:

(1) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(2) the lessee assumes risk of loss of the goods;

(3) the lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording, or registration fees, or service or maintenance costs;

(4) the lessee has an option to renew the lease or to become the owner of the goods;

(5) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(6) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(d) Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Additional consideration is not nominal if:

(1) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(2) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed.

(e) The "remaining economic life of the goods" and "reasonably predictable" fair market rent, fair market value, or cost of performing under the lease

agreement must be determined with reference to the facts and circumstances at the time the transaction is entered into.

Source: Laws 2005, LB 570, § 16.

COMMENT

Source: Former section 1-201(37).

Changes from former law: This section is substantively identical to those portions of former section 1-201(37) that distinguished “true” leases from security interests, except that the definition of “present value” formerly embedded in section 1-201(37) has been placed in section 1-201(28).

1. An interest in personal property or fixtures which secures payment or performance of an obligation is a “security interest”. See section 1-201(37). Security interests are sometimes created by transactions in the form of leases. Because it can be difficult to distinguish leases that create security interests from those that do not, this section provides rules that govern the determination of whether a transaction in the form of a lease creates a security interest.

2. One of the reasons it was decided to codify the law with respect to leases was to resolve an issue that created considerable confusion in the courts: What is a lease? The confusion existed, in part, due to the last two sentences of the definition of security interest in the 1978 official text of the act, section 1-201(37). The confusion was compounded by the rather considerable change in the federal, state, and local tax laws and accounting rules as they relate to leases of goods. The answer is important because the definition of lease determines not only the rights and remedies of the parties to the lease but also those of third parties. If a transaction creates a lease and not a security interest, the lessee’s interest in the goods is limited to its leasehold estate; the residual interest in the goods belongs to the lessor. This has significant implications to the lessee’s creditors. “On common-law theory, the lessor, since he or she has not parted with title, is entitled to full protection against the lessee’s creditors and trustee in bankruptcy” 1 G. Gilmore, *Security Interests in Personal Property*, section 3.6, at 76 (1965).

Under pre-Uniform Commercial Code chattel security law there was generally no requirement that the lessor file the lease, a financing statement, or the like, to enforce the lease agreement against the lessee or any third party; the Article on Secured Transactions (Article 9) did not change the common law in that respect. Coogan, *Leasing and the Uniform Commercial Code*, in *Equipment Leasing—Leveraged Leasing* 681, 700 n.25, 729 n.80 (2d ed.1980). The Article on Leases (Article 2A) did not change the law in that respect, except for leases of fixtures. Section 2A-309. An examination of the common law will not provide an adequate answer to the question of what is a lease. The definition of security interest in section 1-201(37) of the 1978 official text of the act provided that the Article on Secured Transactions (Article 9) governs security interests disguised as leases, i.e., leases intended as security; however, the definition became vague and outmoded.

Lease is defined in article 2A as a transfer of the right to possession and use of goods for a term, in return for consideration. Section 2A-103(1)(j). The definition continues by stating that the retention or creation of a security interest is not a lease. Thus, the task of sharpening the line between true leases and security interests disguised as leases continues to be a function of this article.

This section begins where section 1-201(35) leaves off. It draws a sharper line between leases and security interests disguised as leases to create greater certainty in commercial transactions.

Prior to enactment of the rules now codified in this section, the 1978 official text of section 1-201(37) provided that whether a lease was intended as security (i.e., a security interest disguised as a lease) was to be determined from the facts of each case; however, (a) the inclusion of an option to purchase did not itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the

lessee would become, or had the option to become, the owner of the property for no additional consideration, or for a nominal consideration, did make the lease one intended for security.

Reference to the intent of the parties to create a lease or security interest led to unfortunate results. In discovering intent, courts relied upon factors that were thought to be more consistent with sales or loans than leases. Most of these criteria, however, were as applicable to true leases as to security interests. Examples include the typical net lease provisions, a purported lessor’s lack of storage facilities or its character as a financing party rather than a dealer in goods. Accordingly, this section contains no reference to the parties’ intent.

Subsections (a) and (b) were originally taken from section 1(2) of the Uniform Conditional Sales Act (act withdrawn 1943), modified to reflect current leasing practice. Thus, reference to the case law prior to the incorporation of those concepts in this article will provide a useful source of precedent. Gilmore, *Security Law, Formalism and Article 9*, 47 Neb.L.Rev. 659, 671 (1968). Whether a transaction creates a lease or a security interest continues to be determined by the facts of each case. Subsection (b) further provides that a transaction creates a security interest if the lessee has an obligation to continue paying consideration for the term of the lease, if the obligation is not terminable by the lessee (thus correcting early statutory gloss, e.g., *In re Royer’s Bakery, Inc.*, 1 U.C.C. Rep.Serv. (Callaghan) 342 (Bankr.E.D.Pa.1963)) and if one of four additional tests is met. The first of these four tests, subparagraph (1), is that the original lease term is equal to or greater than the remaining economic life of the goods. The second of these tests, subparagraph (2), is that the lessee is either bound to renew the lease for the remaining economic life of the goods or to become the owner of the goods. In *re Gehrke Enters.*, 1 Bankr. 647, 651-52 (Bankr.W.D.Wis.1979). The third of these tests, subparagraph (3), is whether the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or for nominal additional consideration, which is defined later in this section. In *re Celeryvale Transp.*, 44 Bankr. 1007, 1014-15 (Bankr.E.D.Tenn.1984). The fourth of these tests, subparagraph (4), is whether the lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration. All of these tests focus on economics, not the intent of the parties. In *re Berge*, 32 Bankr. 370, 371-73 (Bankr.W.D.Wis.1983).

The focus on economics is reinforced by subsection (c). It states that a transaction does not create a security interest merely because the transaction has certain characteristics listed therein. Subparagraph (1) has no statutory derivative; it states that a full payout lease does not per se create a security interest. *Rushton v. Shea*, 419 F.Supp. 1349, 1365 (D.Del.1976). Subparagraphs (2) and (3) provides the same regarding the provisions of the typical net lease. Compare *All-States Leasing Co. v. Ochs*, 42 Or.App. 319, 600 P.2d 899 (Ct.App.1979), with *In re Tillery*, 571 F.2d 1361 (5th Cir.1978). Subparagraph (4) restates and expands the provisions of the 1978 official text of section 1-201(37) to make clear that the option can be to buy or renew. Subparagraphs (5) and (6) treat fixed price options and provide that fair market value must be determined at the time the transaction is entered into. Compare *Arnold Mach. Co. v. Balls*, 624 P.2d 678 (Utah 1981), with *Aoki v. Shepherd Mach. Co.*, 665 F.2d 941 (9th Cir.1982).

The relationship of subsection (b) to subsection (c) deserves to be explored. The fixed price purchase option provides a useful example. A fixed price purchase option in a lease does not of itself create a security interest. This is particularly true if the fixed price is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed. A security interest is created only if the option price is nominal and the conditions stated in the introduction to the

second paragraph of this subsection are met. There is a set of purchase options whose fixed price is less than fair market value but greater than nominal that must be determined on the facts of each case to ascertain whether the transaction in which the option is included creates a lease or a security interest.

It was possible to provide for various other permutations and combinations with respect to options to purchase and renew.

For example, this section could have stated a rule to govern the facts of *In re Marhoefer Packing Co.*, 674 F.2d 1139 (7th Cir.1982). This was not done because it would unnecessarily complicate the definition. Further development of this rule is left to the courts.

Subsections (d) and (e) provide definitions and rules of construction.

1-204 Value.

Except as otherwise provided in articles 3, 4, and 5, a person gives value for rights if the person acquires them:

- (1) in return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge back is provided for in the event of difficulties in collection;
- (2) as security for, or in total or partial satisfaction of, a preexisting claim;
- (3) by accepting delivery under a preexisting contract for purchase; or
- (4) in return for any consideration sufficient to support a simple contract.

Source: Laws 2005, LB 570, § 17.

COMMENT

Source: Former section 1-201(44).

Changes from former law: Unchanged from former section 1-201, which was derived from sections 25, 26, 27, and 191, Uniform Negotiable Instruments Law; section 76, Uniform Sales Act; section 53, Uniform Bills of Lading Act; section 58, Uniform Warehouse Receipts Act; section 22(1), Uniform Stock Transfer Act; and section 1, Uniform Trust Receipts Act. These provisions are substantive rather than purely definitional. Accordingly, they have been relocated from former section 1-201 to this section.

1. All the uniform acts in the commercial law field (except the Uniform Conditional Sales Act) have carried definitions of "value". All those definitions provided that value was any consideration sufficient to support a simple contract, including the taking of property in satisfaction of or as security for a preexisting claim. Subsections (1), (2), and (4) in substance continue the definitions of "value" in the earlier acts. Subsection (3) makes

explicit that "value" is also given in a third situation: Where a buyer by taking delivery under a preexisting contract converts a contingent into a fixed obligation.

This definition is not applicable to articles 3 and 4, but the express inclusion of immediately available credit as value follows the separate definitions in those articles. See sections 3-303, 4-208, and 4-209. A bank or other financing agency which in good faith makes advances against property held as collateral becomes a bona fide purchaser of that property even though provision may be made for charge back in case of trouble. Checking credit is "immediately available" within the meaning of this section if the bank would be subject to an action for slander of credit in case checks drawn against the credit were dishonored, and when a chargeback is not discretionary with the bank, but may only be made when difficulties in collection arise in connection with the specific transaction involved.

1-205 Reasonable time; seasonableness.

(a) Whether a time for taking an action required by the Uniform Commercial Code is reasonable depends on the nature, purpose, and circumstances of the action.

(b) An action is taken seasonably if it is taken at or within the time agreed or, if no time is agreed, at or within a reasonable time.

Source: Laws 2005, LB 570, § 18.

COMMENT

Source: Former section 1-204(2)-(3).

Changes from former law: This section is derived from subsections (2) and (3) of former section 1-204. Subsection (1) of that section is now incorporated in section 1-302(b).

1. Subsection (a) makes it clear that requirements that actions be taken within a "reasonable" time are to be applied in the transactional context of the particular action.

2. Under subsection (b), the agreement that fixes the time need not be part of the main agreement, but may occur separately. Notice also that under the definition of "agreement" (section 1-201) the circumstances of the transaction, including course of dealing or usages of trade or course of performance may be material. On the question what is a reasonable time these matters will often be important.

1-206 Presumptions.

Whenever the Uniform Commercial Code creates a "presumption" with respect to a fact, or provides that a fact is "presumed", the trier of fact must find the existence of the fact unless and until evidence is introduced that supports a finding of its nonexistence.

Source: Laws 2005, LB 570, § 19.

COMMENT

Source: Former section 1-201(31).

Changes from former law: None, other than stylistic changes.

1. Several sections of the Uniform Commercial Code state that there is a "presumption" as to a certain fact, or that the fact is

"presumed". This section, derived from the definition appearing in former section 1-201(31), indicates the effect of those provisions on the proof process.

Part 3

TERRITORIAL APPLICABILITY AND GENERAL RULES

1-301 Territorial applicability; parties' power to choose applicable law.

(a) Except as otherwise provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties.

(b) In the absence of an agreement effective under subsection (a), and except as provided in subsection (c), the Uniform Commercial Code applies to transactions bearing an appropriate relation to this state.

(c) If one of the following provisions of the Uniform Commercial Code specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:

- (1) Section 2-402;
- (2) Sections 2A-105 and 2A-106;
- (3) Section 4-102;
- (4) Section 4A-507;
- (5) Section 5-116;
- (6) Section 8-110;
- (7) Sections 9-301 through 9-307.

Source: Laws 2005, LB 570, § 20.

COMMENT

Source: Former section 1-105.

Changes from former law: This section is substantively identical to former section 1-105. Changes in language are stylistic only.

This section is subject to section 1-102, which states the scope of article 1. As that section indicates, the rules of article 1, including this section, apply to a transaction to the extent that transaction is governed by one of the other articles of the Uniform Commercial Code.

1-302 Variation by agreement.

(a) Except as otherwise provided in subsection (b) or elsewhere in the Uniform Commercial Code, the effect of provisions of the code may be varied by agreement.

(b) The obligations of good faith, diligence, reasonableness, and care prescribed by the code may not be disclaimed by agreement. The parties, by agreement, may determine the standards by which the performance of those obligations is to be measured if those standards are not manifestly unreasonable. Whenever the code requires an action to be taken within a reasonable time, a time that is not manifestly unreasonable may be fixed by agreement.

(c) The presence in certain provisions of the code of the phrase "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement under this section.

Source: Laws 2005, LB 570, § 21.

COMMENT

Source: Former sections 1-102(3)-(4) and 1-204(1).

Changes: This section combines the rules from subsections (3) and (4) of former section 1-102 and subsection (1) of former section 1-204. No substantive changes are made.

1. Subsection (a) states affirmatively at the outset that freedom of contract is a principle of the Uniform Commercial Code: "The effect" of its provisions may be varied by "agreement". The meaning of the statute itself must be found in its text, including its definitions, and in appropriate extrinsic aids; it cannot be varied by agreement. But the Uniform Commercial Code seeks to avoid the type of interference with evolutionary growth found in precode cases such as *Manhattan Co. v. Morgan*, 242 N.Y. 38, 150 N.E. 594 (1926). Thus, private parties cannot make an instrument negotiable within the meaning of article 3 except as provided in section 3-104; nor can they change the meaning of such terms as "bona fide purchaser", "holder in due course", or "due negotiation", as used in the Uniform Commercial Code. But an agreement can change the legal consequences that would otherwise flow from the provisions of the Uniform Commercial Code. "Agreement" here includes the effect given to course of dealing, usage of trade, and course of performance by sections 1-201 and 1-303; the effect of an agreement on the rights of third parties is left to specific provisions of the Uniform Commercial Code and to supplementary principles applicable under section 1-103. The rights of third parties under section 9-317 when a security interest is unperfected, for example, cannot be destroyed by a clause in the security agreement.

This principle of freedom of contract is subject to specific exceptions found elsewhere in the Uniform Commercial Code and to the general exception stated here. The specific exceptions vary in explicitness: The statute of frauds found in section 2-201, for example, does not explicitly preclude oral waiver of the requirement of a writing, but a fair reading denies enforcement to such a waiver as part of the "contract" made unenforceable; section 9-602, on the other hand, is a quite explicit limitation on freedom of contract. Under the exception for "the obligations of good faith, diligence, reasonableness, and care prescribed by the

Uniform Commercial Code", provisions of the Uniform Commercial Code prescribing such obligations are not to be disclaimed. However, the section also recognizes the prevailing practice of having agreements set forth standards by which due diligence is measured and explicitly provides that, in the absence of a showing that the standards manifestly are unreasonable, the agreement controls. In this connection, section 1-303 incorporating into the agreement prior course of dealing and usages of trade is of particular importance.

Subsection (b) also recognizes that nothing is stronger evidence of a reasonable time than the fixing of such time by a fair agreement between the parties. However, provision is made for disregarding a clause which whether by inadvertence or overreaching fixes a time so unreasonable that it amounts to eliminating all remedy under the contract. The parties are not required to fix the most reasonable time but may fix any time which is not obviously unfair as judged by the time of contracting.

2. An agreement that varies the effect of provisions of the Uniform Commercial Code may do so by stating the rules that will govern in lieu of the provisions varied. Alternatively, the parties may vary the effect of such provisions by stating that their relationship will be governed by recognized bodies of rules or principles applicable to commercial transactions. Such bodies of rules or principles may include, for example, those that are promulgated by intergovernmental authorities such as UN-CITRAL or UNIDROIT (see, e.g., UNIDROIT Principles of International Commercial Contracts), or nonlegal codes such as trade codes.

3. Subsection (c) is intended to make it clear that, as a matter of drafting, phrases such as "unless otherwise agreed" have been used to avoid controversy as to whether the subject matter of a particular section does or does not fall within the exceptions to subsection (b), but absence of such words contains no negative implication since under subsection (b) the general and residual rule is that the effect of all provisions of the Uniform Commercial Code may be varied by agreement.

1-303 Course of performance, course of dealing, and usage of trade.

(a) A "course of performance" is a sequence of conduct between the parties to a particular transaction that exists if:

(1) the agreement of the parties with respect to the transaction involves repeated occasions for performance by a party; and

(2) the other party, with knowledge of the nature of the performance and opportunity for objection to it, accepts the performance or acquiesces in it without objection.

(b) A "course of dealing" is a sequence of conduct concerning previous transactions between the parties to a particular transaction that is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(c) A "usage of trade" is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage must be proved as facts. If it is established that such a usage is embodied in a trade code or similar record, the interpretation of the record is a question of law.

(d) A course of performance or course of dealing between the parties or usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware is relevant in ascertaining the meaning of the parties' agreement, may give particular meaning to specific terms of the agreement,

and may supplement or qualify the terms of the agreement. A usage of trade applicable in the place in which part of the performance under the agreement is to occur may be so utilized as to that part of the performance.

(e) Except as otherwise provided in subsection (f), the express terms of an agreement and any applicable course of performance, course of dealing, or usage of trade must be construed whenever reasonable as consistent with each other. If such a construction is unreasonable:

(1) express terms prevail over course of performance, course of dealing, and usage of trade;

(2) course of performance prevails over course of dealing and usage of trade; and

(3) course of dealing prevails over usage of trade.

(f) Subject to section 2-209, a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

(g) Evidence of a relevant usage of trade offered by one party is not admissible unless that party has given the other party notice that the court finds sufficient to prevent unfair surprise to the other party.

Source: Laws 2005, LB 570, § 22.

COMMENT

Source: Former sections 1-205, 2-208, and 2A-207.

Changes from former law: This section integrates the “course of performance” concept from articles 2 and 2A into the principles of former section 1-205, which deals with course of dealing and usage of trade. In so doing, the section slightly modifies the articulation of the course of performance rules to fit more comfortably with the approach and structure of former section 1-205. There are also slight modifications to be more consistent with the definition of “agreement” in former section 1-201(3). It should be noted that a course of performance that might otherwise establish a defense to the obligation of a party to a negotiable instrument is not available as a defense against a holder in due course who took the instrument without notice of that course of performance.

1. The Uniform Commercial Code rejects both the “lay-dictionary” and the “conveyancer’s” reading of a commercial agreement. Instead the meaning of the agreement of the parties is to be determined by the language used by them and by their action, read and interpreted in the light of commercial practices and other surrounding circumstances. The measure and background for interpretation are set by the commercial context, which may explain and supplement even the language of a formal or final writing.

2. “Course of dealing”, as defined in subsection (b), is restricted, literally, to a sequence of conduct between the parties previous to the agreement. A sequence of conduct after or under the agreement, however, is a “course of performance”. “Course of dealing” may enter the agreement either by explicit provisions of the agreement or by tacit recognition.

3. The Uniform Commercial Code deals with “usage of trade” as a factor in reaching the commercial meaning of the agreement that the parties have made. The language used is to be interpreted as meaning what it may fairly be expected to mean to parties involved in the particular commercial transaction in a given locality or in a given vocation or trade. By adopting in this context the term “usage of trade”, the Uniform Commercial Code expresses its intent to reject those cases which see evidence of “custom” as representing an effort to displace or negate “established rules of law”. A distinction is to be drawn between mandatory rules of law such as the Statute of Frauds provisions of Article 2 on Sales whose very office is to control and restrict the actions of the parties, and which cannot be

abrogated by agreement, or by a usage of trade, and those rules of law (such as those in part 3 of Article 2 on Sales) which fill in points which the parties have not considered and in fact agreed upon. The latter rules hold “unless otherwise agreed” but yield to the contrary agreement of the parties. Part of the agreement of the parties to which such rules yield is to be sought for in the usages of trade which furnish the background and give particular meaning to the language used, and are the framework of common understanding controlling any general rules of law which hold only when there is no such understanding.

4. A usage of trade under subsection (c) must have the “regularity of observance” specified. The ancient English tests for “custom” are abandoned in this connection. Therefore, it is not required that a usage of trade be “ancient or immemorial”, “universal”, or the like. Under the requirement of subsection (c) full recognition is thus available for new usages and for usages currently observed by the great majority of decent dealers, even though dissidents ready to cut corners do not agree. There is room also for proper recognition of usage agreed upon by merchants in trade codes.

5. The policies of the Uniform Commercial Code controlling explicit unconscionable contracts and clauses (sections 1-304 and 2-302) apply to implicit clauses that rest on usage of trade and carry forward the policy underlying the ancient requirement that a custom or usage must be “reasonable”. However, the emphasis is shifted. The very fact of commercial acceptance makes out a prima facie case that the usage is reasonable, and the burden is no longer on the usage to establish itself as being reasonable. But the anciently established policing of usage by the courts is continued to the extent necessary to cope with the situation arising if an unconscionable or dishonest practice should become standard.

6. Subsection (d), giving the prescribed effect to usages of which the parties “are or should be aware”, reinforces the provision of subsection (c) requiring not universality but only the described “regularity of observance” of the practice or method. This subsection also reinforces the point of subsection (c) that such usages may be either general to trade or particular to a special branch of trade.

7. Although the definition of “agreement” in section 1-201 includes the elements of course of performance, course of dealing, and usage of trade, the fact that express reference is made

in some sections to those elements is not to be construed as carrying a contrary intent or implication elsewhere. Compare section 1-302(c).

8. In cases of a well established line of usage varying from the general rules of the Uniform Commercial Code where the precise amount of the variation has not been worked out into a single standard, the party relying on the usage is entitled, in any event, to the minimum variation demonstrated. The whole is not

to be disregarded because no particular line of detail has been established. In case a dominant pattern has been fairly evidenced, the party relying on the usage is entitled under this section to go to the trier of fact on the question of whether such dominant pattern has been incorporated into the agreement.

9. Subsection (g) is intended to insure that this code's liberal recognition of the needs of commerce in regard to usage of trade shall not be made into an instrument of abuse.

1-304 Obligation of good faith.

Every contract or duty within the Uniform Commercial Code imposes an obligation of good faith in its performance and enforcement.

Source: Laws 2005, LB 570, § 23.

COMMENT

Source: Former section 1-203.

Changes from former law: Except for changing the form of reference to the Uniform Commercial Code, this section is identical to former section 1-203.

1. This section sets forth a basic principle running throughout the Uniform Commercial Code. The principle is that in commercial transactions good faith is required in the performance and enforcement of all agreements or duties. While this duty is explicitly stated in some provisions of the Uniform Commercial Code, the applicability of the duty is broader than merely these situations and applies generally, as stated in this section, to the performance or enforcement of every contract or duty within this code. It is further implemented by section 1-303 on course of dealing, course of performance, and usage of trade. This

section does not support an independent cause of action for failure to perform or enforce in good faith. Rather, this section means that a failure to perform or enforce, in good faith, a specific duty or obligation under the contract, constitutes a breach of that contract or makes unavailable, under the particular circumstances, a remedial right or power. This distinction makes it clear that the doctrine of good faith merely directs a court towards interpreting contracts within the commercial context in which they are created, performed, and enforced, and does not create a separate duty of fairness and reasonableness which can be independently breached.

2. "Performance and enforcement" of contracts and duties within the Uniform Commercial Code include the exercise of rights created by the Uniform Commercial Code.

1-305 Remedies to be liberally administered.

(a) The remedies provided by the Uniform Commercial Code must be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special damages nor penal damages may be had except as specifically provided in the code or by other rule of law.

(b) Any right or obligation declared by the code is enforceable by action unless the provision declaring it specifies a different and limited effect.

Source: Laws 2005, LB 570, § 24.

COMMENT

Source: Former section 1-106.

Changes from former law: Other than changes in the form of reference to the Uniform Commercial Code, this section is identical to former section 1-106.

1. Subsection (a) is intended to effect three propositions. The first is to negate the possibility of unduly narrow or technical interpretation of remedial provisions by providing that the remedies in the Uniform Commercial Code are to be liberally administered to the end stated in this section. The second is to make it clear that compensatory damages are limited to compensation. They do not include consequential or special damages, or penal damages; and the Uniform Commercial Code elsewhere makes it clear that damages must be minimized. Cf. sections 1-304, 2-706(1), and 2-712(2). The third purpose of subsection (a) is to reject any doctrine that damages must be

calculable with mathematical accuracy. Compensatory damages are often at best approximate: They have to be proved with whatever definiteness and accuracy the facts permit, but no more. Cf. section 2-204(3).

2. Under subsection (b), any right or obligation described in the Uniform Commercial Code is enforceable by action, even though no remedy may be expressly provided, unless a particular provision specifies a different and limited effect. Whether specific performance or other equitable relief is available is determined not by this section but by specific provisions and by supplementary principles. Cf. sections 1-103 and 2-716.

3. "Consequential" or "special" damages and "penal" damages are not defined in the Uniform Commercial Code; rather, these terms are used in the sense in which they are used outside the Uniform Commercial Code.

1-306 Waiver or renunciation of claim or right after breach.

A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in an authenticated record.

Source: Laws 2005, LB 570, § 25.

COMMENT

Source: Former section 1-107.

Changes from former law: This section changes former law in two respects. First, former section 1-107, requiring the “delivery” of a “written waiver or renunciation” merges the separate concepts of the aggrieved party’s agreement to forego rights and the manifestation of that agreement. This section separates those concepts, and explicitly requires agreement of the aggrieved party. Second, the revised section reflects developments in electronic commerce by providing for memorialization in an authenticated record. In this context, a party may “authenticate” a record by (i) signing a record that is a writing or (ii)

attaching to or logically associating with a record that is not a writing an electronic sound, symbol, or process with the present intent to adopt or accept the record. See sections 1-201(b)(37) and 9-102(a)(7).

1. This section makes consideration unnecessary to the effective renunciation or waiver of rights or claims arising out of an alleged breach of a commercial contract where the agreement effecting such renunciation is memorialized in a record authenticated by the aggrieved party. Its provisions, however, must be read in conjunction with the section imposing an obligation of good faith (section 1-304).

1-307 Prima facie evidence by third-party documents.

A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher’s or inspector’s certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party is prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party.

Source: Laws 2005, LB 570, § 26.

COMMENT

Source: Former section 1-202.

Changes from former law: Except for minor stylistic changes, this section is identical to former section 1-202.

1. This section supplies judicial recognition for documents that are relied upon as trustworthy by commercial parties.

2. This section is concerned only with documents that have been given a preferred status by the parties themselves who have required their procurement in the agreement, and for this reason the applicability of the section is limited to actions arising out of the contract that authorized or required the

document. The list of documents is intended to be illustrative and not exclusive.

3. The provisions of this section go no further than establishing the documents in question as prima facie evidence and leave to the court the ultimate determination of the facts where the accuracy or authenticity of the documents is questioned. In this connection the section calls for a commercially reasonable interpretation.

4. Documents governed by this section need not be writings if records in another medium are generally relied upon in the context.

1-308 Performance or acceptance under reservation of rights.

(a) A party that with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as “without prejudice”, “under protest”, or the like are sufficient.

(b) Subsection (a) does not apply to an accord and satisfaction.

Source: Laws 2005, LB 570, § 27.

COMMENT

Source: Former section 1-207.

Changes from former law: This section is identical to former section 1-207.

1. This section provides machinery for the continuation of performance along the lines contemplated by the contract despite a pending dispute, by adopting the mercantile device of going ahead with delivery, acceptance, or payment “without prejudice”, “under protest”, “under reserve”, “with reservation of all our rights”, and the like. All of these phrases completely reserve all rights within the meaning of this section. The section therefor contemplates that limited as well as general reservations and acceptance by a party may be made “subject to satisfaction of our purchaser”, “subject to acceptance by our customers”, or the like.

2. This section does not add any new requirement of language of reservation where not already required by law, but merely provides a specific measure on which a party can rely as that party makes or concurs in any interim adjustment in the course of performance. It does not affect or impair the provisions of

this code such as those under which the buyer’s remedies for defect survive acceptance without being expressly claimed if notice of the defects is given within a reasonable time. Nor does it disturb the policy of those cases which restrict the effect of a waiver of a defect to reasonable limits under the circumstances, even though no such reservation is expressed.

The section is not addressed to the creation or loss of remedies in the ordinary course of performance but rather to a method of procedure where one party is claiming as of right something which the other believes to be unwarranted.

3. Subsection (b) states that this section does not apply to an accord and satisfaction. Section 3-311 governs if an accord and satisfaction is attempted by tender of a negotiable instrument as stated in that section. If section 3-311 does not apply, the issue of whether an accord and satisfaction has been effected is determined by the law of contract. Whether or not section 3-311 applies, this section has no application to an accord and satisfaction.

1-309 Option to accelerate at will.

A term providing that one party or that party's successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or when the party "deems itself insecure", or words of similar import, means that the party has power to do so only if that party in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against which the power has been exercised.

Source: Laws 2005, LB 570, § 28.

COMMENT

Source: Former section 1-208.

Changes from former law: Except for minor stylistic changes, this section is identical to former section 1-208.

1. The common use of acceleration clauses in many transactions governed by the Uniform Commercial Code, including sales of goods on credit, notes payable at a definite time, and secured transactions, raises an issue as to the effect to be given to a clause that seemingly grants the power to accelerate at the whim and caprice of one party. This section is intended to make clear that despite language that might be so construed and

which further might be held to make the agreement void as against public policy or to make the contract illusory or too indefinite for enforcement, the option is to be exercised only in the good faith belief that the prospect of payment or performance is impaired.

Obviously this section has no application to demand instruments or obligations whose very nature permits call at any time with or without reason. This section applies only to an obligation of payment or performance which in the first instance is due at a future date.

1-310 Subordinated obligations.

An obligation may be issued as subordinated to performance of another obligation of the person obligated, or a creditor may subordinate its right to performance of an obligation by agreement with either the person obligated or another creditor of the person obligated. Subordination does not create a security interest as against either the common debtor or a subordinated creditor.

Source: Laws 2005, LB 570, § 29.

COMMENT

Source: Former section 1-209.

Changes from former law: This section is substantively identical to former section 1-209. The language in that section stating that it "shall be construed as declaring the law as it existed prior to the enactment of this section and not as modifying it" has been deleted.

1. Billions of dollars of subordinated debt are held by the public and by institutional investors. Commonly, the subordinated debt is subordinated on issue or acquisition and is evidenced by an investment security or by a negotiable or nonnegotiable note. Debt is also sometimes subordinated after it arises, either by agreement between the subordinating creditor and the debtor, by agreement between two creditors of the same debtor, or by agreement of all three parties. The subordinated creditor may be a stockholder or other "insider" interested in the common debtor; the subordinated debt may consist of accounts or other rights to payment not evidenced by any instrument. All such cases are included in the terms "subordinated obligation", "subordination", and "subordinated creditor".

2. Subordination agreements are enforceable between the parties as contracts; and in the bankruptcy of the common debtor dividends otherwise payable to the subordinated creditor are turned over to the superior creditor. This "turn-over" prac-

tice has on occasion been explained in terms of "equitable lien", "equitable assignment", or "constructive trust", but whatever the label the practice is essentially an equitable remedy and does not mean that there is a transaction "that creates a security interest in personal property . . . by contract" or a "sale of accounts, chattel paper, payment intangibles, or promissory notes" within the meaning of section 9-109. On the other hand, nothing in this section prevents one creditor from assigning his or her rights to another creditor of the same debtor in such a way as to create a security interest within article 9, where the parties so intend.

3. The enforcement of subordination agreements is largely left to supplementary principles under section 1-103. If the subordinated debt is evidenced by a certificated security, section 8-202(a) authorizes enforcement against purchasers on terms stated or referred to on the security certificate. If the fact of subordination is noted on a negotiable instrument, a holder under sections 3-302 and 3-306 is subject to the term because notice precludes him or her from taking free of the subordination. Sections 3-302(3)(a), 3-306, and 8-317 severely limit the rights of levying creditors of a subordinated creditor in such cases.

**ARTICLE 2
SALES**

Part 1. SHORT TITLE, GENERAL CONSTRUCTION, AND SUBJECT MATTER

Section

- 2-103. Definitions and index of definitions.
- 2-104. Definitions; merchant; between merchants; financing agency.

Part 2. FORM, FORMATION, AND READJUSTMENT OF CONTRACT

- 2-202. Final written expression; parol or extrinsic evidence.
- 2-208. Repealed. Laws 2005, LB 570, § 116.

Part 3. GENERAL OBLIGATION AND CONSTRUCTION OF CONTRACT

- 2-310. Open time for payment or running of credit; authority to ship under reservation.
- 2-323. Form of bill of lading required in overseas shipment; overseas.

Part 4. TITLE, CREDITORS, AND GOOD FAITH PURCHASERS

- 2-401. Passing of title; reservation for security; limited application of this section.

Part 5. PERFORMANCE

- 2-503. Manner of seller's tender of delivery.
- 2-505. Seller's shipment under reservation.
- 2-506. Rights of financing agency.
- 2-509. Risk of loss in the absence of breach.

Part 6. BREACH, REPUDIATION, AND EXCUSE

- 2-605. Waiver of buyer's objections by failure to particularize.

Part 7. REMEDIES

- 2-705. Seller's stoppage of delivery in transit or otherwise.

Part 1

SHORT TITLE, GENERAL CONSTRUCTION, AND SUBJECT MATTER

2-103 Definitions and index of definitions.

- (1) In this article unless the context otherwise requires
 - (a) "Buyer" means a person who buys or contracts to buy goods.
 - (b) "Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.
 - (c) "Receipt" of goods means taking physical possession of them.
 - (d) "Seller" means a person who sells or contracts to sell goods.
- (2) Other definitions applying to this article or to specified parts thereof, and the sections in which they appear are:

"Acceptance".	Section 2-606.
"Banker's credit".	Section 2-325.
"Between merchants".	Section 2-104.
"Cancellation".	Section 2-106(4).
"Commercial unit".	Section 2-105.
"Confirmed credit".	Section 2-325.
"Conforming to contract".	Section 2-106.
"Contract for sale".	Section 2-106.
"Cover".	Section 2-712.
"Entrusting".	Section 2-403.
"Financing agency".	Section 2-104.

“Future goods”.	Section 2-105.
“Goods”.	Section 2-105.
“Identification”.	Section 2-501.
“Installment contract”.	Section 2-612.
“Letter of credit”.	Section 2-325.
“Lot”.	Section 2-105.
“Merchant”.	Section 2-104.
“Overseas”.	Section 2-323.
“Person in position of seller”.	Section 2-707.
“Present sale”.	Section 2-106.
“Sale”.	Section 2-106.
“Sale on approval”.	Section 2-326.
“Sale or return”.	Section 2-326.
“Termination”.	Section 2-106.

(3) “Control” as provided in section 7-106 and the following definitions in other articles apply to this article:

“Check”.	Section 3-104.
“Consignee”.	Section 7-102.
“Consignor”.	Section 7-102.
“Consumer goods”.	Section 9-102.
“Dishonor”.	Section 3-502.
“Draft”.	Section 3-104.

(4) In addition article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 1963, c. 544, Art. II, § 2-103, p. 1706; Laws 1991, LB 161, § 3; Laws 1999, LB 550, § 54; Laws 2005, LB 570, § 30.

COMMENT

Prior Uniform Statutory Provision: Subsection (1): Section 76, Uniform Sales Act.

Changes: The definitions of “buyer” and “seller” have been slightly rephrased, the reference in section 76 of the prior act to “any legal successor in interest of such person” being omitted. The definition of “receipt” is new.

Purposes of Changes and New Matter:

1. The phrase “any legal successor in interest of such person” has been eliminated since section 2-210 of this article, which limits some types of delegation of performance on assignment of a sales contract, makes it clear that not every such successor can be safely included in the definition. In every ordinary case, however, such successors are as of course included.

2. “Receipt” must be distinguished from delivery particularly in regard to the problems arising out of shipment of goods,

whether or not the contract calls for making delivery by way of documents of title, since the seller may frequently fulfill his or her obligations to “deliver” even though the buyer may never “receive” the goods. Delivery with respect to documents of title is defined in article 1 and requires transfer of physical delivery of a tangible document of title and transfer of control of an electronic document of title. Otherwise the many divergent incidents of delivery are handled incident by incident.

Cross References:

Point 1: See section 2-210 and comment thereon.

Point 2: Section 1-201.

Definitional Cross References:

“Person”. Section 1-201.

2-104 Definitions; merchant; between merchants; financing agency.

(1) “Merchant” means a person who deals in goods of the kind or otherwise by his or her occupation holds himself or herself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his or her employment of an agent or broker or other intermediary who by his or her occupation holds himself or herself out as having such knowledge or skill.

(2) “Financing agency” means a bank, finance company, or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in

ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller's draft or making advances against it or by merely taking it for collection whether or not documents of title accompany or are associated with the draft. "Financing agency" includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (section 2-707).

(3) "Between merchants" means in any transaction with respect to which both parties are chargeable with the knowledge or skill of merchants.

Source: Laws 1963, c. 544, Art. II, § 2-104, p. 1708; Laws 2005, LB 570, § 31.

COMMENT

Prior Uniform Statutory Provision: None. But see sections 15(2), (5), 16(c), 45(2), and 71, Uniform Sales Act, and sections 35 and 37, Uniform Bills of Lading Act for examples of the policy expressly provided for in this article.

Purposes:

1. This article assumes that transactions between professionals in a given field require special and clear rules which may not apply to a casual or inexperienced seller or buyer. It thus adopts a policy of expressly stating rules applicable "between merchants" and "as against a merchant" wherever they are needed instead of making them depend upon the circumstances of each case as in the statutes cited above. This section lays the foundation of this policy by defining those who are to be regarded as professionals or "merchants" and by stating when a transaction is deemed to be "between merchants".

2. The term "merchant" as defined here roots in the "law merchant" concept of a professional in business. The professional status under the definition may be based upon specialized knowledge as to the goods, specialized knowledge as to business practices, or specialized knowledge as to both and which kind of specialized knowledge may be sufficient to establish the merchant status is indicated by the nature of the provisions.

The special provisions as to merchants appear only in this article and they are of three kinds. Sections 2-201(2), 2-205, 2-207, and 2-209 dealing with the statute of frauds, firm offers, confirmatory memoranda, and modification rest on normal business practices which are or ought to be typical of and familiar to any person in business. For purposes of these sections almost every person in business would, therefore, be deemed to be a "merchant" under the language "who ... by his occupation holds himself out as having knowledge or skill peculiar to the practices ... involved in the transaction ..." since the practices involved in the transaction are nonspecialized business practices such as answering mail. In this type of provision, banks or even universities, for example, well may be "merchants". But even these sections only apply to a merchant in his or her mercantile capacity; a lawyer or bank president buying fishing tackle for his or her own use is not a merchant.

On the other hand, in section 2-314 on the warranty of merchantability, such warranty is implied only "if the seller is a merchant with respect to goods of that kind". Obviously this

qualification restricts the implied warranty to a much smaller group than everyone who is engaged in business and requires a professional status as to particular kinds of goods. The exception in section 2-402(2) for retention of possession by a merchant seller falls in the same class; as does section 2-403(2) on entrusting of possession to a merchant "who deals in goods of that kind".

A third group of sections includes 2-103(1)(b), which provides that in the case of a merchant "good faith" includes observance of reasonable commercial standards of fair dealing in the trade; 2-327(1)(c), 2-603, and 2-605, dealing with responsibilities of merchant buyers to follow seller's instructions, etc.; 2-509 on risk of loss, and 2-609 on adequate assurance of performance. This group of sections applies to persons who are merchants under either the "practices" or the "goods" aspect of the definition of merchant.

3. The "or to whom such knowledge or skill may be attributed by his employment of an agent or broker ..." clause of the definition of merchant means that even persons such as universities, for example, can come within the definition of merchant if they have regular purchasing departments or business personnel who are familiar with business practices and who are equipped to take any action required.

Cross References:

Point 1: See sections 1-102 and 1-203.

Point 2: See sections 2-314, 2-315, and 2-320 to 2-325 of this article and article 9.

Definitional Cross References:

"Bank". Section 1-201.

"Buyer". Section 2-103.

"Contract for sale". Section 2-106.

"Document of title". Section 1-201.

"Draft". Section 3-104.

"Goods". Section 2-105.

"Person". Section 1-201.

"Purchase". Section 1-201.

"Seller". Section 2-103.

Part 2

FORM, FORMATION, AND READJUSTMENT OF CONTRACT

2-202 Final written expression; parol or extrinsic evidence.

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented

(a) by course of performance, course of dealing, or usage of trade (section 1-303); and

(b) by evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

Source: Laws 1963, c. 544, Art. II, § 2-202, p. 1712; Laws 2005, LB 570, § 32.

COMMENT

Prior Uniform Statutory Provision: None.

Purposes:

1. This section definitely rejects:

(a) Any assumption that because a writing has been worked out which is final on some matters, it is to be taken as including all the matters agreed upon;

(b) The premise that the language used has the meaning attributable to such language by rules of construction existing in the law rather than the meaning which arises out of the commercial context in which it was used; and

(c) The requirement that a condition precedent to the admissibility of the type of evidence specified in paragraph (a) is an original determination by the court that the language used is ambiguous.

2. Paragraph (a) makes admissible evidence of course of dealing, usage of trade, and course of performance to explain or supplement the terms of any writing stating the agreement of the parties in order that the true understanding of the parties as to the agreement may be reached. Such writings are to be read on the assumption that the course of prior dealings between the parties and the usages of trade were taken for granted when the document was phrased. Unless carefully negated they have

become an element of the meaning of the words used. Similarly, the course of actual performance by the parties is considered the best indication of what they intended the writing to mean.

3. Under paragraph (b) consistent additional terms, not reduced to writing, may be proved unless the court finds that the writing was intended by both parties as a complete and exclusive statement of all the terms. If the additional terms are such that, if agreed upon, they would certainly have been included in the document in the view of the court, then evidence of their alleged making must be kept from the trier of fact.

Cross References:

Point 3: Sections 1-303, 2-207, 2-302, and 2-316.

Definitional Cross References:

"Agreed" and "agreement". Section 1-201.

"Course of dealing". Section 1-303.

"Course of performance". Section 1-303.

"Party". Section 1-201.

"Term". Section 1-201.

"Usage of trade". Section 1-303.

"Written" and "writing". Section 1-201.

2-208 Repealed. Laws 2005, LB 570, § 116.

Part 3

GENERAL OBLIGATION AND CONSTRUCTION OF CONTRACT

2-310 Open time for payment or running of credit; authority to ship under reservation.

Unless otherwise agreed

(a) payment is due at the time and place at which the buyer is to receive the goods even though the place of shipment is the place of delivery; and

(b) if the seller is authorized to send the goods he or she may ship them under reservation, and may tender the documents of title, but the buyer may inspect the goods after their arrival before payment is due unless such inspection is inconsistent with the terms of the contract (section 2-513); and

(c) if delivery is authorized and made by way of documents of title otherwise than by subsection (b) then payment is due regardless of where the goods are to be received (i) at the time and place at which the buyer is to receive delivery of the tangible documents or (ii) at the time the buyer is to receive delivery of the electronic documents and at the seller's place of business or if none, the seller's residence; and

(d) where the seller is required or authorized to ship the goods on credit the credit period runs from the time of shipment but postdating the invoice or

delaying its dispatch will correspondingly delay the starting of the credit period.

Source: Laws 1963, c. 544, Art. II, § 2-310, p. 1720; Laws 2005, LB 570, § 33.

COMMENT

Prior Uniform Statutory Provision: Sections 42 and 47(2), Uniform Sales Act.

Changes: Completely rewritten in this and other sections.

Purposes of Changes:

This section is drawn to reflect modern business methods of dealing at a distance rather than face to face. Thus:

1. Paragraph (a) provides that payment is due at the time and place "the buyer is to receive the goods" rather than at the point of delivery except in documentary shipment cases (paragraph (c)). This grants an opportunity for the exercise by the buyer of his or her preliminary right to inspection before paying even though under the delivery term the risk of loss may have previously passed to him or her or the running of the credit period has already started.

2. Paragraph (b) while providing for inspection by the buyer before he or she pays, protects the seller. He or she is not required to give up possession of the goods until he or she has received payment, where no credit has been contemplated by the parties. The seller may collect through a bank by a sight draft against an order bill of lading "hold until arrival; inspection allowed". The obligations of the bank under such a provision are set forth in part 5 of article 4. Under subsection (c), in the absence of a credit term, the seller is permitted to ship under reservation and if he or she does payment is then due where and when the buyer is to receive delivery of the tangible documents of title. In the case of an electronic document of title, payment is due when the buyer is to receive delivery of the electronic document and at the seller's place of business, or if none, the seller's residence. Delivery as to documents of title is stated in article 1, section 1-201.

3. Unless otherwise agreed, the place for the delivery of the documents and payment is the buyer's city but the time for payment is only after arrival of the goods, since under paragraph (b) and sections 2-512 and 2-513 the buyer is under no duty to pay prior to inspection. Tender of a document of title requires that the seller be ready, willing, and able to transfer possession of a tangible document of title or control of an electronic document of title to the buyer.

4. Where the mode of shipment is such that goods must be unloaded immediately upon arrival, too rapidly to permit adequate inspection before receipt, the seller must be guided by the provisions of this article on inspection which provide that if the seller wishes to demand payment before inspection, he or she must put an appropriate term into the contract. Even requiring payment against documents will not of itself have this desired result if the documents are to be held until the arrival of the goods. But under (b) and (c) if the terms are C.I.F., C.O.D., or cash against documents payment may be due before inspection.

5. Paragraph (d) states the common commercial understanding that an agreed credit period runs from the time of shipment or from that dating of the invoice which is commonly recognized as a representation of the time of shipment. The provision concerning any delay in sending forth the invoice is included because such conduct results in depriving the buyer of his or her full notice and warning as to when he or she must be prepared to pay.

Cross References:

Generally: Part 5.

Point 1: Section 2-509.

Point 2: Sections 2-505, 2-511, 2-512, and 2-513 and article 4.

Point 3: Sections 2-308(b), 2-512, and 2-513.

Point 4: Section 2-513(3)(b).

Definitional Cross References:

"Buyer". Section 2-103.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Goods". Section 2-105.

"Receipt of goods". Section 2-103.

"Seller". Section 2-103.

"Send". Section 1-201.

"Term". Section 1-201.

2-323 Form of bill of lading required in overseas shipment; overseas.

(1) Where the contract contemplates overseas shipment and contains a term C.I.F. or C. & F. or F.O.B. vessel, the seller unless otherwise agreed must obtain a negotiable bill of lading stating that the goods have been loaded on board or, in the case of a term C.I.F. or C. & F., received for shipment.

(2) Where in a case within subsection (1) a tangible bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set

(a) due tender of a single part is acceptable within the provisions of this article on cure of improper delivery (subsection (1) of section 2-508); and

(b) even though the full set is demanded, if the documents are sent from abroad the person tendering an incomplete set may nevertheless require payment upon furnishing an indemnity which the buyer in good faith deems adequate.

(3) A shipment by water or by air or a contract contemplating such shipment is “overseas” insofar as by usage of trade or agreement it is subject to the commercial, financing, or shipping practices characteristic of international deep water commerce.

Source: Laws 1963, c. 544, Art. II, § 2-323, p. 1729; Laws 2005, LB 570, § 34.

COMMENT

Prior Uniform Statutory Provision: None.

Purposes:

1. Subsection (1) follows the “American” rule that a regular bill of lading indicating delivery of the goods at the dock for shipment is sufficient, except under a term “F.O.B. vessel”. See section 2-319 and comment thereto.

2. Subsection (2) deals with the problem of bills of lading covering deep-water shipments, issued not as a single bill of lading but in a set of parts, each part referring to the other parts and the entire set constituting in commercial practice and at law a single bill of lading. Commercial practice in international commerce is to accept and pay against presentation of the first part of a set if the part is sent from overseas even though the contract of the buyer requires presentation of a full set of bills of lading provided adequate indemnity for the missing parts is forthcoming. In accord with the amendment to section 7-304, bills of lading in a set are limited to tangible bills.

This subsection codifies that practice as between buyer and seller. Article 5 (section 5-113) authorizes banks presenting drafts under letters of credit to give indemnities against the missing parts, and this subsection means that the buyer must

accept and act on such indemnities if he or she in good faith deems them adequate. But neither this subsection nor article 5 decides whether a bank which has issued a letter of credit is similarly bound. The issuing bank’s obligation under a letter of credit is independent and depends on its own terms. See article 5.

Cross References:

Sections 2-508(2) and 5-113.

Definitional Cross References:

“Bill of lading”. Section 1-201.

“Buyer”. Section 2-103.

“Contract”. Section 1-201.

“Delivery”. Section 1-201.

“Financing agency”. Section 2-104.

“Person”. Section 1-201.

“Seller”. Section 2-103.

“Send”. Section 1-201.

“Term”. Section 1-201.

Part 4

TITLE, CREDITORS, AND GOOD FAITH PURCHASERS

2-401 Passing of title; reservation for security; limited application of this section.

Each provision of this article with regard to the rights, obligations, and remedies of the seller, the buyer, purchasers, or other third parties applies irrespective of title to the goods except where the provision refers to such title. Insofar as situations are not covered by the other provisions of this article and matters concerning title become material the following rules apply:

(1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (section 2-501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by the Uniform Commercial Code. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the Article on Secured Transactions (Article 9), title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading

(a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him or her to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) if the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,

(a) if the seller is to deliver a tangible document of title, title passes at the time when and the place where he or she delivers such documents and if the seller is to deliver an electronic document of title, title passes when the seller delivers the document; or

(b) if the goods are at the time of contracting already identified and no documents of title are to be delivered, title passes at the time and place of contracting.

(4) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance reverts title to the goods in the seller. Such reversion occurs by operation of law and is not a "sale".

Source: Laws 1963, c. 544, Art. II, § 2-401, p. 1733; Laws 1992, LB 861, § 11; Laws 2005, LB 570, § 35.

COMMENT

Prior Uniform Statutory Provision: See generally, sections 17, 18, 19, and 20, Uniform Sales Act.

Purposes:

To make it clear that:

1. This article deals with the issues between seller and buyer in terms of step-by-step performance or nonperformance under the contract for sale and not in terms of whether or not "title" to the goods has passed. That the rules of this section in no way alter the rights of either the buyer, seller, or third parties declared elsewhere in the article is made clear by the preamble of this section. This section, however, in no way intends to indicate which line of interpretation should be followed in cases where the applicability of "public" regulation depends upon a "sale" or upon location of "title" without further definition. The basic policy of this article that known purpose and reason should govern interpretation cannot extend beyond the scope of its own provisions. It is therefore necessary to state what a "sale" is and when title passes under this article in case the courts deem any public regulation to incorporate the defined term of the "private" law.

2. "Future" goods cannot be the subject of a present sale. Before title can pass the goods must be identified in the manner set forth in section 2-501. The parties, however, have full liberty to arrange by specific terms for the passing of title to goods which are existing.

3. The "special property" of the buyer in goods identified to the contract is excluded from the definition of "security interest"; its incidents are defined in provisions of this article such as those on the rights of the seller's creditors, on good faith purchase, on the buyer's right to goods on the seller's insolvency, and on the buyer's right to specific performance or replevin.

4. The factual situations in subsections (2) and (3) upon which passage of title turn actually base the test upon the time when the seller has finally committed himself or herself in regard to specific goods. Thus in a "shipment" contract he or she com-

mits himself or herself by the act of making the shipment. If shipment is not contemplated subsection (3) turns on the seller's final commitment, i.e., the delivery of documents or the making of the contract. As to delivery of an electronic document of title, see definition of delivery in article 1, section 1-201. This article does not state a rule as to the place of title passage as to goods covered by an electronic document of title.

Cross References:

Point 2: Sections 2-102, 2-501, and 2-502.

Point 3: Sections 1-201, 2-402, 2-403, 2-502, and 2-716.

Definitional Cross References:

"Agreement". Section 1-201.

"Bill of lading". Section 1-201.

"Buyer". Section 2-103.

"Contract". Section 1-201.

"Contract for sale". Section 2-106.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Good faith". Section 2-103.

"Goods". Section 2-105.

"Party". Section 1-201.

"Purchaser". Section 1-201.

"Receipt" of goods. Section 2-103.

"Remedy". Section 1-201.

"Rights". Section 1-201.

"Sale". Section 2-106.

"Security interest". Section 1-201.

"Seller". Section 2-103.

"Send". Section 1-201.

Part 5

PERFORMANCE

2-503 Manner of seller's tender of delivery.

(1) Tender of delivery requires that the seller put and hold conforming goods at the buyer's disposition and give the buyer any notification reasonably necessary to enable him or her to take delivery. The manner, time, and place for tender are determined by the agreement and this article, and in particular

(a) tender must be at a reasonable hour, and if it is of goods they must be kept available for the period reasonably necessary to enable the buyer to take possession; but

(b) unless otherwise agreed the buyer must furnish facilities reasonably suited to the receipt of the goods.

(2) Where the case is within the next section respecting shipment tender requires that the seller comply with its provisions.

(3) Where the seller is required to deliver at a particular destination tender requires that he or she comply with subsection (1) and also in any appropriate case tender documents as described in subsections (4) and (5) of this section.

(4) Where goods are in the possession of a bailee and are to be delivered without being moved

(a) tender requires that the seller either tender a negotiable document of title covering such goods or procure acknowledgment by the bailee of the buyer's right to possession of the goods; but

(b) tender to the buyer of a nonnegotiable document of title or of a record directing the bailee to deliver is sufficient tender unless the buyer seasonably objects, and except as otherwise provided in article 9 receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the nonnegotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

(5) Where the contract requires the seller to deliver documents

(a) he or she must tender all such documents in correct form, except as provided in this article with respect to bills of lading in a set (subsection (2) of section 2-323); and

(b) tender through customary banking channels is sufficient and dishonor of a draft accompanying or associated with the documents constitutes nonacceptance or rejection.

Source: Laws 1963, c. 544, Art. II, § 2-503, p. 1738; Laws 2005, LB 570, § 36.

COMMENT

Prior Uniform Statutory Provision: See sections 11, 19, 20, 43(3) and (4), 46, and 51, Uniform Sales Act.

Changes: The general policy of the above sections is continued and supplemented but subsection (3) changes the rule of prior section 19(5) as to what constitutes a "destination" contract and subsection (4) incorporates a minor correction as to tender of delivery of goods in the possession of a bailee.

Purposes of Changes:

1. The major general rules governing the manner of proper or due tender of delivery are gathered in this section. The term "tender" is used in this article in two different senses. In one sense it refers to "due tender" which contemplates an offer coupled with a present ability to fulfill all the conditions resting on the tendering party and must be followed by actual perform-

ance if the other party shows himself or herself ready to proceed. Unless the context unmistakably indicates otherwise this is the meaning of "tender" in this article and the occasional addition of the word "due" is only for clarity and emphasis. At other times it is used to refer to an offer of goods or documents under a contract as if in fulfillment of its conditions even though there is a defect when measured against the contract obligation. Used in either sense, however, "tender" connotes such performance by the tendering party as puts the other party in default if he or she fails to proceed in some manner. These concepts of tender would apply to tender of either tangible or electronic documents of title.

2. The seller's general duty to tender and deliver is laid down in section 2-301 and more particularly in section 2-507. The seller's right to a receipt if he or she demands one and receipts are customary is governed by section 1-205. Subsection (1) of the present section proceeds to set forth two primary requirements of tender: First, that the seller "put and hold conforming goods at the buyer's disposition" and, second, that he or she "give the buyer any notice reasonably necessary to enable him or her to take delivery".

In cases in which payment is due and demanded upon delivery the "buyer's disposition" is qualified by the seller's right to retain control of the goods until payment by the provision of this article on delivery on condition. However, where the seller is demanding payment on delivery he or she must first allow the buyer to inspect the goods in order to avoid impairing his or her tender unless the contract for sale is on C.I.F., C.O.D., cash against documents, or similar terms negating the privilege of inspection before payment.

In the case of contracts involving documents the seller can "put and hold conforming goods at the buyer's disposition" under subsection (1) by tendering documents which give the buyer complete control of the goods under the provisions of article 7 on due negotiation.

3. Under paragraph (a) of subsection (1) usage of the trade and the circumstances of the particular case determine what is a reasonable hour for tender and what constitutes a reasonable period of holding the goods available.

4. The buyer must furnish reasonable facilities for the receipt of the goods tendered by the seller under subsection (1), paragraph (b). This obligation of the buyer is no part of the seller's tender.

5. For the purposes of subsections (2) and (3) there is omitted from this article the rule under prior uniform legislation that a term requiring the seller to pay the freight or cost of transportation to the buyer is equivalent to an agreement by the seller to deliver to the buyer or at an agreed destination. This omission is with the specific intention of negating the rule, for under this article the "shipment" contract is regarded as the normal one and the "destination" contract as the variant type. The seller is not obligated to deliver at a named destination and bear the concurrent risk of loss until arrival, unless he or she has specifically agreed so to deliver or the commercial understanding of the terms used by the parties contemplates such delivery.

6. Paragraph (a) of subsection (4) continues the rule of the prior uniform legislation as to acknowledgement by the bailee. Paragraph (b) of subsection (4) adopts the rule that between the buyer and the seller the risk of loss remains on the seller during a period reasonable for securing acknowledgement of the trans-

fer from the bailee, while as against all other parties the buyer's rights are fixed as of the time the bailee receives notice of the transfer.

7. Under subsection (5) documents are never "required" except where there is an express contract term or it is plainly implicit in the peculiar circumstances of the case or in a usage of trade. Documents may, of course, be "authorized" although not required, but such cases are not within the scope of this subsection. When documents are required, there are three main requirements of this subsection: (1) "All": Each required document is essential to a proper tender; (2) "Such": The documents must be the ones actually required by the contract in terms of source and substance; (3) "Correct form": All documents must be in correct form. These requirements apply to both tangible and electronic documents of title. When tender is made through customary banking channels, a draft may accompany or be associated with a document of title. The language has been broadened to allow for drafts to be associated with an electronic document of title. Compare section 2-104(2) definition of financing agency.

When a prescribed document cannot be procured, a question of fact arises under the provision of this article on substituted performance as to whether the agreed manner of delivery is actually commercially impracticable and whether the substitute is commercially reasonable.

Cross References:

Point 2: Sections 1-205, 2-301, 2-310, 2-507, and 2-513 and article 7.

Point 5: Sections 2-308, 2-310, and 2-509.

Point 7: Section 2-614(1).

Specific matters involving tender are covered in many additional sections of this article. See sections 1-205, 2-301, 2-306 to 2-319, 2-321(3), 2-504, 2-507(1), 2-511(1), 2-513, 2-612, and 2-614.

Definitional Cross References:

"Agreement". Section 1-201.

"Bill of lading". Section 1-201.

"Buyer". Section 2-103.

"Conforming". Section 2-106.

"Contract". Section 1-201.

"Delivery". Section 1-201.

"Dishonor". Section 3-502.

"Document of title". Section 1-201.

"Draft". Section 3-104.

"Goods". Section 2-105.

"Notification". Section 1-201.

"Reasonable time". Section 1-204.

"Receipt" of goods. Section 2-103.

"Rights". Section 1-201.

"Seasonably". Section 1-204.

"Seller". Section 2-103.

"Written". Section 1-201.

2-505 Seller's shipment under reservation.

(1) Where the seller has identified goods to the contract by or before shipment:

(a) his or her procurement of a negotiable bill of lading to his or her own order or otherwise reserves in him or her a security interest in the goods. His or her procurement of the bill to the order of a financing agency or of the buyer indicates in addition only the seller's expectation of transferring that interest to the person named.

(b) a nonnegotiable bill of lading to himself or herself or his or her nominee reserves possession of the goods as security but except in a case of conditional delivery (subsection (2) of section 2-507) a nonnegotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession or control of the bill of lading.

(2) When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document of title.

Source: Laws 1963, c. 544, Art. II, § 2-505, p. 1740; Laws 2005, LB 570, § 37.

COMMENT

Prior Uniform Statutory Provision: Section 20(2), (3), and (4), Uniform Sales Act.

Changes: Completely rephrased, the "powers" of the parties in cases of reservation being emphasized primarily rather than the "rightfulness" of reservation.

Purposes of Changes:

To continue in general the policy of the prior uniform statutory provision with certain modifications of emphasis and language, so that:

1. The security interest reserved to the seller under subsection (1) is restricted to securing payment or performance by the buyer and the seller is strictly limited in his or her disposition and control of the goods as against the buyer and third parties. Under this article, the provision as to the passing of interest expressly applies "despite any reservation of security title" and also provides that the "rights, obligations and remedies" of the parties are not altered by the incidence of title generally. The security interest, therefore, must be regarded as a means given to the seller to enforce his or her rights against the buyer which is unaffected by and in turn does not affect the location of title generally. The rules set forth in subsection (1) are not to be altered by any apparent "contrary intent" of the parties as to passing of title, since the rights and remedies of the parties to the contract of sale, as defined in this article, rest on the contract and its performance or breach and not on stereotyped presumptions as to the location of title.

This article does not attempt to regulate local procedure in regard to the effective maintenance of the seller's security interest when the action is in replevin by the buyer against the carrier.

2. Every shipment of identified goods under a negotiable bill of lading reserves a security interest in the seller under subsection (1) paragraph (a).

It is frequently convenient for the seller to make the bill of lading to the order of a nominee such as his or her agent at destination, the financing agency to which he or she expects to negotiate the document, or the bank issuing a credit to him or her. In many instances, also, the buyer is made the order party. This article does not deal directly with the question as to whether a bill of lading made out by the seller to the order of a nominee gives the carrier notice of any rights which the nominee may have so as to limit its freedom or obligation to honor the bill of lading in the hands of the seller as the original shipper if the expected negotiation fails. This is dealt with in the Article on Documents of Title (Article 7).

3. A nonnegotiable bill of lading taken to a party other than the buyer under subsection (1) paragraph (b) reserves posses-

sion of the goods as security in the seller but if he or she seeks to withhold the goods improperly the buyer can tender payment and recover them.

4. In the case of a shipment by nonnegotiable bill of lading taken to a buyer, the seller, under subsection (1) retains no security interest or possession as against the buyer and by the shipment he or she de facto loses control as against the carrier except where he or she rightfully and effectively stops delivery in transit. In cases in which the contract gives the seller the right to payment against delivery, the seller, by making an immediate demand for payment, can show that his or her delivery is conditional, but this does not prevent the buyer's power to transfer full title to a sub-buyer in ordinary course or other purchaser under section 2-403.

5. Under subsection (2) an improper reservation by the seller which would constitute a breach in no way impairs such of the buyer's rights as result from identification of the goods. The security title reserved by the seller under subsection (1) does not protect his or her retaining possession or control of the document or the goods for the purpose of exacting more than is due him or her under the contract.

Cross References:

Point 1: Section 1-201.

Point 2: Article 7.

Point 3: Sections 2-501(2) and 2-504.

Point 4: Sections 2-403, 2-507(2), and 2-705.

Point 5: Sections 2-310, 2-319(4), 2-320(4), 2-501, and 2-502 and article 7.

Definitional Cross References:

"Bill of lading". Section 1-201.

"Buyer". Section 2-103.

"Consignee". Section 7-102.

"Contract". Section 1-201.

"Contract for sale". Section 2-106.

"Delivery". Section 1-201.

"Financing agency". Section 2-104.

"Goods". Section 2-105.

"Holder". Section 1-201.

"Person". Section 1-201.

"Security interest". Section 1-201.

"Seller". Section 2-103.

2-506 Rights of financing agency.

(1) A financing agency by paying or purchasing for value a draft which relates to a shipment of goods acquires to the extent of the payment or

purchase and in addition to its own rights under the draft and any document of title securing it any rights of the shipper in the goods including the right to stop delivery and the shipper's right to have the draft honored by the buyer.

(2) The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular.

Source: Laws 1963, c. 544, Art. II, § 2-506, p. 1740; Laws 2005, LB 570, § 38.

COMMENT

Prior Uniform Statutory Provision: None.

Purposes:

1. "Financing agency" is broadly defined in this article to cover every normal instance in which a party aids or intervenes in the financing of a sales transaction. The term as used in subsection (1) is not in any sense intended as a limitation and covers any other appropriate situation which may arise outside the scope of the definition.

2. "Paying" as used in subsection (1) is typified by the letter of credit, or "authority to pay" situation in which a banker, by arrangement with the buyer or other consignee, pays on his or her behalf a draft for the price of the goods. It is immaterial whether the draft is formally drawn on the party paying or his or her principal, whether it is a sight draft paid in cash or a time draft "paid" in the first instance by acceptance, or whether the payment is viewed as absolute or conditional. All of these cases constitute "payment" under this subsection. Similarly, "purchasing for value" is used to indicate the whole area of financing by the seller's banker, and the principle of subsection (1) is applicable without any niceties of distinction between "purchase", "discount", "advance against collection", or the like. But it is important to notice that the only right to have the draft honored that is acquired is that against the buyer; if any right against anyone else is claimed it will have to be under some separate obligation of that other person. A letter of credit does not necessarily protect purchasers of drafts. See article 5. And for the relations of the parties to documentary drafts see part 5 of article 4.

3. Subsection (1) is made applicable to payments or advances against a draft which "relates to" a shipment of goods and this has been chosen as a term of maximum breadth. In particular the term is intended to cover the case of a draft against an invoice or against a delivery order. Further, it is unnecessary that there be an explicit assignment of the invoice attached to the draft to bring the transaction within the reason of this subsection.

4. After shipment, "the rights of the shipper in the goods" are merely security rights and are subject to the buyer's right to force delivery upon tender of the price. The rights acquired by the financing agency are similarly limited and, moreover, if the agency fails to procure any outstanding negotiable document of title, it may find its exercise of these rights hampered or even defeated by the seller's disposition of the document to a third party. This section does not attempt to create any new rights in the financing agency against the carrier which would force the latter to honor a stop order from the agency, a stranger to the shipment, or any new rights against a holder to whom a document of title has been duly negotiated under article 7.

5. The deletion of the language "on its face" from subsection (2) is designed to accommodate electronic documents of title without changing the requirement of regularity of the document.

Cross References:

Point 1: Section 2-104(2) and article 4.

Point 2: Part 5 of article 4 and article 5.

Point 4: Sections 2-501 and 2-502(1) and article 7.

Definitional Cross References:

"Buyer". Section 2-103.

"Document of title". Section 1-201.

"Draft". Section 3-104.

"Financing agency". Section 2-104.

"Good faith". Section 2-103.

"Goods". Section 2-105.

"Honor". Section 1-201.

"Purchase". Section 1-201.

"Rights". Section 1-201.

"Value". Section 1-201.

2-509 Risk of loss in the absence of breach.

(1) Where the contract requires or authorizes the seller to ship the goods by carrier

(a) if it does not require him or her to deliver them at a particular destination, the risk of loss passes to the buyer when the goods are duly delivered to the carrier even though the shipment is under reservation (section 2-505); but

(b) if it does require him or her to deliver them at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the buyer when the goods are there duly so tendered as to enable the buyer to take delivery.

(2) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer

(a) on his or her receipt of possession or control of a negotiable document of title covering the goods; or

(b) on acknowledgment by the bailee of the buyer's right to possession of the goods; or

(c) after his or her receipt of possession or control of a nonnegotiable document of title or other direction to deliver in a record, as provided in subsection (4)(b) of section 2-503.

(3) In any case not within subsection (1) or (2), the risk of loss passes to the buyer on his or her receipt of the goods if the seller is a merchant; otherwise the risk passes to the buyer on tender of delivery.

(4) The provisions of this section are subject to contrary agreement of the parties and to the provisions of this article on sale on approval (section 2-327) and on effect of breach on risk of loss (section 2-510).

Source: Laws 1963, c. 544, Art. II, § 2-509, p. 1741; Laws 2005, LB 570, § 39.

COMMENT

Prior Uniform Statutory Provision: Section 22, Uniform Sales Act.

Changes: Rewritten, subsection (3) of this section modifying prior law.

Purposes of Changes:

To make it clear that:

1. The underlying theory of these sections on risk of loss is the adoption of the contractual approach rather than an arbitrary shifting of the risk with the "property" in the goods. The scope of the present section, therefore, is limited strictly to those cases where there has been no breach by the seller. Where for any reason his or her delivery or tender fails to conform to the contract, the present section does not apply and the situation is governed by the provisions on effect of breach on risk of loss.

2. The provisions of subsection (1) apply where the contract "requires or authorizes" shipment of the goods. This language is intended to be construed parallel to comparable language in the section on shipment by seller. In order that the goods be "duly delivered to the carrier" under paragraph (a) a contract must be entered into with the carrier which will satisfy the requirements of the section on shipment by the seller and the delivery must be made under circumstances which will enable the seller to take any further steps necessary to a due tender. The underlying reason of this subsection does not require that the shipment be made after contracting, but where, for example, the seller buys the goods afloat and later diverts the shipment to the buyer, he or she must identify the goods to the contract before the risk of loss can pass. To transfer the risk it is enough that a proper shipment and a proper identification come to apply to the same goods although, aside from special agreement, the risk will not pass retroactively to the time of shipment in such a case.

3. Whether the contract involves delivery at the seller's place of business or at the situs of the goods, a merchant seller cannot transfer risk of loss and it remains upon him or her until actual receipt by the buyer, even though full payment has been made and the buyer has been notified that the goods are at his or her disposal. Protection is afforded him or her, in the event of breach by the buyer, under the next section.

The underlying theory of this rule is that a merchant who is to make physical delivery at his or her own place continues meanwhile to control the goods and can be expected to insure his or her interest in them. The buyer, on the other hand, has no

control of the goods and it is extremely unlikely that he or she will carry insurance on goods not yet in his or her possession.

4. Where the agreement provides for delivery of the goods as between the buyer and seller without removal from the physical possession of a bailee, the provisions on manner of tender of delivery apply on the point of transfer of risk. Due delivery of a negotiable document of title covering the goods or acknowledgment by the bailee that he or she holds for the buyer completes the "delivery" and passes the risk. See definition of delivery in article 1, section 1-201, and the definition of control in article 7, section 7-106.

5. The provisions of this section are made subject by subsection (4) to the "contrary agreement" of the parties. This language is intended as the equivalent of the phrase "unless otherwise agreed" used more frequently throughout the code. "Contrary" is in no way used as a word of limitation and the buyer and seller are left free to readjust their rights and risks as declared by this section in any manner agreeable to them. Contrary agreement can also be found in the circumstances of the case, a trade usage or practice, or a course of dealing or performance.

Cross References:

Point 1: Section 2-510(1).

Point 2: Sections 2-503 and 2-504.

Point 3: Sections 2-104, 2-503, and 2-510.

Point 4: Section 2-503(4).

Point 5: Section 1-201.

Definitional Cross References:

"Agreement". Section 1-201.

"Buyer". Section 2-103.

"Contract". Section 1-201.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Goods". Section 2-105.

"Merchant". Section 2-104.

"Party". Section 1-201.

"Receipt" of goods. Section 2-103.

"Sale on approval". Section 2-326.

"Seller". Section 2-103.

Part 6

BREACH, REPUDIATION, AND EXCUSE

2-605 Waiver of buyer's objections by failure to particularize.

(1) The buyer's failure to state in connection with rejection a particular defect which is ascertainable by reasonable inspection precludes him or her from relying on the unstated defect to justify rejection or to establish breach

(a) where the seller could have cured it if stated seasonably; or

(b) between merchants when the seller has after rejection made a request in writing for a full and final written statement of all defects on which the buyer proposes to rely.

(2) Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent in the documents.

Source: Laws 1963, c. 544, Art. II, § 2-605, p. 1747; Laws 2005, LB 570, § 40.

COMMENT

Prior Uniform Statutory Provision: None.

Purposes:

1. The present section rests upon a policy of permitting the buyer to give a quick and informal notice of defects in a tender without penalizing him or her for omissions in his or her statement, while at the same time protecting a seller who is reasonably misled by the buyer's failure to state curable defects.

2. Where the defect in a tender is one which could have been cured by the seller, a buyer who merely rejects the delivery without stating his or her objections to it is probably acting in commercial bad faith and seeking to get out of a deal which has become unprofitable. Subsection (1)(a), following the general policy of this article which looks to preserving the deal wherever possible, therefor insists that the seller's right to correct his or her tender in such circumstances be protected.

3. When the time for cure is past, subsection (1)(b) makes it plain that a seller is entitled upon request to a final statement of objections upon which he or she can rely. What is needed is that he or she make clear to the buyer exactly what is being sought. A formal demand under paragraph (b) will be sufficient in the case of a merchant buyer.

4. Subsection (2) applies to the particular case of documents the same principle which the section on effects of acceptance applies to the case of goods. The matter is dealt with in this section in terms of "waiver" of objections rather than of right to revoke acceptance, partly to avoid any confusion with the problems of acceptance of goods and partly because defects in

documents which are not taken as grounds for rejection are generally minor ones. The only defects concerned in the present subsection are defects in the documents which are apparent. This rule applies to both tangible and electronic documents of title. Where payment is required against the documents they must be inspected before payment, and the payment then constitutes acceptance of the documents. Under the section dealing with this problem, such acceptance of the documents does not constitute an acceptance of the goods or impair any options or remedies of the buyer for their improper delivery. Where the documents are delivered without requiring such contemporary action as payment from the buyer, the reason of the next section on what constitutes acceptance of goods, applies. Their acceptance by nonobjection is therefor postponed until after a reasonable time for their inspection. In either situation, however, the buyer "waives" only the defects apparent in the documents.

Cross References:

Point 2: Section 2-508.

Point 4: Sections 2-512(2), 2-606(1)(b), and 2-607(2).

Definitional Cross References:

"Between merchants". Section 2-104.

"Buyer". Section 2-103.

"Seasonably". Section 1-204.

"Seller". Section 2-103.

"Writing" and "written". Section 1-201.

Part 7

REMEDIES

2-705 Seller's stoppage of delivery in transit or otherwise.

(1) The seller may stop delivery of goods in the possession of a carrier or other bailee when he or she discovers the buyer to be insolvent (section 2-702) and may stop delivery of carload, truckload, planeload, or larger shipments of express or freight when the buyer repudiates or fails to make a payment due before delivery or if for any other reason the seller has a right to withhold or reclaim the goods.

(2) As against such buyer the seller may stop delivery until

- (a) receipt of the goods by the buyer; or
- (b) acknowledgment to the buyer by any bailee of the goods except a carrier that the bailee holds the goods for the buyer; or
- (c) such acknowledgment to the buyer by a carrier by reshipment or as a warehouse; or
- (d) negotiation to the buyer of any negotiable document of title covering the goods.

(3)(a) To stop delivery the seller must so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) After such notification the bailee must hold and deliver the goods according to the directions of the seller but the seller is liable to the bailee for any ensuing charges or damages.

(c) If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of possession or control of the document.

(d) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

Source: Laws 1963, c. 544, Art. II, § 2-705, p. 1756; Laws 2005, LB 570, § 41.

COMMENT

Prior Uniform Statutory Provision: Sections 57-59, Uniform Sales Act; see also sections 12, 14, and 42, Uniform Bills of Lading Act and sections 9, 11, and 49, Uniform Warehouse Receipts Act.

Changes: This section continues and develops the above sections of the Uniform Sales Act in the light of the other uniform statutory provisions noted.

Purposes:

To make it clear that:

1. Subsection (1) applies the stoppage principle to other bailees as well as carriers.

It also expands the remedy to cover the situations, in addition to buyer's insolvency, specified in the subsection. But since stoppage is a burden in any case to carriers, and might be a very heavy burden to them if it covered all small shipments in all these situations, the right to stop for reasons other than insolvency is limited to carload, truckload, planeload, or larger shipments. The seller shipping to a buyer of doubtful credit can protect himself or herself by shipping C.O.D.

Where stoppage occurs for insecurity it is merely a suspension of performance, and if assurances are duly forthcoming from the buyer the seller is not entitled to resell or divert.

Improper stoppage is a breach by the seller if it effectively interferes with the buyer's right to due tender under the section on manner of tender of delivery. However, if the bailee obeys an unjustified order to stop he or she may also be liable to the buyer. The measure of his or her obligation is dependent on the provisions of the Documents of Title Article (section 7-303). Subsection (3)(b) therefor gives him or her a right of indemnity as against the seller in such a case.

2. "Receipt by the buyer" includes receipt by the buyer's designated representative, the subpurchaser, when shipment is made direct to him or her and the buyer himself or herself never receives the goods. It is entirely proper under this article that the seller, by making such direct shipment to the subpurchaser, be regarded as acquiescing in the latter's purchase and as thus barred from stoppage of the goods as against him or her.

As between the buyer and the seller, the latter's right to stop the goods at any time until they reach the place of final delivery is recognized by this section.

Under subsections (3)(c) and (d), the carrier is under no duty to recognize the stop order of a person who is a stranger to the carrier's contract. But the seller's right as against the buyer to stop delivery remains, whether or not the carrier is obligated to recognize the stop order. If the carrier does obey it, the buyer cannot complain merely because of that circumstance; and the seller becomes obligated under subsection (3)(b) to pay the carrier any ensuing damages or charges.

3. A diversion of a shipment is not a "reshipment" under subsection (2)(c) when it is merely an incident to the original contract of transportation. Nor is the procurement of "exchange bills" of lading which change only the name of the consignee to that of the buyer's local agent but do not alter the destination of a reshipment.

Acknowledgment by the carrier as a "warehouse" within the meaning of this article requires a contract of a truly different character from the original shipment, a contract not in extension of transit but as a warehouse.

4. Subsection (3)(c) makes the bailee's obedience of a notification to stop conditional upon the surrender of possession or control of any outstanding negotiable document.

5. Any charges or losses incurred by the carrier in following the seller's orders, whether or not he or she was obligated to do so, fall to the seller's charge.

6. After an effective stoppage under this section the seller's rights in the goods are the same as if he or she had never made a delivery.

Cross References:

Sections 2-702 and 2-703.

Point 1: Sections 2-503 and 2-609 and article 7.

Point 2: Section 2-103 and article 7.

Definitional Cross References:

"Buyer". Section 2-103.

"Contract for sale". Section 2-106.

"Document of title". Section 1-201.

"Goods". Section 2-105.

"Insolvent". Section 1-201.

"Notification". Section 1-201.

"Rights". Section 1-201.

"Receipt" of goods. Section 2-103.

"Seller". Section 2-103.

**ARTICLE 2A
LEASES**

Part 1. GENERAL PROVISIONS

Section

2A-103. Definitions and index of definitions.

2A-104. Leases subject to other law.

Part 2. FORMATION AND CONSTRUCTION OF LEASE CONTRACT

2A-207. Repealed. Laws 2005, LB 570, § 116.

Part 5. DEFAULT

A. In General

2A-501. Default: procedure.

B. Default by Lessor

2A-514. Waiver of lessee's objections.

2A-518. Cover; substitute goods.

2A-519. Lessee's damages for nondelivery, repudiation, default, and breach of warranty in regard to accepted goods.

C. Default by Lessee

2A-526. Lessor's stoppage of delivery in transit or otherwise.

2A-527. Lessor's rights to dispose of goods.

2A-528. Lessor's damages for nonacceptance, failure to pay, repudiation, or other default.

Part 1

GENERAL PROVISIONS

2A-103 Definitions and index of definitions.

(1) In this article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed twenty-five thousand dollars.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

(i) the lessor does not select, manufacture, or supply the goods;

(ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) one of the following occurs:

(A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) the lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (b) that the lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (section 2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

"Accessions".	Section 2A-310(1).
"Construction mortgage".	Section 2A-309(1)(d).
"Encumbrance".	Section 2A-309(1)(e).
"Fixtures".	Section 2A-309(1)(a).
"Fixture filing".	Section 2A-309(1)(b).
"Purchase money lease".	Section 2A-309(1)(c).

(3) The following definitions in other articles apply to this article:

"Account".	Section 9-102(a)(2).
"Between merchants".	Section 2-104(3).
"Buyer".	Section 2-103(1)(a).
"Chattel paper".	Section 9-102(a)(11).
"Consumer goods".	Section 9-102(a)(23).
"Document".	Section 9-102(a)(30).
"Entrusting".	Section 2-403(3).
"General intangible".	Section 9-102(a)(42).
"Good faith".	Section 2-103(1)(b).
"Instrument".	Section 9-102(a)(47).
"Merchant".	Section 2-104(1).
"Mortgage".	Section 9-102(a)(55).
"Pursuant to commitment".	Section 9-102(a)(68).
"Receipt".	Section 2-103(1)(c).
"Sale".	Section 2-106(1).
"Sale on approval".	Section 2-326.
"Sale or return".	Section 2-326.
"Seller".	Section 2-103(1)(d).

(4) In addition, article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 1991, LB 159, § 5; Laws 1999, LB 550, § 59; Laws 2005, LB 570, § 42.

COMMENT

(a) "Buyer in ordinary course of business".
Section 1-201(9).

(b) "Cancellation". Section 2-106(4). The effect of a cancellation is provided in section 2A-505(1).

(c) "Commercial unit". Section 2-105(6).

(d) "Conforming". Section 2-106(2).

(e) "Consumer lease". New. This article includes a subset of rules that applies only to consumer leases. Sections 2A-106, 2A-108(2), 2A-108(4), 2A-109(2), 2A-221, 2A-309, 2A-406, 2A-407, 2A-504(3)(b), and 2A-516(3)(b).

For a transaction to qualify as a consumer lease it must first qualify as a lease. Section 2A-103(1)(j). Note that this article regulates the transactional elements of a lease, including a consumer lease; consumer protection statutes, present and future, and existing consumer protection decisions are unaffected by this article. Section 2A-104(1)(c) and (2). Of course, article 2A as state law also is subject to federal consumer protection law.

This definition is modeled after the definition of consumer lease in the Consumer Leasing Act, 15 U.S.C. section 1667 (1982), and in the Unif. Consumer Credit Code section

1.301(14), 7A U.L.A. 43 (1974). However, this definition of consumer lease differs from its models in several respects: The lessor can be a person regularly engaged either in the business of leasing or of selling goods, the lease need not be for a term exceeding four months, a lease primarily for an agricultural purpose is not covered, and whether there should be a limitation by dollar amount and its amount is left up to the individual states.

This definition focuses on the parties as well as the transaction. If a lease is within this definition, the lessor must be regularly engaged in the business of leasing or selling, and the lessee must be an individual not an organization; note that a lease to two or more individuals having a common interest through marriage or the like is not excluded as a lease to an organization under section 1-201(28). The lessee must take the interest primarily for a personal, family, or household purpose. If required by the enacting state, total payments under the lease contract, excluding payments for options to renew or buy, cannot exceed the figure designated.

(f) "Fault". Section 1-201(16).

(g) "Finance lease". New. This article includes a subset of rules that applies only to finance leases. Sections 2A-209, 2A-211(2), 2A-212(1), 2A-213, 2A-219(1), 2A-220(1)(a), 2A-221, 2A-405(c), 2A-407, 2A-516(2), and 2A-517(1)(a) and (2).

For a transaction to qualify as a finance lease it must first qualify as a lease. Section 2A-103(1)(j). Unless the lessor is comfortable that the transaction will qualify as a finance lease, the lease agreement should include provisions giving the lessor the benefits created by the subset of rules applicable to the transaction that qualifies as a finance lease under this article.

A finance lease is the product of a three-party transaction. The supplier manufactures or supplies the goods pursuant to the lessee's specification, perhaps even pursuant to a purchase order, sales agreement, or lease agreement between the supplier and the lessee. After the prospective finance lease is negotiated, a purchase order, sales agreement, or lease agreement is entered into by the lessor (as buyer or prime lessee) or an existing order, agreement, or lease is assigned by the lessee to the lessor, and the lessor and the lessee then enter into a lease or sublease of the goods. Due to the limited function usually performed by the lessor, the lessee looks almost entirely to the supplier for representations, covenants, and warranties. If a manufacturer's warranty carries through, the lessee may also look to that. Yet, this definition does not restrict the lessor's function solely to the supply of funds; if the lessor undertakes or performs other functions, express warranties, covenants, and the common law will protect the lessee.

This definition focuses on the transaction, not the status of the parties; to avoid confusion it is important to note that in other contexts, e.g., tax and accounting, the term finance lease has been used to connote different types of lease transactions, including leases that are disguised secured transactions. *M. Rice, Equipment Financing*, 62-71 (1981). A lessor who is a merchant with respect to goods of the kind subject to the lease may be a lessor under a finance lease. Many leases that are leases back to the seller of goods (section 2A-308(3)) will be finance leases. This conclusion is easily demonstrated by a hypothetical. Assume that B has bought goods from C pursuant to a sales contract. After delivery to and acceptance of the goods by B, B negotiates to sell the goods to A and simultaneously to lease the goods back from A, on terms and conditions that, we assume, will qualify the transaction as a lease. Section 2A-103(1)(j). In documenting the sale and lease back, B assigns the original sales contract between B, as buyer, and C, as seller, to A. A review of these facts leads to the conclusion that the lease from A to B qualifies as a finance lease, as all three conditions of the definition are satisfied. Subparagraph (i) is satisfied as A, the lessor, had nothing to do with the selection, manufacture, or supply of the equipment. Subparagraph (ii) is satisfied as A, the lessor, bought the equipment at the same time that A leased the equipment to B, which certainly is in connection with the lease. Finally, subparagraph (iii)(A) is satisfied as A entered into the sales contract with B at the same time that A leased the equipment back to B. B, the lessee, will have received a copy of the sales contract in a timely fashion.

Subsection (i) requires the lessor to remain outside the selection, manufacture, and supply of the goods; that is the rationale for releasing the lessor from most of its traditional liability. The lessor is not prohibited from possession, maintenance, or operation of the goods, as policy does not require such prohibition. To insure the lessee's reliance on the supplier, and not on the lessor, subsection (ii) requires that the goods (where the lessor is the buyer of the goods) or that the right to possession and use of the goods (where the lessor is the prime lessee and the sublessor of the goods) be acquired in connection with the lease (or sublease) to qualify as a finance lease. The scope of the phrase "in connection with" is to be developed by the courts, case by case. Finally, as the lessee generally relies almost entirely upon the supplier for representations and covenants and upon the supplier or a manufacturer, or both, for warranties with respect to the goods, subsection (iii) requires that one of the following occur: (A) The lessee receive a copy of the supply contract before signing the lease contract; (B) the lessee's approval of the supply contract is a condition to the effectiveness of the lease contract; (C) the lessee receive a statement describing the promises and warranties and any limitations relevant to the lessee before signing the lease contract; or (D) before signing the lease contract and except in a consumer lease, the lessee receive a writing identifying the supplier (unless the supplier was selected and required by the lessee) and the rights of the lessee under section 2A-209, and advising the lessee a statement of promises and warranties is available from the supplier. Thus, even where oral supply orders or computer-placed supply orders are compelled by custom and usage the transaction may still qualify as a finance lease if the lessee approves the supply contract before the lease contract is effective and such approval was a condition to the effectiveness of the lease contract. Moreover, where the lessor does not want the lessee to see the entire supply contract, including price information, the lessee may be provided with a separate statement of the terms of the supply contract relevant to the lessee; promises between the supplier and the lessor that do not affect the lessee need not be included. The statement can be a restatement of those terms or a copy of portions of the supply contract with the relevant terms clearly designated. Any implied warranties need not be designated, but a disclaimer or modification of remedy must be designated. A copy of any manufacturer's warranty is sufficient if that is the warranty provided. However, a copy of any Regulation M disclosure given pursuant to 12 C.F.R. section 213.4(g) concerning warranties in itself is not sufficient since those disclosures need only briefly identify express warranties and need not include any disclaimer of warranty.

If a transaction does not qualify as a finance lease, the parties may achieve the same result by agreement; no negative implications are to be drawn if the transaction does not qualify. Further, absent the application of special rules (fraud, duress, and the like), a lease that qualifies as a finance lease and is assigned by the lessor or the lessee to a third party does not lose its status as a finance lease under this article. Finally, this article creates no special rule where the lessor is an affiliate of the supplier; whether the transaction qualifies as a finance lease will be determined by the facts of each case.

(h) "Goods". Section 9-102(a)(44). See section 2A-103(3) for reference to the definition of "account", "chattel paper", "document", "general intangible", and "instrument". See section 2A-217 for determination of the time and manner of identification.

(i) "Installment lease contract". Section 2-612(1).

(j) "Lease". New. There are several reasons to codify the law with respect to leases of goods. An analysis of the case law as it applies to leases of goods suggests at least several significant issues to be resolved by codification. First and foremost is the definition of a lease. It is necessary to define lease to determine whether a transaction creates a lease or a security interest disguised as a lease. If the transaction creates a security interest disguised as a lease, the transaction will be governed by the Article on Secured Transactions (Article 9) and the lessor will be required to file a financing statement or take other action to perfect its interest in the goods against third parties. There is no such requirement with respect to leases under the common law and, except with respect to leases of fixtures (section 2A-309),

this article imposes no such requirement. Yet the distinction between a lease and a security interest disguised as a lease is not clear from the case law at the time of the promulgation of this article. *DeKoven, Leases of Equipment: Puritan Leasing Company v. August*, A Dangerous Decision, 12 U.S.F. L. Rev. 257 (1978).

At common law a lease of personal property is a bailment for hire. While there are several definitions of bailment for hire, all require a thing to be let and a price for the letting. Thus, in modern terms and as provided in this definition, a lease is created when the lessee agrees to furnish consideration for the right to the possession and use of goods over a specified period of time. *Mooney, Personal Property Leasing: A Challenge*, 36 Bus. Law. 1605, 1607 (1981). Further, a lease is neither a sale (section 2-106(1)) nor a retention or creation of a security interest (sections 1-201(b)(35) and 1-203). Due to extensive litigation to distinguish true leases from security interests, an amendment to former section 1-201(37) (now codified as section 1-203) was promulgated with this article to create a sharper distinction.

This section as well as section 1-203 must be examined to determine whether the transaction in question creates a lease or a security interest. The following hypotheticals indicate the perimeters of the issue. Assume that A has purchased a number of copying machines, new, for \$1,000 each; the machines have an estimated useful economic life of three years. A advertises that the machines are available to rent for a minimum of one month and that the monthly rental is \$100.00. A intends to enter into leases where A provides all maintenance, without charge to the lessee. Further, the lessee will rent the machine, month to month, with no obligation to renew. At the end of the lease term the lessee will be obligated to return the machine to A's place of business. This transaction qualifies as a lease under the first half of the definition, for the transaction includes a transfer by A to a prospective lessee of possession and use of the machine for a stated term, month to month. The machines are goods (section 2A-103(1)(h)). The lessee is obligated to pay consideration in return, \$100.00 for each month of the term.

However, the second half of the definition provides that a sale or a security interest is not a lease. Since there is no passing of title, there is no sale. Sections 2-106(1) and 2A-103(3). Under pre-code security law this transaction would have created a bailment for hire or a true lease and not a conditional sale. *Da Rocha v. Macomber*, 330 Mass. 611, 614-15, 116 N.E.2d 139, 142 (1953). Under section 1-203, the same result would follow. While the lessee is obligated to pay rent for the one-month term of the lease, one of the other four conditions of section 1-203(b) must be met and none is. The term of the lease is one month and the economic life of the machine is 36 months; thus, section 1-203(b)(1) is not now satisfied. Considering the amount of the monthly rent, absent economic duress or coercion, the lessee is not bound either to renew the lease for the remaining economic life of the goods or to become the owner. If the lessee did lease the machine for 36 months, the lessee would have paid the lessor \$3,600 for a machine that could have been purchased for \$1,000; thus, section 1-203(b)(2) is not satisfied. Finally, there are no options; thus, subparagraphs (3) and (4) of section 1-203(b) are not satisfied. This transaction creates a lease, not a security interest. However, with each renewal of the lease the facts and circumstances at the time of each renewal must be examined to determine if that conclusion remains accurate, as it is possible that a transaction that first creates a lease, later creates a security interest.

Assume that the facts are changed and that A requires each lessee to lease the goods for 36 months, with no right to terminate. Under pre-code security law this transaction would

have created a conditional sale, and not a bailment for hire or true lease. *Hervey v. Rhode Island Locomotive Works*, 93 U.S. 664, 672-73 (1876). Under this subsection, and section 1-203, the same result would follow. The lessee's obligation for the term is not subject to termination by the lessee and the term is equal to the economic life of the machine.

Between these extremes there are many transactions that can be created. Some of the transactions were not properly categorized by the courts in applying the 1978 and earlier official texts of former section 1-201(37). This subsection, together with section 1-203, draws a brighter line, which should create a clearer signal to the professional lessor and lessee.

(k) "Lease agreement". This definition is derived from section 1-201(b)(3). Because the definition of lease is broad enough to cover future transfers, lease agreement includes an agreement contemplating a current or subsequent transfer. Thus it was not necessary to make an express reference to an agreement for the future lease of goods (section 2-106(1)). This concept is also incorporated in the definition of lease contract. Note that the definition of lease does not include transactions in ordinary building materials that are incorporated into an improvement on land. Section 2A-309(2).

The provisions of this article, if applicable, determine whether a lease agreement has legal consequences; otherwise the law of bailments and other applicable law determine the same. Sections 1-103 and 2A-103(4).

(l) "Lease contract". This definition is derived from the definition of contract in section 1-201(b)(12). Note that a lease contract may be for the future lease of goods, since this notion is included in the definition of lease.

(m) "Leasehold interest". New.

(n) "Lessee". New.

(o) "Lessee in ordinary course of business". Section 1-201(b)(9).

(p) "Lessor". New.

(q) "Lessor's residual interest". New.

(r) "Lien". New. This term is used in section 2A-307 (priority of liens arising by attachment or levy on, security interests in, and other claims to goods).

(s) "Lot". Section 2-105(5).

(t) "Merchant lessee". New. This term is used in section 2A-511 (merchant lessee's duties as to rightfully rejected goods). A person may satisfy the requirement of dealing in goods of the kind subject to the lease as lessor, lessee, seller, or buyer.

(u) "Purchase". Section 1-201(b)(29). This definition omits the reference to lien contained in the definition of purchase in article 1 (section 1-201(b)(29)). This should not be construed to exclude consensual liens from the definition of purchase in this article; the exclusion was mandated by the scope of the definition of lien in section 2A-103(1)(r). Further, the definition of purchaser in this article adds a reference to lease; as purchase is defined in section 1-201(b)(29) to include any other voluntary transaction creating an interest in property, this addition is not substantive.

(v) "Sublease". New.

(w) "Supplier". New.

(x) "Supply contract". New.

(y) "Termination". Section 2-106(3).

The effect of a termination is provided in section 2A-505(2).

2A-104 Leases subject to other law.

(1) A lease, although subject to this article, is also subject to any applicable:

(a) certificate of title statute of this state (the Motor Vehicle Certificate of Title Act);

(b) certificate of title statute of another jurisdiction (section 2A-105); or
 (c) consumer protection statute of this state, or final consumer protection decision of a court of this state existing on September 6, 1991.

(2) In case of conflict between this article, other than sections 2A-105, 2A-304(3), and 2A-305(3), and a statute or decision referred to in subsection (1), the statute or decision controls.

(3) Failure to comply with an applicable law has only the effect specified therein.

Source: Laws 1991, LB 159, § 6; Laws 1995, LB 589, § 11; Laws 2005, LB 276, § 113.

Cross References

Motor Vehicle Certificate of Title Act, see section 60-101.

COMMENT

Uniform Statutory Source: Sections 9-201 and 9-311.

Changes: Substantially revised.

Purposes:

1. This article creates a comprehensive scheme for the regulation of transactions that create leases. Section 2A-102. Thus, the article supersedes all prior legislation dealing with leases, except to the extent set forth in this section.

2. Subsection (1) states the general rule that a lease, although governed by the scheme of this article, also may be governed by certain other applicable laws. This may occur in the case of a consumer lease. Section 2A-103(1)(e). Those laws may be state statutes existing prior to enactment of article 2A or passed afterward. In this case, it is desirable for this article to specify which statute controls. Or the law may be a preexisting consumer protection decision. This article preserves such decisions. Or the law may be a statute of the United States. Such a law controls without any statement in this article under applicable principles of preemption.

An illustration of a statute of the United States that governs consumer leases is the Consumer Leasing Act, 15 U.S.C. sections 1667-1667(e) (1982) and its implementing regulation, Regulation M, 12 C.F.R. section 213 (1986); the statute mandates disclosures of certain lease terms, delimits the liability of a lessee in leasing personal property, and regulates the advertising of lease terms. An illustration of a state statute that governs consumer leases and which if adopted in the enacting state prevails over this article is the Unif. Consumer Credit Code, which includes many provisions similar to those of the Consumer Leasing Act, e.g., Unif. Consumer Credit Code sections 3.202, 3.209, 3.401. 7A U.L.A. 108-09, 115, 125 (1974), as well as provisions in addition to those of the Consumer Leasing Act, e.g., Unif. Consumer Credit Code sections 5.109-.111, 7A U.L.A. 171-76 (1974) (the right to cure a default). Such statutes may

define consumer lease so as to govern transactions within and without the definition of consumer lease under this article.

3. Under subsection (2), subject to certain limited exclusions, in case of conflict a statute or a decision described in subsection (1) prevails over this article. For example, a provision like Unif. Consumer Credit Code section 5.112, 7A U.L.A. 176 (1974), limiting self-help repossession, prevails over section 2A-525(3). A consumer protection decision rendered after the effective date of this article may supplement its provisions. For example, in relation to article 9 a court might conclude that an acceleration clause may not be enforced against an individual debtor after late payments have been accepted unless a prior notice of default is given. To the extent the decision establishes a general principle applicable to transactions other than secured transactions, it may supplement section 2A-502.

4. Consumer protection in lease transactions is primarily left to other law. However, several provisions of this article do contain special rules that may not be varied by agreement in the case of a consumer lease. E.g., sections 2A-106, 2A-108, and 2A-109(2). Were that not so, the ability of the parties to govern their relationship by agreement together with the position of the lessor in a consumer lease too often could result in a one-sided lease agreement.

5. In construing this provision the reference to statute should be deemed to include applicable regulations. A consumer protection decision is "final" on the effective date of this article if it is not subject to appeal on that date or, if subject to appeal, is not later reversed on appeal. Of course, such a decision can be overruled by a later decision or superseded by a later statute.

Cross References:

Sections 2A-103(1)(e), 2A-106, 2A-108, 2A-109(2), and 2A-525(3).

Definitional Cross Reference:

"Lease". Section 2A-103(1)(j).

Part 2

FORMATION AND CONSTRUCTION OF LEASE CONTRACT

2A-207 Repealed. Laws 2005, LB 570, § 116.

Part 5

DEFAULT

A. In General

2A-501 Default: procedure.

(1) Whether the lessor or the lessee is in default under a lease contract is determined by the lease agreement and this article.

(2) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement has rights and remedies as provided in this article and, except as limited by this article, as provided in the lease agreement.

(3) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement may reduce the party's claim to judgment, or otherwise enforce the lease contract by self-help or any available judicial procedure or nonjudicial procedure, including administrative proceeding, arbitration, or the like, in accordance with this article.

(4) Except as otherwise provided in section 1-305(a) or this article or the lease agreement, the rights and remedies referred to in subsections (2) and (3) are cumulative.

(5) If the lease agreement covers both real property and goods, the party seeking enforcement may proceed under this part as to the goods, or under other applicable law as to both the real property and the goods in accordance with that party's rights and remedies in respect of the real property, in which case this part does not apply.

Source: Laws 1991, LB 159, § 51; Laws 2005, LB 570, § 43.

COMMENT

Uniform Statutory Source: Former section 9-501 (now codified as sections 9-601 through 9-604).

Changes: Substantially revised.

Purposes:

1. Subsection (1) is new and represents a departure from the Article on Secured Transactions (Article 9) as the subsection makes clear that whether a party to the lease agreement is in default is determined by this article as well as the agreement. Sections 2A-508 and 2A-523. It further departs from article 9 in recognizing the potential default of either party, a function of the bilateral nature of the obligations between the parties to the lease contract.

2. Subsection (2) is a version of the first sentence of section 9-601(a), revised to reflect leasing terminology.

3. Subsection (3), an expansive version of the second sentence of section 9-601(a), lists the procedures that may be followed by the party seeking enforcement; in effect, the scope of the procedures listed in subsection (3) is consistent with the scope of the procedures available to the foreclosing secured party.

4. Subsection (4) establishes that the parties' rights and remedies are cumulative. DeKoven, Leases of Equipment: Puritan Leasing Company v. August, A Dangerous Decision, 12 U.S.F.L.Rev. 257, 276-80 (1978). Cumulation, and largely unre-

stricted selection, of remedies is allowed in furtherance of the general policy of the code, stated in section 1-305, that remedies be liberally administered to put the aggrieved party in as good a position as if the other party had fully performed. Therefore, cumulation of, or selection among, remedies is available to the extent necessary to put the aggrieved party in as good a position as it would have been in had there been full performance. However, cumulation of, or selection among, remedies is not available to the extent that the cumulation or selection would put the aggrieved party in a better position than it would have been in had there been full performance by the other party.

5. Section 9-602, which, among other things, states that certain rules, to the extent they give rights to the debtor and impose duties on the secured party, may not be waived or varied, is not incorporated in this article. Given the significance of freedom of contract in the development of the common law as it applies to bailments for hire and the lessee's lack of an equity of redemption, there is no reason to impose that restraint.

Cross Reference:

Sections 1-305, 2A-508, and 2A-523, and article 9, especially sections 9-601 and 9-602.

Definitional Cross References:

§ 2A-501

UNIFORM COMMERCIAL CODE

“Goods”. Section 2A-103(1)(h).

“Lessor”. Section 2A-103(1)(p).

“Lease agreement”. Section 2A-103(1)(k).

“Party”. Section 1-201(b)(26).

“Lease contract”. Section 2A-103(1)(l).

“Remedy”. Section 1-201(b)(32).

“Lessee”. Section 2A-103(1)(n).

“Rights”. Section 1-201(b)(34).

B. Default by Lessor

2A-514 Waiver of lessee’s objections.

(1) In rejecting goods, a lessee’s failure to state a particular defect that is ascertainable by reasonable inspection precludes the lessee from relying on the defect to justify rejection or to establish default:

(a) if, stated seasonably, the lessor or the supplier could have cured it (section 2A-513); or

(b) between merchants if the lessor or the supplier after rejection has made a request in writing for a full and final written statement of all defects on which the lessee proposes to rely.

(2) A lessee’s failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent in the documents.

Source: Laws 1991, LB 159, § 64; Laws 2005, LB 570, § 44.

COMMENT

Uniform Statutory Source: Section 2-605.

“Between merchants”. Section 2-104(3).

Changes: Revised to reflect leasing practices and terminology.

“Goods”. Section 2A-103(1)(h).

Purposes:

“Lessee”. Section 2A-103(1)(n).

The principles applicable to the commercial practice of payment against documents (subsection (2)) are explained in official comment 4 to section 2-605, the statutory analogue to this section.

“Lessor”. Section 2A-103(1)(p).

Cross Reference:

“Rights”. Section 1-201(36).

Section 2-605 official comment 4.

“Seasonably”. Section 1-204(3).

Definitional Cross References:

“Supplier”. Section 2A-103(1)(x).

“Writing”. Section 1-201(46).

2A-518 Cover; substitute goods.

(1) After a default by a lessor under the lease contract of a type described in section 2A-508(1), or, if agreed, after other default by the lessor, the lessee may cover by making any purchase or lease of or contract to purchase or lease goods in substitution for those due from the lessor.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (section 2A-504) or otherwise determined pursuant to agreement of the parties (sections 1-302 and 2A-503), if a lessee’s cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages (i) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and (ii) any incidental or consequential damages, less expenses saved in consequence of the lessor’s default.

(3) If a lessee's cover is by lease agreement that for any reason does not qualify for treatment under subsection (2), or is by purchase or otherwise, the lessee may recover from the lessor as if the lessee had elected not to cover and section 2A-519 governs.

Source: Laws 1991, LB 159, § 68; Laws 2005, LB 570, § 45.

COMMENT

Uniform Statutory Source: Section 2-712.

Changes: Substantially revised.

Purposes:

1. Subsection (1) allows the lessee to take action to fix its damages after default by the lessor. Such action may consist of the lease of goods. The decision to cover is a function of commercial judgment, not a statutory mandate replete with sanctions for failure to comply. Cf. section 9-625.

2. Subsection (2) states a rule for determining the amount of lessee's damages provided that there is no agreement to the contrary. The lessee's damages will be established using the new lease agreement as a measure if the following three criteria are met: (i) The lessee's cover is by lease agreement, (ii) the lease agreement is substantially similar to the original lease agreement, and (iii) such cover was effected in good faith, and in a commercially reasonable manner. Thus, the lessee will be entitled to recover from the lessor the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period which is comparable to the then remaining term of the original lease agreement less the present value of the rent reserved for the remaining term under the original lease, together with incidental or consequential damages less expenses saved in consequence of the lessor's default. Consequential damages may include loss suffered by the lessee because of deprivation of the use of the goods during the period between the default and the acquisition of the goods under the new lease agreement. If the lessee's cover does not satisfy the criteria of subsection (2), section 2A-519 governs.

3. Two of the three criteria to be met by the lessee are familiar, but the concept of the new lease agreement being substantially similar to the original lease agreement is not. Given the many variables facing a party who intends to lease goods and the rapidity of change in the market place, the policy decision was made not to draft with specificity. It was thought unwise to seek to establish certainty at the cost of fairness. Thus, the decision of whether the new lease agreement is substantially similar to the original will be determined case by case.

4. While the section does not draw a bright line, it is possible to describe some of the factors that should be considered in finding that a new lease agreement is substantially similar to the original. First, the goods subject to the new lease agreement should be examined. For example, in a lease of computer equipment the new lease might be for more modern equipment. However, it may be that at the time of the lessor's breach it was not possible to obtain the same type of goods in the market place. Because the lessee's remedy under section 2A-519 is intended to place the lessee in essentially the same position as if he or she had covered, if goods similar to those to have been delivered under the original lease are not available, then the computer equipment in this hypothetical should qualify as a commercially reasonable substitute. See section 2-712(1).

5. Second, the various elements of the new lease agreement should also be examined. Those elements include the presence or absence of options to purchase or release; the lessor's representations, warranties, and covenants to the lessee, as well as those to be provided by the lessee to the lessor; and the services, if any, to be provided by the lessor or by the lessee. All of these factors allocate cost and risk between the lessor and the lessee and thus affect the amount of rent to be paid. If the differences between the original lease and the new lease can be easily

valued, it would be appropriate for a court to adjust the difference in rental to take account of the difference between the two leases, find that the new lease is substantially similar to the old lease, and award cover damages under this section. If, for example, the new lease requires the lessor to insure the goods in the hands of the lessee, while the original lease required the lessee to insure, the usual cost of such insurance could be deducted from the rent due under the new lease before determining the difference in rental between the two leases.

6. Having examined the goods and the agreement, the test to be applied is whether, in light of these comparisons, the new lease agreement is substantially similar to the original lease agreement. These findings should not be made with scientific precision, as they are a function of economics, nor should they be made independently with respect to the goods and each element of the agreement, as it is important that a sense of commercial judgment pervade the finding. To establish the new lease as a proper measure of damage under subsection (2), these factors, taken as a whole, must result in a finding that the new lease agreement is substantially similar to the original.

7. A new lease can be substantially similar to the original lease even though its term extends beyond the remaining term of the original lease, so long as both (a) the lease terms are commercially comparable (e.g., it is highly unlikely that a one-month rental and a five-year lease would reflect similar commercial realities), and (b) the court can fairly apportion a part of the rental payments under the new lease to that part of the term of the new lease which is comparable to the remaining lease term under the original lease. Also, the lease term of the new lease may be comparable to the term of the original lease even though the beginning and ending dates of the two leases are not the same. For example, a two-month lease of agricultural equipment for the months of August and September may be comparable to a two-month lease running from the 15th of August to the 15th of October if in the particular location two-month leases beginning on August 15th are basically interchangeable with two-month leases beginning August 1st. Similarly, the term of a one-year truck lease beginning on the 15th of January may be comparable to the term of a one-year truck lease beginning January 2nd. If the lease terms are found to be comparable, the court may base cover damages on the entire difference between the costs under the two leases.

Cross Reference:

Sections 2-712(1), 2A-519, and 9-625.

Definitional Cross References:

"Agreement". Section 1-201(b)(3).

"Contract". Section 1-201(b)(12).

"Good faith". Section 1-201(b)(20).

"Goods". Section 2A-103(1)(h).

"Lease". Section 2A-103(1)(j).

"Lease agreement". Section 2A-103(1)(k).

"Lease contract". Section 2A-103(1)(l).

"Lessee". Section 2A-103(1)(n).

"Lessor". Section 2A-103(1)(p).

"Party". Section 1-201(b)(26).

"Present value". Section 1-102(b)(28).

"Purchase". Section 2A-103(1)(v).

2A-519 Lessee's damages for nondelivery, repudiation, default, and breach of warranty in regard to accepted goods.

(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (section 2A-504) or otherwise determined pursuant to agreement of the parties (sections 1-302 and 2A-503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under section 2A-518(2), or is by purchase or otherwise, the measure of damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(2) Market rent is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

(3) Except as otherwise agreed, if the lessee has accepted goods and given notification (section 2A-516(3)), the measure of damages for nonconforming tender or delivery or other default by a lessor is the loss resulting in the ordinary course of events from the lessor's default as determined in any manner that is reasonable together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(4) Except as otherwise agreed, the measure of damages for breach of warranty is the present value at the time and place of acceptance of the difference between the value of the use of the goods accepted and the value if they had been as warranted for the lease term, unless special circumstances show proximate damages of a different amount, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default or breach of warranty.

Source: Laws 1991, LB 159, § 69; Laws 2005, LB 570, § 46.

COMMENT

Uniform Statutory Source: Sections 2-713 and 2-714.

Changes: Substantially revised.

Purposes:

1. Subsection (1), a revised version of the provisions of section 2-713(1), states the basic rule governing the measure of lessee's damages for nondelivery or repudiation by the lessor or for rightful rejection or revocation of acceptance by the lessee. This measure will apply, absent agreement to the contrary, if the lessee does not cover or if the cover does not qualify under section 2A-518. There is no sanction for cover that does not qualify.

2. The measure of damage is the present value, as of the date of default, of the market rent for the remaining term of the lease less the present value of the original rent for the remaining term of the lease, plus incidental and consequential damages less expenses saved in consequence of the default. Note that the reference in section 2A-519(1) is to the date of default not to the date of an event of default. An event of default under a lease agreement becomes a default under a lease agreement only after the expiration of any relevant period of grace and compliance with any notice requirements under this article and the lease agreement. American Bar Foundation, Commentaries on Indentures, section 5-1, at 216-217 (1971). Section 2A-501(1). This conclusion is also a function of whether, as a matter of fact or law, the event of default has been waived, suspended, or cured. Sections 1-103 and 2A-103(4).

3. Subsection (2), a revised version of the provisions of section 2-713(2), states the rule with respect to determining market rent.

4. Subsection (3), a revised version of the provisions of section 2-714(1) and (3), states the measure of damages where goods have been accepted and acceptance is not revoked. The subsection applies both to defaults which occur at the inception of the lease and to defaults which occur subsequently, such as failure to comply with an obligation to maintain the leased goods. The measure in essence is the loss, in the ordinary course of events, flowing from the default.

5. Subsection (4), a revised version of the provisions of section 2-714(2), states the measure of damages for breach of warranty. The measure in essence is the present value of the difference between the value of the goods accepted and of the goods if they had been as warranted.

6. Subsections (1), (3), and (4) specifically state that the parties may by contract vary the damages rules stated in those subsections.

Cross Reference:

Sections 2-713(1), 2-713(2), 2-714, and 2A-518.

Definitional Cross References:

"Conforming". Section 2A-103(1)(d).

"Delivery". Section 1-201(b)(15).

"Goods". Section 2A-103(1)(h).

"Lease". Section 2A-103(1)(j).

"Lease agreement". Section 2A-103(1)(k).

"Lessee". Section 2A-103(1)(n).

"Lessor". Section 2A-103(1)(p).

"Notification". Section 1-202.

“Present value”. Section 1-201(b)(28).

“Value”. Section 1-204.

C. Default by Lessee

2A-526 Lessor’s stoppage of delivery in transit or otherwise.

(1) A lessor may stop delivery of goods in the possession of a carrier or other bailee if the lessor discovers the lessee to be insolvent and may stop delivery of carload, truckload, planeload, or larger shipments of express or freight if the lessee repudiates or fails to make a payment due before delivery, whether for rent, security, or otherwise under the lease contract, or for any other reason the lessor has a right to withhold or take possession of the goods.

(2) In pursuing its remedies under subsection (1), the lessor may stop delivery until

- (a) receipt of the goods by the lessee;
- (b) acknowledgment to the lessee by any bailee of the goods, except a carrier, that the bailee holds the goods for the lessee; or
- (c) such an acknowledgment to the lessee by a carrier via reshipment or as a warehouse.

(3)(a) To stop delivery, a lessor shall so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) After notification, the bailee shall hold and deliver the goods according to the directions of the lessor, but the lessor is liable to the bailee for any ensuing charges or damages.

(c) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

Source: Laws 1991, LB 159, § 76; Laws 2005, LB 570, § 47.

COMMENT

Uniform Statutory Source: Section 2-705.

Changes: Revised to reflect leasing practices and terminology.

Definitional Cross References:

“Bill of lading”. Section 1-201(6).

“Delivery”. Section 1-201(14).

“Discover”. Section 1-201(25).

“Goods”. Section 2A-103(1)(h).

“Insolvent”. Section 1-201(23).

“Lease contract”. Section 2A-103(1)(l).

“Lessee”. Section 2A-103(1)(n).

“Lessor”. Section 2A-103(1)(p).

“Notifies” and “notification”. Section 1-201(26).

“Person”. Section 1-201(30).

“Receipt”. Section 2-103(1)(c).

“Remedy”. Section 1-201(34).

“Rights”. Section 1-201(36).

2A-527 Lessor’s rights to dispose of goods.

(1) After a default by a lessee under the lease contract of the type described in section 2A-523(1) or 2A-523(3)(a) or after the lessor refuses to deliver or takes possession of goods (section 2A-525 or 2A-526), or, if agreed, after other default by a lessee, the lessor may dispose of the goods concerned or the undelivered balance thereof by lease, sale, or otherwise.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (section 2A-504) or otherwise determined pursuant to agreement of the parties (sections 1-302 and 2A-503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (i) accrued and

unpaid rent as of the date of the commencement of the term of the new lease agreement, (ii) the present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement, and (iii) any incidental damages allowed under section 2A-530, less expenses saved in consequence of the lessee's default.

(3) If the lessor's disposition is by lease agreement that for any reason does not qualify for treatment under subsection (2), or is by sale or otherwise, the lessor may recover from the lessee as if the lessor had elected not to dispose of the goods and section 2A-528 governs.

(4) A subsequent buyer or lessee who buys or leases from the lessor in good faith for value as a result of a disposition under this section takes the goods free of the original lease contract and any rights of the original lessee even though the lessor fails to comply with one or more of the requirements of this article.

(5) The lessor is not accountable to the lessee for any profit made on any disposition. A lessee who has rightfully rejected or justifiably revoked acceptance shall account to the lessor for any excess over the amount of the lessee's security interest (section 2A-508(5)).

Source: Laws 1991, LB 159, § 77; Laws 2005, LB 570, § 48.

COMMENT

Uniform Statutory Source: Section 2-706(1), (5), and (6).

Changes: Substantially revised.

Purposes:

1. Subsection (1), a revised version of the first sentence of subsection 2-706(1), allows the lessor the right to dispose of goods after a statutory or other material default by the lessee (even if the goods remain in the lessee's possession—section 2A-525(2)), after the lessor refuses to deliver or takes possession of the goods, or, if agreed, after other contractual default. The lessor's decision to exercise this right is a function of a commercial judgment, not a statutory mandate replete with sanctions for failure to comply. Cf. section 9-625. As the owner of the goods, in the case of a lessor, or as the prime lessee of the goods, in the case of a sublessor, compulsory disposition of the goods is inconsistent with the nature of the interest held by the lessor or the sublessor and is not necessary because the interest held by the lessee or the sublessee is not protected by a right of redemption under the common law or this article. Subsection 2A-527(5).

2. The rule for determining the measure of damages recoverable by the lessor against the lessee is a function of several variables. If the lessor has elected to effect disposition under subsection (1) and such disposition is by lease that qualifies under subsection (2), the measure of damages set forth in subsection (2) will apply, absent agreement to the contrary. Sections 1-302, 2A-103(4), and 2A-504.

3. The lessor's damages will be established using the new lease agreement as a measure if the following three criteria are satisfied: (i) The lessor disposed of the goods by lease, (ii) the lease agreement is substantially similar to the original lease agreement, and (iii) such disposition was in good faith, and in a commercially reasonable manner. Thus, the lessor will be entitled to recover from the lessee the accrued and unpaid rent as of the date of commencement of the term of the new lease, and the present value, as of the same date, of the rent under the original lease for the then remaining term less the present value as of the same date of the rent under the new lease agreement applicable to the period of the new lease comparable to the remaining term under the original lease, together with incidental damages less expenses saved in consequence of the lessee's default. If the

lessor's disposition does not satisfy the criteria of subsection (2), the lessor may calculate its claim against the lessee pursuant to section 2A-528. Section 2A-523(1)(e).

4. Two of the three criteria to be met by the lessor are familiar, but the concept of the new lease agreement that is substantially similar to the original lease agreement is not. Given the many variables facing a party who intends to lease goods and the rapidity of change in the market place, the policy decision was made not to draft with specificity. It was thought unwise to seek to establish certainty at the cost of fairness. The decision of whether the new lease agreement is substantially similar to the original will be determined case by case.

5. While the section does not draw a bright line, it is possible to describe some of the factors that should be considered in a finding that a new lease agreement is substantially similar to the original. The various elements of the new lease agreement should be examined. Those elements include the options to purchase or release; the lessor's representations, warranties, and covenants to the lessee as well as those to be provided by the lessee to the lessor; and the services, if any, to be provided by the lessor or by the lessee. All of these factors allocate cost and risk between the lessor and the lessee and thus affect the amount of rent to be paid. These findings should not be made with scientific precision, as they are a function of economics, nor should they be made independently, as it is important that a sense of commercial judgment pervade the finding. See section 2A-507(2). To establish the new lease as a proper measure of damage under subsection (2), these various factors, taken as a whole, must result in a finding that the new lease agreement is substantially similar to the original. If the differences between the original lease and the new lease can be easily valued, it would be appropriate for a court to find that the new lease is substantially similar to the old lease, adjust the difference in the rent between the two leases to take account of the differences, and award damages under this section. If, for example, the new lease requires the lessor to insure the goods in the hands of the lessee, while the original lease required the lessee to insure, the usual cost of such insurance could be deducted from rent due under the new lease before the difference in rental between the two leases is determined.

6. The following hypothetical illustrates the difficulty of providing a bright line. Assume that A buys a jumbo tractor for \$1 million and then leases the tractor to B for a term of 36 months. The tractor is delivered to and is accepted by B on May 1. On June 1 B fails to pay the monthly rent to A. B returns the tractor to A, who immediately releases the tractor to C for a term identical to the term remaining under the lease between A and B. All terms and conditions under the lease between A and C are identical to those under the original lease between A and B, except that C does not provide any property damage or other insurance coverage, and B agreed to provide complete coverage. Coverage is expensive and difficult to obtain. It is a question of fact whether it is so difficult to adjust the recovery to take account of the difference between the two leases as to insurance that the second lease is not substantially similar to the original.

7. A new lease can be substantially similar to the original lease even though its term extends beyond the remaining term of the original lease, so long as both (a) the lease terms are commercially comparable (e.g., it is highly unlikely that a one-month rental and a five-year lease would reflect similar realities), and (b) the court can fairly apportion a part of the rental payments under the new lease to that part of the term of the new lease which is comparable to the remaining lease term under the original lease. Also, the lease term of the new lease may be comparable to the remaining term of the original lease even though the beginning and ending dates of the two leases are not the same. For example, a two-month lease of agricultural equipment for the months of August and September may be comparable to a two-month lease running from the 15th of August to the 15th of October if in the particular location two-month leases beginning on August 15th are basically interchangeable with two-month leases beginning August 1st. Similarly, the term of a one-year truck lease beginning on the 15th of January may be comparable to the term of a one-year truck lease beginning January 2nd. If the lease terms are found to be comparable, the court may base cover damages on the entire difference between the costs under the two leases.

8. Subsection (3), which is new, provides that if the lessor's disposition is by lease that does not qualify under subsection (2), or is by sale or otherwise, section 2A-528 governs.

9. Subsection (4), a revised version of subsection 2-706(5), applies to protect a subsequent buyer or lessee who buys or leases from the lessor in good faith and for value, pursuant to a disposition under this section. Note that by its terms, the rule in subsection 2A-304(1), which provides that the subsequent lessee takes subject to the original lease contract, is controlled by the rule stated in this subsection.

10. Subsection (5), a revised version of subsection 2-706(6), provides that the lessor is not accountable to the lessee for any profit made by the lessor on a disposition. This rule follows from the fundamental premise of the bailment for hire that the lessee under a lease of goods has no equity of redemption to protect.

Cross References:

Sections 1-302, 2-706(1), 2-706(5), 2-706(6), 2A-103(4), 2A-304(1), 2A-504, 2A-507(2), 2A-523(1)(e), 2A-525(2), 2A-527(5), 2A-528, and 9-625.

Definitional Cross References:

"Buyer". Section 2-103(1)(a).

"Delivery". Section 1-201(b)(15).

"Good faith". Section 1-201(b)(20).

"Goods". Section 2A-103(1)(h).

"Lease". Section 2A-103(1)(j).

"Lease contract". Section 2A-103(1)(l).

"Lessee". Section 2A-103(1)(n).

"Lessor". Section 2A-103(1)(p).

"Present value". Section 1-201(b)(28).

"Rights". Section 1-201(b)(34).

"Sale". Section 2-106(1).

"Security interest". Sections 1-201(b)(35) and 1-203.

"Value". Section 1-204.

2A-528 Lessor's damages for nonacceptance, failure to pay, repudiation, or other default.

(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (section 2A-504) or otherwise determined pursuant to agreement of the parties (sections 1-302 and 2A-503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under section 2A-527(2), or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in section 2A-523(1) or 2A-523(3)(a), or, if agreed, for other default of the lessee, (i) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (ii) the present value as of the date determined under clause (i) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (iii) any incidental damages allowed under section 2A-530, less expenses saved in consequence of the lessee's default.

(2) If the measure of damages provided in subsection (1) is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the present value of the profit, including reasonable overhead, the lessor would have made from full performance by the lessee, together with any

incidental damages allowed under section 2A-530, due allowance for costs reasonably incurred, and due credit for payments or proceeds of disposition.

Source: Laws 1991, LB 159, § 78; Laws 2005, LB 570, § 49.

COMMENT

Uniform Statutory Source: Section 2-708.

Changes: Substantially revised.

Purposes:

1. Subsection (1), a substantially revised version of section 2-708(1), states the basic rule governing the measure of lessor's damages for a default described in section 2A-523(1) or (3)(a) and, if agreed, for a contractual default. This measure will apply if the lessor elects to retain the goods (whether undelivered, returned by the lessee, or repossessed by the lessor after acceptance and default by the lessee) or if the lessor's disposition does not qualify under subsection 2A-527(2). Section 2A-527(3). Note that under some of these conditions, the lessor may recover damages from the lessee pursuant to the rule set forth in section 2A-529. There is no sanction for disposition that does not qualify under subsection 2A-527(2). Application of the rule set forth in this section is subject to agreement to the contrary. Sections 1-302, 2A-103(4), and 2A-504.

2. If the lessee has never taken possession of the goods, the measure of damage is the accrued and unpaid rent as of the date of default together with the present value, as of the date of default, of the original rent for the remaining term of the lease less the present value as of the same date of market rent, and incidental damages, less expenses saved in consequence of the default. Note that the reference in section 2A-528(1)(i) and (ii) is to the date of default not to the date of an event of default. An event of default under a lease agreement becomes a default under a lease agreement only after the expiration of any relevant period of grace and compliance with any notice requirements under this article and the lease agreement. American Bar Foundation, Commentaries on Indentures, section 5-1, at 216-217 (1971). Section 2A-501(1). This conclusion is also a function of whether, as a matter of fact or law, the event of default has been waived, suspended, or cured. Sections 1-103 and 2A-103(4). If the lessee has taken possession of the goods, the measure of damages is the accrued and unpaid rent as of the earlier of the time the lessor repossesses the goods or the time the lessee tenders the goods to the lessor plus the difference between the present value, as of the same time, of the rent under the lease for the remaining lease term and the present value, as of the same time, of the market rent.

3. Market rent will be computed pursuant to section 2A-507.

4. Subsection (2), a somewhat revised version of the provisions of subsection 2-708(2), states a measure of damages which applies if the measure of damages in subsection (1) is inadequate to put the lessor in as good a position as performance would have. The measure of damage is the lessor's profit, including overhead, together with incidental damages, with allowance for costs reasonably incurred and credit for payments or proceeds of disposition. In determining the amount of due credit with respect to proceeds of disposition a proper value should be attributed to the lessor's residual interest in the goods. Sections 2A-103(1)(q) and 2A-507(4).

5. In calculating profit, a court should include any expected appreciation of the goods, e.g., the foal of a leased brood mare. Because this subsection is intended to give the lessor the benefit of the bargain, a court should consider any reasonable benefit or profit expected by the lessor from the performance of the lease agreement. See Honeywell, Inc. v. Lithonia Lighting, Inc., 317 F.Supp. 406, 413 (N.D. Ga. 1970); Locks v. Wade, 36 N.J. Super. 128, 131, 114 A.2d 875, 877 (Super. Ct. App. Div. 1955). Further, in calculating profit the concept of present value must be given effect. Taylor v. Commercial Credit Equip. Corp., 170 Ga. App. 322, 316 S.E.2d 788 (Ct. App. 1984). See generally section 2A-103(1)(u).

Cross References:

Sections 1-302, 2-708, 2A-103(1)(u), 2A-402, 2A-504, 2A-507, 2A-527(2), and 2A-529.

Definitional Cross References:

- "Agreement". Section 1-201(b)(3).
- "Goods". Section 2A-103(1)(h).
- "Lease". Section 2A-103(1)(j).
- "Lease agreement". Section 2A-103(1)(k).
- "Lessee". Section 2A-103(1)(n).
- "Lessor". Section 2A-103(1)(p).
- "Party". Section 1-201(b)(26).
- "Present value". Section 1-201(b)(28).
- "Sale". Section 2-106(1).

ARTICLE 3

NEGOTIABLE INSTRUMENTS

Part 1. GENERAL PROVISIONS AND DEFINITIONS

Section

- 3-103. Definitions.
- 3-104. Negotiable instrument.
- 3-118. Statute of limitations.

Part 3. ENFORCEMENT OF INSTRUMENTS

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- 3-416. Transfer warranties.
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Part 1

GENERAL PROVISIONS AND DEFINITIONS

3-103 Definitions.

(a) In this article:

(1) “Acceptor” means a drawee who has accepted a draft.

(2) “Drawee” means a person ordered in a draft to make payment.

(3) “Drawer” means a person who signs or is identified in a draft as a person ordering payment.

(4) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(5) “Maker” means a person who signs or is identified in a note as a person undertaking to pay.

(6) “Order” means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.

(7) “Ordinary care” in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in which the person is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank’s prescribed procedures and the bank’s procedures do not vary unreasonably from general banking usage not disapproved by this article or article 4.

(8) “Party” means a party to an instrument.

(9) “Promise” means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.

(10) “Prove” with respect to a fact means to meet the burden of establishing the fact (section 1-201(b)(8)).

(11) “Remitter” means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

(b) Other definitions applying to this article and the sections in which they appear are:

“Acceptance”.	Section 3-409.
“Accommodated party”.	Section 3-419.
“Accommodation party”.	Section 3-419.
“Alteration”.	Section 3-407.
“Anomalous indorsement”.	Section 3-205.
“Blank indorsement”.	Section 3-205.
“Cashier’s check”.	Section 3-104.
“Certificate of deposit”.	Section 3-104.
“Certified check”.	Section 3-409.
“Check”.	Section 3-104.

“Consideration”.	Section 3-303.
“Demand draft”.	Section 3-104.
“Draft”.	Section 3-104.
“Holder in due course”.	Section 3-302.
“Incomplete instrument”.	Section 3-115.
“Indorsement”.	Section 3-204.
“Indorser”.	Section 3-204.
“Issue”.	Section 3-105.
“Issuer”.	Section 3-105.
“Negotiable instrument”.	Section 3-104.
“Negotiation”.	Section 3-201.
“Note”.	Section 3-104.
“Payable at a definite time”.	Section 3-108.
“Payable on demand”.	Section 3-108.
“Payable to bearer”.	Section 3-109.
“Payable to order”.	Section 3-109.
“Payment”.	Section 3-602.
“Person entitled to enforce”.	Section 3-301.
“Presentment”.	Section 3-501.
“Reacquisition”.	Section 3-207.
“Special indorsement”.	Section 3-205.
“Teller’s check”.	Section 3-104.
“Transfer of instrument”.	Section 3-203.
“Traveler’s check”.	Section 3-104.
“Value”.	Section 3-303.

(c) The following definitions in other articles apply to this article:

“Bank”.	Section 4-105.
“Banking day”.	Section 4-104.
“Clearinghouse”.	Section 4-104.
“Collecting bank”.	Section 4-105.
“Depository bank”.	Section 4-105.
“Documentary draft”.	Section 4-104.
“Intermediary bank”.	Section 4-105.
“Item”.	Section 4-104.
“Payor bank”.	Section 4-105.
“Suspends payments”.	Section 4-104.

(d) In addition, article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 1991, LB 161, § 7; Laws 2003, LB 128, § 1; Laws 2005, LB 570, § 50.

COMMENT

1. Subsection (a) defines some common terms used throughout the article that were not defined by former article 3 and adds the definitions of “order” and “promise” found in former section 3-102(1)(b) and (c).

2. The definition of “order” includes an instruction given by the signer to itself. The most common example of this kind of order is a cashier’s check: A draft with respect to which the drawer and drawee are the same bank or branches of the same bank. Former section 3-118(a) treated a cashier’s check as a note. It stated “a draft drawn on the drawer is effective as a note”. Although it is technically more correct to treat a cashier’s check as a promise by the issuing bank to pay rather than an order to pay, a cashier’s check is in the form of a check and it is normally referred to as a check. Thus, revised article 3 follows

banking practice in referring to a cashier’s check as both a draft and a check rather than a note. Some insurance companies also follow the practice of issuing drafts in which the drawer draws on itself and makes the draft payable at or through a bank. These instruments are also treated as drafts. The obligation of the drawer of a cashier’s check or other draft drawn on the drawer is stated in section 3-412.

An order may be addressed to more than one person as drawee either jointly or in the alternative. The authorization of alternative drawees follows former section 3-102(1)(b) and recognizes the practice of drawers, such as corporations issuing dividend checks, who for commercial convenience name a number of drawees, usually in different parts of the country. Section 3-501(b)(1) provides that presentment may be made to any one

of multiple drawees. Drawees in succession are not permitted because the holder should not be required to make more than one presentment. Dishonor by any drawee named in the draft entitles the holder to rights of recourse against the drawer or indorsers.

3. The last sentence of subsection (a)(9) is intended to make it clear that an I.O.U. or other written acknowledgment of indebtedness is not a note unless there is also an undertaking to pay the obligation.

4. Subsection (a)(7) is a definition of ordinary care which is applicable not only to article 3 but to article 4 as well. See section 4-104(c). The general rule is stated in the first sentence of subsection (a)(7) and it applies both to banks and to persons

engaged in businesses other than banking. Ordinary care means observance of reasonable commercial standards of the relevant business prevailing in the area in which the person is located. The second sentence of subsection (a)(7) is a particular rule limited to the duty of a bank to examine an instrument taken by a bank for processing for collection or payment by automated means. This particular rule applies primarily to section 4-406 and it is discussed in comment 4 to that section. Nothing in section 3-103(a)(7) is intended to prevent a customer from proving that the procedures followed by a bank are unreasonable, arbitrary, or unfair.

5. In subsection (c) reference is made to a new definition of "bank" in amended article 4.

3-104 Negotiable instrument.

(a) Except as provided in subsections (c) and (d), "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

(1) is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

(2) is payable on demand or at a definite time; and

(3) does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain (i) an undertaking or power to give, maintain, or protect collateral to secure payment, (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor.

(b) "Instrument" means a negotiable instrument.

(c) An order that meets all of the requirements of subsection (a), except paragraph (1), and otherwise falls within the definition of "check" in subsection (f) is a negotiable instrument and a check.

(d) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this article.

(e) An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft", a person entitled to enforce the instrument may treat it as either.

(f) "Check" means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank, (ii) a cashier's check or teller's check, or (iii) a demand draft. An instrument may be a check even though it is described on its face by another term, such as "money order".

(g) "Cashier's check" means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(h) "Teller's check" means a draft drawn by a bank (i) on another bank, or (ii) payable at or through a bank.

(i) "Traveler's check" means an instrument that (i) is payable on demand, (ii) is drawn on or payable at or through a bank, (iii) is designated by the term "traveler's check" or by a substantially similar term, and (iv) requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(j) “Certificate of deposit” means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

(k) “Demand draft” means a writing not signed by a customer, as defined in section 4-104, that is created by a third party under the purported authority of the customer for the purpose of charging the customer’s account with a bank. A demand draft shall contain the customer’s account number and may contain any or all of the following:

- (i) The customer’s printed or typewritten name;
- (ii) A notation that the customer authorized the draft; or
- (iii) The statement “no signature required”, “authorization on file”, “signature on file”, or words to that effect.

Demand draft does not include a check purportedly drawn by and bearing the signature of a fiduciary, as defined in section 3-307.

Source: Laws 1991, LB 161, § 8; Laws 2003, LB 128, § 2.

COMMENT

1. The definition of “negotiable instrument” defines the scope of article 3 since section 3-102 states: “This article applies to negotiable instruments”. The definition in section 3-104(a) incorporates other definitions in article 3. An instrument is either a “promise”, defined in section 3-103(a)(9), or “order”, defined in section 3-103(a)(6). A promise is a written undertaking to pay money signed by the person undertaking to pay. An order is a written instruction to pay money signed by the person giving the instruction. Thus, the term “negotiable instrument” is limited to a signed writing that orders or promises payment of money. “Money” is defined in section 1-201(24) and is not limited to United States dollars. It also includes a medium of exchange established by a foreign government or monetary units of account established by an intergovernmental organization or by agreement between two or more nations. Five other requirements are stated in section 3-104(a): First, the promise or order must be “unconditional”. The quoted term is explained in section 3-106. Second, the amount of money must be “a fixed amount * * * with or without interest or other charges described in the promise or order”. Section 3-112(b) relates to “interest”. Third, the promise or order must be “payable to bearer or to order”. The quoted phrase is explained in section 3-109. An exception to this requirement is stated in subsection (c). Fourth, the promise or order must be payable “on demand or at a definite time”. The quoted phrase is explained in section 3-108. Fifth, the promise or order may not state “any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money” with three exceptions. The quoted phrase is based on the first sentence of the Uniform Negotiable Instruments Law section 5, which is the precursor of “no other promise, order, obligation or power given by the maker or drawer” appearing in former section 3-104(1)(b). The words “instruction” and “undertaking” are used instead of “order” and “promise” that are used in the N.I.L. formulation because the latter words are defined terms that include only orders or promises to pay money. The three exceptions stated in section 3-104(a)(3) are based on and are intended to have the same meaning as former section 3-112(1)(b), (c), (d), and (e), as well as N.I.L. section 5(1), (2), and (3). Subsection (b) states that “instrument” means a “negotiable instrument”. This follows former section 3-102(1)(e) which treated the two terms as synonymous.

2. Unless subsection (c) applies, the effect of subsection (a)(1) and section 3-102(a) is to exclude from article 3 any promise or order that is not payable to bearer or to order. There is no provision in revised article 3 that is comparable to former section 3-805. The comment to former section 3-805 states that the typical example of a writing covered by that section is a

check reading “Pay John Doe”. Such a check was governed by former article 3 but there could not be a holder in due course of the check. Under section 3-104(c) such a check is governed by revised article 3 and there can be a holder in due course of the check. But subsection (c) applies only to checks. The comment to former section 3-805 does not state any example other than the check to illustrate that section. Subsection (c) is based on the belief that it is good policy to treat checks, which are payment instruments, as negotiable instruments whether or not they contain the words “to the order of”. These words are almost always preprinted on the check form. Occasionally the drawer of a check may strike out these words before issuing the check. In the past some credit unions used check forms that did not contain the quoted words. Such check forms may still be in use but they are no longer common. Absence of the quoted words can easily be overlooked and should not affect the rights of holders who may pay money or give credit for a check without being aware that it is not in the conventional form.

Total exclusion from article 3 of other promises or orders that are not payable to bearer or to order serves a useful purpose. It provides a simple device to clearly exclude a writing that does not fit the pattern of typical negotiable instruments and which is not intended to be a negotiable instrument. If a writing could be an instrument despite the absence of “to order” or “to bearer” language and a dispute arises with respect to the writing, it might be argued that the writing is a negotiable instrument because the other requirements of subsection (a) are somehow met. Even if the argument is eventually found to be without merit it can be used as a litigation ploy. Words making a promise or order payable to bearer or to order are the most distinguishing feature of a negotiable instrument and such words are frequently referred to as “words of negotiability”. Article 3 is not meant to apply to contracts for the sale of goods or services or the sale or lease of real property or similar writings that may contain a promise to pay money. The use of words of negotiability in such contracts would be an aberration. Absence of the words precludes any argument that such contracts might be negotiable instruments.

An order or promise that is excluded from article 3 because of the requirements of section 3-104(a) may nevertheless be similar to a negotiable instrument in many respects. Although such a writing cannot be made a negotiable instrument within article 3 by contract or conduct of its parties, nothing in section 3-104 or in section 3-102 is intended to mean that in a particular case involving such a writing a court could not arrive at a result similar to the result that would follow if the writing were a negotiable instrument. For example, a court might find that the

obligor with respect to a promise that does not fall within section 3-104(a) is precluded from asserting a defense against a bona fide purchaser. The preclusion could be based on estoppel or ordinary principles of contract. It does not depend upon the law of negotiable instruments. An example is stated in the paragraph following case #2 in comment 4 to section 3-302.

Moreover, consistent with the principle stated in section 1-102(2)(b), the immediate parties to an order or promise that is not an instrument may provide by agreement that one or more of the provisions of article 3 determine their rights and obligations under the writing. Upholding the parties' choice is not inconsistent with article 3. Such an agreement may bind a transferee of the writing if the transferee has notice of it or the agreement arises from usage of trade and the agreement does not violate other law or public policy. An example of such an agreement is a provision that a transferee of the writing has the rights of a holder in due course stated in article 3 if the transferee took rights under the writing in good faith, for value, and without notice of a claim or defense.

Even without an agreement of the parties to an order or promise that is not an instrument, it may be appropriate, consistent with the principles stated in section 1-102(2), for a court to apply one or more provisions of article 3 to the writing by analogy, taking into account the expectations of the parties and the differences between the writing and an instrument governed by article 3. Whether such application is appropriate depends upon the facts of each case.

3. Subsection (d) allows exclusion from article 3 of a writing that would otherwise be an instrument under subsection (a) by a statement to the effect that the writing is not negotiable or is not governed by article 3. For example, a promissory note can be stamped with the legend NOT NEGOTIABLE. The effect under subsection (d) is not only to negate the possibility of a holder in due course, but to prevent the writing from being a negotiable instrument for any purpose. Subsection (d) does not, however, apply to a check. If a writing is excluded from article 3 by subsection (d), a court could, nevertheless, apply article 3 principles to it by analogy as stated in comment 2.

4. Instruments are divided into two general categories: Drafts and notes. A draft is an instrument that is an order. A note is an instrument that is a promise. Section 3-104(e). The term "bill of exchange" is not used in article 3. It is generally understood to

be a synonym for the term "draft". Subsections (f) through (j) define particular instruments that fall within the categories of draft and note. The term "draft", defined in subsection (e), includes a "check" which is defined in subsection (f). "Check" includes a share draft drawn on a credit union payable through a bank because the definition of bank (section 4-105) includes credit unions. However, a draft drawn on an insurance company payable through a bank is not a check because it is not drawn on a bank. "Money orders" are sold both by banks and nonbanks. They vary in form and their form determines how they are treated in article 3. The most common form of money order sold by banks is that of an ordinary check drawn by the purchaser except that the amount is machine impressed. That kind of money order is a check under article 3 and is subject to a stop order by the purchaser-drawer as in the case of ordinary checks. The seller bank is the drawee and has no obligation to a holder to pay the money order. If a money order falls within the definition of a teller's check, the rules applicable to teller's checks apply. Postal money orders are subject to federal law. "Teller's check" is separately defined in subsection (h). A teller's check is always drawn by a bank and is usually drawn on another bank. In some cases a teller's check is drawn on a nonbank but is made payable at or through a bank. Article 3 treats both types of teller's check identically, and both are included in the definition of "check". A cashier's check, defined in subsection (g), is also included in the definition of "check". Traveler's checks are issued both by banks and nonbanks and may be in the form of a note or draft. Subsection (i) states the essential characteristics of a traveler's check. The requirement that the instrument be "drawn on or payable at or through a bank" may be satisfied without words on the instrument that identify a bank as drawee or paying agent so long as the instrument bears an appropriate routing number that identifies a bank as paying agent.

The definitions in Regulation CC section 229.2 of the terms "check", "cashier's check", "teller's check", and "traveler's check" are different from the definitions of those terms in article 3.

Certificates of deposit are treated in former article 3 as a separate type of instrument. In revised article 3, section 3-104(j) treats them as notes.

3-118 Statute of limitations.

(a) Except as provided in subsection (e), an action to enforce the obligation of a party to pay a note payable at a definite time must be commenced within six years after the due date or dates stated in the note or, if a due date is accelerated, within six years after the accelerated due date.

(b) Except as provided in subsection (d) or (e), if demand for payment is made to the maker of a note payable on demand, an action to enforce the obligation of a party to pay the note must be commenced within six years after the demand. If no demand for payment is made to the maker, an action to enforce the note is barred if neither principal nor interest on the note has been paid for a continuous period of ten years.

(c) Except as provided in subsection (d), an action to enforce the obligation of a party to an unaccepted draft to pay the draft must be commenced within three years after dishonor of the draft or ten years after the date of the draft, whichever period expires first.

(d) An action to enforce the obligation of the acceptor of a certified check or the issuer of a teller's check, cashier's check, or traveler's check must be commenced within three years after demand for payment is made to the acceptor or issuer, as the case may be.

(e) Subject to the provisions of section 25-227, an action to enforce the obligation of a party to a certificate of deposit to pay the instrument must be

commenced within six years after demand for payment is made to the maker, but if the instrument states a due date and the maker is not required to pay before that date, the six-year period begins when a demand for payment is in effect and the due date has passed.

(f) An action to enforce the obligation of a party to pay an accepted draft, other than a certified check, must be commenced (i) within six years after the due date or dates stated in the draft or acceptance if the obligation of the acceptor is payable at a definite time, or (ii) within six years after the date of the acceptance if the obligation of the acceptor is payable on demand.

(g) Unless governed by other law regarding claims for indemnity or contribution, an action (i) for conversion of an instrument, for money had and received, or like action based on conversion, (ii) for breach of warranty, or (iii) to enforce an obligation, duty, or right arising under this article and not governed by this section must be commenced within three years after the cause of action accrues.

Source: Laws 1991, LB 161, § 22; Laws 2008, LB151, § 2.

Part 3

ENFORCEMENT OF INSTRUMENTS

3-309 Enforcement of lost, destroyed, or stolen instrument.

(a) A person not in possession of an instrument is entitled to enforce the instrument if (i) the person seeking to enforce the instrument (1) was entitled to enforce the instrument when loss of possession occurred or (2) had directly or indirectly acquired ownership of the instrument from a person who was entitled to enforce the instrument when loss of possession occurred, (ii) the loss of possession was not the result of a transfer by the person or a lawful seizure, and (iii) the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

(b) A person seeking enforcement of an instrument under subsection (a) must prove the terms of the instrument and the person's right to enforce the instrument. If that proof is made, section 3-308 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless it finds that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means.

Source: Laws 1991, LB 161, § 39; Laws 2003, LB 128, § 3.

COMMENT

Section 3-309 is a modification of former section 3-804. The rights stated are those of "a person entitled to enforce the instrument" at the time of loss rather than those of an "owner" as in former section 3-804. Under subsection (b), judgment to enforce the instrument cannot be given unless the court finds that the defendant will be adequately protected against a claim to the instrument by a holder that may appear at some later time. The court is given discretion in determining how adequate protection is to be assured. Former section 3-804 allowed the court to "require security indemnifying the defendant against loss". Under section 3-309 adequate protection is a flexible

concept. For example, there is substantial risk that a holder in due course may make a demand for payment if the instrument was payable to bearer when it was lost or stolen. On the other hand if the instrument was payable to the person who lost the instrument and that person did not indorse the instrument, no other person could be a holder of the instrument. In some cases there is risk of loss only if there is doubt about whether the facts alleged by the person who lost the instrument are true. Thus, the type of adequate protection that is reasonable in the circumstances may depend on the degree of certainty about the facts in the case.

Part 4

LIABILITY OF PARTIES

3-416 Transfer warranties.

(a) A person who transfers an instrument for consideration warrants to the transferee and, if the transfer is by indorsement, to any subsequent transferee that:

- (1) the warrantor is a person entitled to enforce the instrument;
- (2) all signatures on the instrument are authentic and authorized;
- (3) the instrument has not been altered;
- (4) the instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor;
- (5) the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; and
- (6) if the instrument is a demand draft, creation of the instrument according to the terms on its face was authorized by the person identified as drawer.

(b) A person to whom the warranties under subsection (a) are made and who took the instrument in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the instrument plus expenses and loss of interest incurred as a result of the breach.

(c) The warranties stated in subsection (a) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (b) is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(d) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(e) If the warranty under subdivision (a)(6) of this section is not given by a transferor under applicable conflict of law rules, then the warranty is not given to that transferor when that transferor is a transferee.

Source: Laws 1991, LB 161, § 57; Laws 2003, LB 128, § 4.

COMMENT

1. Subsection (a) is taken from subsection (2) of former section 3-417. Subsections (3) and (4) of former section 3-417 are deleted. Warranties under subsection (a) in favor of the immediate transferee apply to all persons who transfer an instrument for consideration whether or not the transfer is accompanied by indorsement. Any consideration sufficient to support a simple contract will support those warranties. If there is an indorsement the warranty runs with the instrument and the remote holder may sue the indorser-warrantor directly and thus avoid a multiplicity of suits.

2. Since the purpose of transfer (section 3-203(a)) is to give the transferee the right to enforce the instrument, subsection (a)(1) is a warranty that the transferor is a person entitled to enforce the instrument (section 3-301). Under section 3-203(b) transfer gives the transferee any right of the transferor to enforce the instrument. Subsection (a)(1) is in effect a warranty that there are no unauthorized or missing indorsements that

prevent the transferor from making the transferee a person entitled to enforce the instrument.

3. The rationale of subsection (a)(4) is that the transferee does not undertake to buy an instrument that is not enforceable in whole or in part, unless there is a contrary agreement. Even if the transferee takes as a holder in due course who takes free of the defense or claim in recoupment, the warranty gives the transferee the option of proceeding against the transferor rather than litigating with the obligor on the instrument the issue of the holder-in-due-course status of the transferee. Subsection (3) of former section 3-417 which limits this warranty is deleted. The rationale is that while the purpose of a "no recourse" indorsement is to avoid a guaranty of payment, the indorsement does not clearly indicate an intent to disclaim warranties.

4. Under subsection (a)(5) the transferor does not warrant against difficulties of collection, impairment of the credit of the obligor, or even insolvency. The transferee is expected to deter-

mine such questions before taking the obligation. If insolvency proceedings as defined in section 1-201(22) have been instituted against the party who is expected to pay and the transferor knows it, the concealment of that fact amounts to a fraud upon the transferee, and the warranty against knowledge of such proceedings is provided accordingly.

5. Transfer warranties may be disclaimed with respect to any instrument except a check. Between the immediate parties disclaimer may be made by agreement. In the case of an indorser, disclaimer of transferor's liability, to be effective, must appear in the indorsement with words such as "without warranties" or

some other specific reference to warranties. But in the case of a check, subsection (c) of section 3-416 provides that transfer warranties cannot be disclaimed at all. In the check collection process the banking system relies on these warranties.

6. Subsection (b) states the measure of damages for breach of warranty. There is no express provision for attorney's fees, but attorney's fees are not meant to be necessarily excluded. They could be granted because they fit within the phrase "expenses * * * incurred as a result of the breach". The intention is to leave to other state law the issue as to when attorney's fees are recoverable.

3-417 Presentment warranties.

(a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee making payment or accepting the draft in good faith that:

(1) the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(2) the draft has not been altered;

(3) the warrantor has no knowledge that the signature of the drawer of the draft is unauthorized; and

(4) if the draft is a demand draft, creation of the demand draft according to the terms on its face was authorized by the person identified as drawer.

(b) A drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft, breach of warranty is a defense to the obligation of the acceptor. If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from any warrantor for breach of warranty the amounts stated in this subsection.

(c) If a drawee asserts a claim for breach of warranty under subsection (a) based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under section 3-404 or 3-405 or the drawer is precluded under section 3-406 or 4-406 from asserting against the drawee the unauthorized indorsement or alteration.

(d) If (i) a dishonored draft is presented for payment to the drawer or an indorser or (ii) any other instrument is presented for payment to a party obliged to pay the instrument, and (iii) payment is received, the following rules apply:

(1) The person obtaining payment and a prior transferor of the instrument warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the instrument, a person entitled to enforce the instrument or authorized to obtain payment on behalf of a person entitled to enforce the instrument.

(2) The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subsections (a) and (d) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (b) or (d) is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(g) A demand draft is a check as provided in subsection (f) of section 3-104.

(h) If the warranty under subdivision (a)(4) of this section is not given by a transferor under applicable conflict of law rules, then the warranty is not given to that transferor when that transferor is a transferee.

Source: Laws 1991, LB 161, § 58; Laws 2003, LB 128, § 5.

COMMENT

1. This section replaces subsection (1) of former section 3-417. The former provision was difficult to understand because it purported to state in one subsection all warranties given to any person paying any instrument. The result was a provision replete with exceptions that could not be readily understood except after close scrutiny of the language. In revised section 3-417, presentment warranties made to drawees of uncertified checks and other unaccepted drafts are stated in subsection (a). All other presentment warranties are stated in subsection (d).

2. Subsection (a) states three warranties. Subsection (a)(1) in effect is a warranty that there are no unauthorized or missing indorsements. "Person entitled to enforce" is defined in section 3-301. Subsection (a)(2) is a warranty that there is no alteration. Subsection (a)(3) is a warranty of no knowledge that there is a forged drawer's signature. Subsection (a) states that the warranties are made to the drawee and subsections (b) and (c) identify the drawee as the person entitled to recover for breach of warranty. There is no warranty made to the drawer under subsection (a) when presentment is made to the drawee. Warranty to the drawer is governed by subsection (d) and that applies only when presentment for payment is made to the drawer with respect to a dishonored draft. In *Sun 'N Sand, Inc. v. United California Bank*, 582 P.2d 920 (Cal. 1978), the court held that under former section 3-417(1) a warranty was made to the drawer of a check when the check was presented to the drawee for payment. The result in that case is rejected.

3. Subsection (a)(1) retains the rule that the drawee does not admit the authenticity of indorsements and subsection (a)(3) retains the rule of *Price v. Neal*, 3 Burr. 1354 (1762), that the drawee takes the risk that the drawer's signature is unauthorized unless the person presenting the draft has knowledge that the drawer's signature is unauthorized. Under subsection (a)(3) the warranty of no knowledge that the drawer's signature is unauthorized is also given by prior transferors of the draft.

4. Subsection (d) applies to presentment for payment in all cases not covered by subsection (a). It applies to presentment of notes and accepted drafts to any party obliged to pay the instrument, including an indorser, and to presentment of dishonored drafts if made to the drawer or an indorser. In cases covered by subsection (d), there is only one warranty and it is the same as that stated in subsection (a)(1). There are no warranties comparable to subsections (a)(2) and (a)(3) because they are appropriate only in the case of presentment to the drawee of an unaccepted draft. With respect to presentment of an accepted draft to the acceptor, there is no warranty with respect to alteration or knowledge that the signature of the

drawer is unauthorized. Those warranties were made to the drawee when the draft was presented for acceptance (section 3-417(a)(2) and (3)) and breach of that warranty is a defense to the obligation of the drawee as acceptor to pay the draft. If the drawee pays the accepted draft the drawee may recover the payment from any warrantor who was in breach of warranty when the draft was accepted. Section 3-417(b). Thus, there is no necessity for these warranties to be repeated when the accepted draft is presented for payment. Former section 3-417(1)(b)(iii) and (c)(iii) are not included in revised section 3-417 because they are unnecessary. Former section 3-417(1)(c)(iv) is not included because it is also unnecessary. The acceptor should know what the terms of the draft were at the time acceptance was made.

If presentment is made to the drawer or maker, there is no necessity for a warranty concerning the signature of that person or with respect to alteration. If presentment is made to an indorser, the indorser had itself warranted authenticity of signatures and that the instrument was not altered. Section 3-416(a)(2) and (3).

5. The measure of damages for breach of warranty under subsection (a) is stated in subsection (b). There is no express provision for attorney's fees, but attorney's fees are not meant to be necessarily excluded. They could be granted because they fit within the language "expenses * * * resulting from the breach". Subsection (b) provides that the right of the drawee to recover for breach of warranty is not affected by a failure of the drawee to exercise ordinary care in paying the draft. This provision follows the result reached under former article 3 in *Hartford Accident & Indemnity Co. v. First Pennsylvania Bank*, 859 F.2d 295 (3d Cir. 1988).

6. Subsection (c) applies to checks and other unaccepted drafts. It gives to the warrantor the benefit of rights that the drawee has against the drawer under section 3-404, 3-405, 3-406, or 4-406. If the drawer's conduct contributed to a loss from forgery or alteration, the drawee should not be allowed to shift the loss from the drawer to the warrantor.

7. The first sentence of subsection (e) recognizes that checks are normally paid by automated means and that payor banks rely on warranties in making payment. Thus, it is not appropriate to allow disclaimer of warranties appearing on checks that normally will not be examined by the payor bank. The second sentence requires a breach of warranty claim to be asserted within 30 days after the drawee learns of the breach and the identity of the warrantor.

ARTICLE 4

BANK DEPOSITS AND COLLECTIONS

Part 1. GENERAL PROVISIONS AND DEFINITIONS

Section

4-104. Definitions and index of definitions.

Part 2. COLLECTION OF ITEMS: DEPOSITARY AND COLLECTING BANKS

4-207. Transfer warranties.

4-208. Presentment warranties.

4-210. Security interest of collecting bank in items, accompanying documents and proceeds.

Part 1

GENERAL PROVISIONS AND DEFINITIONS

4-104 Definitions and index of definitions.

(a) In this article, unless the context otherwise requires:

(1) "Account" means any deposit or credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit;

(2) "Afternoon" means the period of a day between noon and midnight;

(3) "Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions but, for purposes of a bank's midnight deadline, shall not include Saturday, Sunday, or any holiday when the federal reserve banks are not performing check clearing functions;

(4) "Clearinghouse" means an association of banks or other payors regularly clearing items;

(5) "Customer" means a person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank;

(6) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (section 8-102) or instructions for uncertificated securities (section 8-102), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft;

(7) "Draft" means a draft as defined in section 3-104 or an item, other than an instrument, that is an order;

(8) "Drawee" means a person ordered in a draft to make payment;

(9) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by article 4A or a credit or debit card slip;

(10) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

(11) "Settle" means to pay in cash, by clearinghouse settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final;

(12) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over, or that it ceases or refuses to make payments in the ordinary course of business.

(b) Other definitions applying to this article and the sections in which they appear are:

"Agreement for electronic presentment".	Section 4-110.
"Bank".	Section 4-105.
"Collecting bank".	Section 4-105.
"Depository bank".	Section 4-105.
"Intermediary bank".	Section 4-105.
"Payor bank".	Section 4-105.
"Presenting bank".	Section 4-105.
"Presentment notice".	Section 4-110.

(c) "Control" as provided in section 7-106 and the following definitions in other articles apply to this article:

"Acceptance".	Section 3-409.
"Alteration".	Section 3-407.
"Cashier's check".	Section 3-104.
"Certificate of deposit".	Section 3-104.
"Certified check".	Section 3-409.
"Check".	Section 3-104.
"Good faith".	Section 3-103.
"Holder in due course".	Section 3-302.
"Instrument".	Section 3-104.
"Notice of dishonor".	Section 3-503.
"Order".	Section 3-103.
"Ordinary care".	Section 3-103.
"Person entitled to enforce".	Section 3-301.
"Presentment".	Section 3-501.
"Promise".	Section 3-103.
"Prove".	Section 3-103.
"Teller's check".	Section 3-104.
"Unauthorized signature".	Section 3-403.

(d) In addition article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 1963, c. 544, Art. IV, § 4-104, p. 1812; Laws 1991, LB 161, § 75; Laws 1994, LB 1015, § 1; Laws 1995, LB 97, § 3; Laws 2005, LB 570, § 51.

COMMENT

1. Paragraph (a)(1): "Account" is defined to include both asset accounts in which a customer has deposited money and accounts from which a customer may draw on a line of credit. The limiting factor is that the account must be in a bank.

2. Paragraph (a)(3): "Banking day". Under this definition that part of a business day when a bank is open only for limited functions, e.g., to receive deposits and cash checks, but with

loan, bookkeeping, and other departments closed, is not part of a banking day.

3. Paragraph (a)(4): "Clearinghouse".

Occasionally express companies, governmental agencies, and other nonbanks deal directly with a clearinghouse; hence the definition does not limit the term to an association of banks.

4. Paragraph (a)(5): "Customer". It is to be noted that this term includes a bank carrying an account with another bank as well as the more typical nonbank customer or depositor.

5. Paragraph (a)(6): "Documentary draft" applies even though the documents do not accompany the draft but are to be received by the drawee or other payor before acceptance or payment of the draft. Documents may be either in electronic or tangible form. See article 5, section 5-102, comment 2 and article 1, section 1-201 (definition of "document of title").

6. Paragraph (a)(7): "Draft" is defined in section 3-104 as a form of instrument. Since article 4 applies to items that may not fall within the definition of instrument, the term is defined here to include an item that is a written order to pay money, even though the item may not qualify as an instrument. The term "order" is defined in section 3-103.

7. Paragraph (a)(8): "Drawee" is defined in section 3-103 in terms of an article 3 draft which is a form of instrument. Here "drawee" is defined in terms of an article 4 draft which includes items that may not be instruments.

8. Paragraph (a)(9): "Item" is defined broadly to include an instrument, as defined in section 3-104, as well as promises or orders that may not be within the definition of "instrument". The terms "promise" and "order" are defined in section 3-103. A promise is a written undertaking to pay money. An order is a written instruction to pay money. But see section 4-110(c). Since bonds and other investment securities under article 8 may be within the term "instrument" or "promise", they are items and when handled by banks for collection are subject to this article. See comment 1 to section 4-102. The functional limitation on the meaning of this term is the willingness of the banking system to handle the instrument, undertaking, or instruction for collection or payment.

9. Paragraph (a)(10): "Midnight deadline". The use of this phrase is an example of the more mechanical approach used in this article. Midnight is selected as a termination point or time limit to obtain greater uniformity and definiteness than would be possible from other possible terminating points, such as the close of the banking day or business day.

10. Paragraph (a)(11): The term "settle" has substantial importance throughout article 4. In the American Bankers Association Bank Collection Code, in deferred posting statutes, in Federal Reserve regulations and operating circulars, in clearinghouse rules, in agreements between banks and customers,

and in legends on deposit tickets and collection letters, there is repeated reference to "conditional" or "provisional" credits or payments. Tied in with this concept of credits or payments being in some way tentative, has been a related but somewhat different problem as to when an item is "paid" or "finally paid" either to determine the relative priority of the item as against attachments, stop-payment orders, and the like or in insolvency situations. There has been extensive litigation in the various states on these problems. To a substantial extent the confusion, the litigation, and even the resulting court decisions fail to take into account that in the collection process some debits or credits are provisional or tentative, and others are final and that very many debits or credits are provisional or tentative for awhile but later become final. Similarly, some cases fail to recognize that within a single bank, particularly a payor bank, each item goes through a series of processes and that in a payor bank most of these processes are preliminary to the basic act of payment or "final payment".

The term "settle" is used as a convenient term to characterize a broad variety of conditional, provisional, tentative, and also final payments of items. Such a comprehensive term is needed because it is frequently difficult or unnecessary to determine whether a particular action is tentative or final or when a particular credit shifts from the tentative class to the final class. Therefore, its use throughout the article indicates that in that particular context it is unnecessary or unwise to determine whether the debit or the credit or the payment is tentative or final. However, if qualified by the adjective "provisional" its tentative nature is intended, and if qualified by the adjective "final" its permanent nature is intended.

Examples of the various types of settlement contemplated by the term include payments in cash; the efficient but somewhat complicated process of payment through the adjustment and offsetting of balances through clearinghouses; debit or credit entries in accounts between banks; the forwarding of various types of remittance instruments, sometimes to cover a particular item but more frequently to cover an entire group of items received on a particular day.

11. Paragraph (a)(12): "Suspends payments".

This term is designed to afford an objective test to determine when a bank is no longer operating as a part of the banking system.

Part 2

COLLECTION OF ITEMS: DEPOSITARY AND COLLECTING BANKS

4-207 Transfer warranties.

(a) A customer or collecting bank that transfers an item and receives a settlement or other consideration warrants to the transferee and to any subsequent collecting bank that:

- (1) the warrantor is a person entitled to enforce the item;
- (2) all signatures on the item are authentic and authorized;
- (3) the item has not been altered;
- (4) the item is not subject to a defense or claim in recoupment (section 3-305(a)) of any party that can be asserted against the warrantor;
- (5) the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer; and
- (6) if the item is a demand draft, creation of the item according to the terms on its face was authorized by the person identified as drawer.

(b) If an item is dishonored, a customer or collecting bank transferring the item and receiving settlement or other consideration is obliged to pay the amount due on the item (i) according to the terms of the item at the time it was transferred, or (ii) if the transfer was of an incomplete item, according to its terms when completed as stated in sections 3-115 and 3-407. The obligation of a transferor is owed to the transferee and to any subsequent collecting bank that takes the item in good faith. A transferor cannot disclaim its obligation under this subsection by an indorsement stating that it is made “without recourse” or otherwise disclaiming liability.

(c) A person to whom the warranties under subsection (a) are made and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the item plus expenses and loss of interest incurred as a result of the breach.

(d) The warranties stated in subsection (a) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(e) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(f) If the warranty under subdivision (a)(6) of this section is not given by a transferor or collecting bank under applicable conflict of law rules, the warranty is not given to that transferor when that transferor is a transferee or to any prior collecting bank of that transferee.

Source: Laws 1963, c. 544, Art. IV, § 4-207, p. 1818; Laws 1991, LB 161, § 89; Laws 2003, LB 128, § 6.

COMMENT

Except for subsection (b), this section conforms to section 3-416 and extends its coverage to items. The substance of this section is discussed in the comment to section 3-416. Subsection (b) provides that customers or collecting banks that transfer items, whether by indorsement or not, undertake to pay the item

if the item is dishonored. This obligation cannot be disclaimed by a “without recourse” indorsement or otherwise. With respect to checks, Regulation CC section 229.34 states the warranties made by paying and returning banks.

4-208 Presentment warranties.

(a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee that pays or accepts the draft in good faith that:

(1) the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(2) the draft has not been altered;

(3) the warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized; and

(4) if the draft is a demand draft, creation of the demand draft according to the terms on its face was authorized by the person identified as drawer.

(b) A drawee making payment may recover from a warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the

drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft (i) breach of warranty is a defense to the obligation of the acceptor, and (ii) if the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from a warrantor for breach of warranty the amounts stated in this subsection.

(c) If a drawee asserts a claim for breach of warranty under subsection (a) based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under section 3-404 or 3-405 or the drawer is precluded under section 3-406 or 4-406 from asserting against the drawee the unauthorized indorsement or alteration.

(d) If (i) a dishonored draft is presented for payment to the drawer or an indorser or (ii) any other item is presented for payment to a party obliged to pay the item, and the item is paid, the person obtaining payment and a prior transferor of the item warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the item, a person entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item. The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subsections (a) and (d) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(g) A demand draft is a check as provided in subsection (f) of section 3-104.

(h) If the warranty under subdivision (a)(4) of this section is not given by a transferor under applicable conflict of law rules, the warranty is not given to that transferor when that transferor is a transferee.

Source: Laws 1963, c. 544, Art. IV, § 4-208, p. 1820; Laws 1991, LB 161, § 90; Laws 2003, LB 128, § 7.

COMMENT

This section conforms to section 3-417 and extends its coverage to items. The substance of this section is discussed in the comment to section 3-417. "Draft" is defined in section 4-104 as

including an item that is an order to pay so as to make clear that the term "draft" in article 4 may include items that are not instruments within section 3-104.

4-210 Security interest of collecting bank in items, accompanying documents and proceeds.

(a) A collecting bank has a security interest in an item and any accompanying documents, or the proceeds of either:

(1) in case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;

(2) in case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given, whether or not the credit is drawn upon or there is a right of chargeback; or

(3) if it makes an advance on or against the item.

(b) If credit given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents, or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or possession or control of the accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to article 9, but:

(1) no security agreement is necessary to make the security interest enforceable (section 9-203(b)(3)(A));

(2) no filing is required to perfect the security interest; and

(3) the security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

Source: Laws 1963, c. 544, Art. IV, § 4-210, p. 1821; Laws 1991, LB 161, § 92; Laws 1999, LB 550, § 63; Laws 2005, LB 570, § 52.

COMMENT

1. Subsection (a) states a rational rule for the interest of a bank in an item. The customer of the depository bank is normally the owner of the item and the several collecting banks are agents of the customer (section 4-201). A collecting agent may properly make advances on the security of paper held for collection, and acquires at common law a possessory lien for these advances. Subsection (a) applies an analogous principle to a bank in the collection chain which extends credit on items in the course of collection. The bank has a security interest to the extent stated in this section. To the extent of its security interest it is a holder for value (sections 3-303 and 4-211) and a holder in due course if it satisfies the other requirements for that status (section 3-302). Subsection (a) does not derogate from the banker's general common-law lien or right of setoff against indebtedness owing in deposit accounts. See section 1-103.

Rather subsection (a) specifically implements and extends the principle as a part of the bank collection process.

2. Subsection (b) spreads the security interest of the bank over all items in a single deposit or received under a single agreement and a single giving of credit. It also adopts the "first-in, first-out" rule.

3. Collection statistics establish that the vast majority of items handled for collection are in fact collected. The first sentence of subsection (c) reflects the fact that in the normal case the bank's security interest is self-liquidating. The remainder of the subsection correlates the security interest with the provisions of article 9, particularly for use in the cases of noncollection in which the security interest may be important.

ARTICLE 4A

FUNDS TRANSFERS

Part 1. SUBJECT MATTER AND DEFINITIONS

Section

4A-105. Other definitions.

4A-106. Time payment order is received.

Part 2. ISSUE AND ACCEPTANCE OF PAYMENT ORDER

4A-204. Refund of payment and duty of customer to report with respect to unauthorized payment order.

Part 1

SUBJECT MATTER AND DEFINITIONS

4A-105 Other definitions.

(a) In this article:

(1) "Authorized account" means a deposit account of a customer in a bank designated by the customer as a source of payment of payment orders issued by

the customer to the bank. If a customer does not so designate an account, any account of the customer is an authorized account if payment of a payment order from that account is not inconsistent with a restriction on the use of that account.

(2) “Bank” means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company. A branch or separate office of a bank is a separate bank for purposes of this article.

(3) “Customer” means a person, including a bank, having an account with a bank or from whom a bank has agreed to receive payment orders.

(4) “Funds-transfer business day” of a receiving bank means the part of a day during which the receiving bank is open for the receipt, processing, and transmittal of payment orders and cancellations and amendments of payment orders.

(5) “Funds-transfer system” means a wire transfer network, automated clearinghouse, or other communication system of a clearinghouse or other association of banks through which a payment order by a bank may be transmitted to the bank to which the order is addressed.

(6) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(7) “Prove” with respect to a fact means to meet the burden of establishing the fact (section 1-201(b)(8)).

(b) Other definitions applying to this article and the sections in which they appear are:

“Acceptance”.	Section 4A-209.
“Beneficiary”.	Section 4A-103.
“Beneficiary’s bank”.	Section 4A-103.
“Executed”.	Section 4A-301.
“Execution date”.	Section 4A-301.
“Funds transfer”.	Section 4A-104.
“Funds-transfer system rule”.	Section 4A-501.
“Intermediary bank”.	Section 4A-104.
“Originator”.	Section 4A-104.
“Originator’s bank”.	Section 4A-104.
“Payment by beneficiary’s bank to beneficiary”.	Section 4A-405.
“Payment by originator to beneficiary”.	Section 4A-406.
“Payment by sender to receiving bank”.	Section 4A-403.
“Payment date”.	Section 4A-401.
“Payment order”.	Section 4A-103.
“Receiving bank”.	Section 4A-103.
“Security procedure”.	Section 4A-201.
“Sender”.	Section 4A-103.

(c) The following definitions in article 4 apply to this article:

“Clearinghouse”.	Section 4-104.
“Item”.	Section 4-104.
“Suspends payments”.	Section 4-104.

(d) In addition article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 1991, LB 160, § 6; Laws 2005, LB 570, § 53.

COMMENT

1. The definition of “bank” in subsection (a)(2) includes some institutions that are not commercial banks. The definition reflects the fact that many financial institutions now perform functions previously restricted to commercial banks, including acting on behalf of customers in funds transfers. Since many funds transfers involve payment orders to or from foreign countries the definition also covers foreign banks. The definition also includes Federal Reserve banks. Funds transfers carried out by Federal Reserve banks are described in comments 1 and 2 to section 4A-107.

2. Funds-transfer business is frequently transacted by banks outside of general banking hours. Thus, the definition of banking day in section 4-104(a)(3) cannot be used to describe when a bank is open for funds-transfer business. Subsection (a)(4) defines a new term, “funds-transfer business day”, which is applicable to article 4A. The definition states, “is open for the receipt, processing, and transmittal of payment orders and cancellations and amendments of payment orders”. In some cases it is possible to electronically transmit payment orders and other communications to a receiving bank at any time. If the receiving bank is not open for the processing of an order when it is received, the communication is stored in the receiving bank’s computer for retrieval when the receiving bank is open for processing. The use of the conjunctive makes clear that the defined term is limited to the period during which all functions of the receiving bank can be performed, i.e., receipt, processing, and transmittal of payment orders, cancellations, and amendments.

3. Subsection (a)(5) defines “funds-transfer system”. The term includes a system such as CHIPS which provides for transmission of a payment order as well as settlement of the obligation of the sender to pay the order. It also includes automated clearinghouses, operated by a clearinghouse or other association of banks, which process and transmit payment orders of banks to other banks. In addition the term includes organizations that provide only transmission services such as SWIFT. The definition also includes the wire transfer network and automated clearinghouses of Federal Reserve banks. Systems of the Federal Reserve banks, however, are treated differently from systems of other associations of banks. Funds-transfer systems other than systems of the Federal Reserve banks are treated in article 4A as a means of communication of payment orders between participating banks. Section 4A-206. The comment to that section and the comment to section 4A-107 explain how Federal Reserve banks function under article 4A. Funds-transfer systems are also able to promulgate rules binding on participating banks that, under section 4A-501, may supplement or in some cases may even override provisions of article 4A.

4. Subsection (d) incorporates definitions stated in article 1 as well as principles of construction and interpretation stated in that article. Included is section 1-103. The last paragraph of the comment to section 4A-102 is addressed to the issue of the extent to which general principles of law and equity should apply to situations covered by provisions of article 4A.

4A-106 Time payment order is received.

(a) The time of receipt of a payment order or communication canceling or amending a payment order is determined by the rules applicable to receipt of a notice stated in section 1-202. A receiving bank may fix a cutoff time or times on a funds-transfer business day for the receipt and processing of payment orders and communications canceling or amending payment orders. Different cutoff times may apply to payment orders, cancellations, or amendments, or to different categories of payment orders, cancellations, or amendments. A cutoff time may apply to senders generally or different cutoff times may apply to different senders or categories of payment orders. If a payment order or communication canceling or amending a payment order is received after the close of a funds-transfer business day or after the appropriate cutoff time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day.

(b) If this article refers to an execution date or payment date or states a day on which a receiving bank is required to take action, and the date or day does not fall on a funds-transfer business day, the next day that is a funds-transfer business day is treated as the date or day stated, unless the contrary is stated in this article.

Source: Laws 1991, LB 160, § 7; Laws 2005, LB 570, § 54.

COMMENT

The time that a payment order is received by a receiving bank usually defines the payment date or the execution date of a payment order. Section 4A-301 and section 4A-401. The time of receipt of a payment order, or communication canceling or amending a payment order is defined in subsection (a) by

reference to the rules stated in section 1-202. Thus, time of receipt is determined by the same rules that determine when a notice is received. Time of receipt, however, may be altered by a cutoff time.

Part 2

ISSUE AND ACCEPTANCE OF PAYMENT ORDER

4A-204 Refund of payment and duty of customer to report with respect to unauthorized payment order.

(a) If a receiving bank accepts a payment order issued in the name of its customer as sender which is (i) not authorized and not effective as the order of the customer under section 4A-202, or (ii) not enforceable, in whole or in part, against the customer under section 4A-203, the bank shall refund any payment of the payment order received from the customer to the extent the bank is not entitled to enforce payment and shall pay interest on the refundable amount calculated from the date the bank received payment to the date of the refund. However, the customer is not entitled to interest from the bank on the amount to be refunded if the customer fails to exercise ordinary care to determine that the order was not authorized by the customer and to notify the bank of the relevant facts within a reasonable time not exceeding ninety days after the date the customer received notification from the bank that the order was accepted or that the customer's account was debited with respect to the order. The bank is not entitled to any recovery from the customer on account of a failure by the customer to give notification as stated in this section.

(b) Reasonable time under subsection (a) may be fixed by agreement as stated in section 1-302(b), but the obligation of a receiving bank to refund payment as stated in subsection (a) may not otherwise be varied by agreement.

Source: Laws 1991, LB 160, § 13; Laws 2005, LB 570, § 55.

COMMENT

1. With respect to unauthorized payment orders, in a very large percentage of cases a commercially reasonable security procedure will be in effect. Section 4A-204 applies only to cases in which (i) no commercially reasonable security procedure is in effect, (ii) the bank did not comply with a commercially reasonable security procedure that was in effect, (iii) the sender can prove, pursuant to section 4A-203(a)(2), that the culprit did not obtain confidential security information controlled by the customer, or (iv) the bank, pursuant to section 4A-203(a)(1) agreed to take all or part of the loss resulting from an unauthorized payment order. In each of these cases the bank takes the risk of loss with respect to an unauthorized payment order because the bank is not entitled to payment from the customer with respect to the order. The bank normally debits the customer's account or otherwise receives payment from the customer shortly after acceptance of the payment order. Subsection (a) of section 4A-204 states that the bank must recredit the account or refund payment to the extent the bank is not entitled to enforce payment.

2. Section 4A-204 is designed to encourage a customer to promptly notify the receiving bank that it has accepted an unauthorized payment order. Since cases of unauthorized payment orders will almost always involve fraud, the bank's remedy is normally to recover from the beneficiary of the unauthorized order if the beneficiary was party to the fraud. This remedy may not be worth very much and it may not make any difference whether or not the bank promptly learns about the fraud. But in some cases prompt notification may make it easier for the bank to recover some part of its loss from the culprit. The customer

will routinely be notified of the debit to its account with respect to an unauthorized order or will otherwise be notified of acceptance of the order. The customer has a duty to exercise ordinary care to determine that the order was unauthorized after it has received notification from the bank, and to advise the bank of the relevant facts within a reasonable time not exceeding 90 days after receipt of notification. Reasonable time is not defined and it may depend on the facts of the particular case. If a payment order for \$1,000,000 is wholly unauthorized, the customer should normally discover it in far less than 90 days. If a \$1,000,000 payment order was authorized but the name of the beneficiary was fraudulently changed, a much longer period may be necessary to discover the fraud. But in any event, if the customer delays more than 90 days the customer's duty has not been met. The only consequence of a failure of the customer to perform this duty is a loss of interest on the refund payable by the bank. A customer that acts promptly is entitled to interest from the time the customer's account was debited or the customer otherwise made payment. The rate of interest is stated in section 4A-506. If the customer fails to perform the duty, no interest is recoverable for any part of the period before the bank learns that it accepted an unauthorized order. But the bank is not entitled to any recovery from the customer based on negligence for failure to inform the bank. Loss of interest is in the nature of a penalty on the customer designed to provide an incentive for the customer to police its account. There is no intention to impose a duty on the customer that might result in shifting loss from the unauthorized order to the customer.

ARTICLE 5
LETTERS OF CREDIT

Part 1. GENERAL PROVISIONS

Section
5-103. Scope.

Part 1

GENERAL PROVISIONS

5-103 Scope.

(a) This article applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.

(b) The statement of a rule in this article does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this article.

(c) With the exception of this subsection, subsections (a) and (d), sections 5-102(a)(9) and (10), 5-106(d), and 5-114(d), and except to the extent prohibited in sections 1-302 and 5-117(d), the effect of this article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this article.

(d) Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

Source: Laws 1996, LB 1028, § 5; Laws 2005, LB 570, § 56.

COMMENT

1. Sections 5-102(a)(10) and 5-103 are the principal limits on the scope of article 5. Many undertakings in commerce and contract are similar, but not identical to the letter of credit. Principal among those are "secondary", "accessory", or "suretyship" guarantees. Although the word "guarantee" is sometimes used to describe an independent obligation like that of the issuer of a letter of credit (most often in the case of European bank undertakings but occasionally in the case of undertakings of American banks), in the United States the word "guarantee" is more typically used to describe a suretyship transaction in which the "guarantor" is only secondarily liable and has the right to assert the underlying debtor's defenses. This article does not apply to secondary or accessory guarantees and it is important to recognize the distinction between letters of credit and those guarantees. It is often a defense to a secondary or accessory guarantor's liability that the underlying debt has been discharged or that the debtor has other defenses to the underlying liability. In letter of credit law, on the other hand, the independence principle recognized throughout article 5 states that the issuer's liability is independent of the underlying obligation. That the beneficiary may have breached the underlying contract and thus have given a good defense on that contract to the applicant against the beneficiary is no defense for the issuer's refusal to honor. Only staunch recognition of this principle by the issuers and the courts will give letters of credit the continuing vitality that arises from the certainty and speed of payment under letters of credit. To that end, it is important that the law not carry into letter of credit transactions rules that properly

apply only to secondary guarantees or to other forms of engagement.

2. Like all of the provisions of the Uniform Commercial Code, article 5 is supplemented by section 1-103 and, through it, by many rules of statutory and common law. Because this article is quite short and has no rules on many issues that will affect liability with respect to a letter of credit transaction, law beyond article 5 will often determine rights and liabilities in letter of credit transactions. Even within letter of credit law, the article is far from comprehensive; it deals only with "certain" rights of the parties. Particularly with respect to the standards of performance that are set out in section 5-108, it is appropriate for the parties and the courts to turn to customs and practice such as the Uniform Customs and Practice for Documentary Credits, currently published by the International Chamber of Commerce as I.C.C. Pub. No. 500 (hereafter UCP). Many letters of credit specifically adopt the UCP as applicable to the particular transaction. Where the UCP are adopted but conflict with article 5 and except where variation is prohibited, the UCP terms are permissible contractual modifications under sections 1-302 and 5-103(c). See section 5-116(c). Normally article 5 should not be considered to conflict with practice except when a rule explicitly stated in the UCP or other practice is different from a rule explicitly stated in article 5.

Except by choosing the law of a jurisdiction that has not adopted the Uniform Commercial Code, it is not possible entirely to escape the Uniform Commercial Code. Since incorporation

of the UCP avoids only “conflicting” article 5 rules, parties who do not wish to be governed by the nonconflicting provisions of article 5 must normally either adopt the law of a jurisdiction other than a state of the United States or state explicitly the rule that is to govern. When rules of custom and practice are incorporated by reference, they are considered to be explicit terms of the agreement or undertaking.

Neither the obligation of an issuer under section 5-108 nor that of an adviser under section 5-107 is an obligation of the kind that is invariable under section 1-102(3). Section 5-103(c) and comment 1 to section 5-108 make it clear that the applicant and the issuer may agree to almost any provision establishing the obligations of the issuer to the applicant. The last sentence of subsection (c) limits the power of the issuer to achieve that result by a nonnegotiated disclaimer or limitation of remedy.

What the issuer could achieve by an explicit agreement with its applicant or by a term that explicitly defines its duty, it cannot accomplish by a general disclaimer. The restriction on disclaimers in the last sentence of subsection (c) is based more on procedural than on substantive unfairness. Where, for example, the reimbursement agreement provides explicitly that the issuer need not examine any documents, the applicant understands the risk it has undertaken. A term in a reimbursement agreement which states generally that an issuer will not be liable unless it has acted in “bad faith” or committed “gross negligence” is ineffective under section 5-103(c). On the other hand, less general terms such as terms that permit issuer reliance on an oral or electronic message believed in good faith

to have been received from the applicant or terms that entitle an issuer to reimbursement when it honors a “substantially” though not “strictly” complying presentation, are effective. In each case the question is whether the disclaimer or limitation is sufficiently clear and explicit in reallocating a liability or risk that is allocated differently under a variable article 5 provision.

Of course, no term in a letter of credit, whether incorporated by reference to practice rules or stated specifically, can free an issuer from a conflicting contractual obligation to its applicant. If, for example, an issuer promised its applicant that it would pay only against an inspection certificate of a particular company but failed to require such a certificate in its letter of credit or made the requirement only a nondocumentary condition that had to be disregarded, the issuer might be obliged to pay the beneficiary even though its payment might violate its contract with its applicant.

3. Parties should generally avoid modifying the definitions in section 5-102. The effect of such an agreement is almost inevitably unclear. To say that something is a “guarantee” in the typical domestic transaction is to say that the parties intend that particular legal rules apply to it. By acknowledging that something is a guarantee, but asserting that it is to be treated as a “letter of credit”, the parties leave a court uncertain about where the rules on guarantees stop and those concerning letters of credit begin.

4. Former section 5-102(2) and (3) of article 5 are omitted as unneeded; the omission does not change the law.

ARTICLE 7

DOCUMENTS OF TITLE

Part 1. GENERAL

Section

- 7-101. Short title.
- 7-102. Definitions and index of definitions.
- 7-103. Relation of article to treaty or statute.
- 7-104. Negotiable and nonnegotiable document of title.
- 7-105. Reissuance in alternative medium.
- 7-106. Control of electronic document of title.

Part 2. WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

- 7-201. Person that may issue a warehouse receipt; storage under bond.
- 7-202. Form of warehouse receipt; effect of omission.
- 7-203. Liability for nonreceipt or misdescription.
- 7-204. Duty of care; contractual limitation of warehouse’s liability.
- 7-205. Title under warehouse receipt defeated in certain cases.
- 7-206. Termination of storage at warehouse’s option.
- 7-207. Goods must be kept separate; fungible goods.
- 7-208. Altered warehouse receipts.
- 7-209. Lien of warehouse.
- 7-210. Enforcement of warehouse’s lien.

Part 3. BILLS OF LADING: SPECIAL PROVISIONS

- 7-301. Liability for nonreceipt or misdescription; “said to contain”; “shipper’s weight, load, and count”; improper handling.
- 7-302. Through bills of lading and similar documents of title.
- 7-303. Diversion; reconsignment; change of instructions.
- 7-304. Tangible bills of lading in a set.
- 7-305. Destination bills.
- 7-306. Altered bills of lading.
- 7-307. Lien of carrier.
- 7-308. Enforcement of carrier’s lien.
- 7-309. Duty of care; contractual limitation of carrier’s liability.

Section

Part 4. WAREHOUSE RECEIPTS AND BILLS
OF LADING: GENERAL OBLIGATIONS

- 7-401. Irregularities in issue of receipt or bill or conduct of issuer.
- 7-402. Duplicate document of title; overissue.
- 7-403. Obligation of bailee to deliver; excuse.
- 7-404. No liability for good faith delivery pursuant to document of title.

Part 5. WAREHOUSE RECEIPTS AND BILLS OF
LADING: NEGOTIATION AND TRANSFER

- 7-501. Form of negotiation and requirements of due negotiation.
- 7-502. Rights acquired by due negotiation.
- 7-503. Document of title to goods defeated in certain cases.
- 7-504. Rights acquired in absence of due negotiation; effect of diversion; stoppage of delivery.
- 7-505. Indorser not guarantor for other parties.
- 7-506. Delivery without indorsement: right to compel indorsement.
- 7-507. Warranties on negotiation or delivery of document of title.
- 7-508. Warranties of collecting bank as to documents of title.
- 7-509. Adequate compliance with commercial contract.

Part 6. WAREHOUSE RECEIPTS AND BILLS OF
LADING: MISCELLANEOUS PROVISIONS

- 7-601. Lost, stolen, or destroyed documents of title.
- 7-602. Judicial process against goods covered by negotiable document of title.
- 7-603. Conflicting claims; interpleader.

Part 7. MISCELLANEOUS PROVISIONS

- 7-701. Omitted.
- 7-702. Omitted.
- 7-703. Applicability.
- 7-704. Savings clause.

Part 1

GENERAL

7-101 Short title.

This article may be cited as Uniform Commercial Code—Documents of Title.

Source: Laws 2005, LB 570, § 57.

COMMENT

Prior Uniform Statutory Provision: Former section 7-101.

Changes: Revised for style only.

This article is a revision of the 1962 official text with comments as amended since 1962. The 1962 official text was a consolidation and revision of the Uniform Warehouse Receipts Act and the Uniform Bills of Lading Act, and embraced the provisions of the Uniform Sales Act relating to negotiation of documents of title.

This article does not contain the substantive criminal provisions found in the Uniform Warehouse Receipts and Bills of Lading Acts. These criminal provisions are inappropriate to a commercial code, and for the most part duplicate portions of the ordinary criminal law relating to frauds. This revision deletes the former section 7-105 that provided that courts could apply a rule from parts 2 and 3 by analogy to a situation not

explicitly covered in the provisions on warehouse receipts or bills of lading when it was appropriate. This is, of course, an unexceptional proposition and need not be stated explicitly in the statute. Thus former section 7-105 has been deleted. Whether applying a rule by analogy to a situation is appropriate depends upon the facts of each case.

The article does not attempt to define the tort liability of bailees, except to hold certain classes of bailees to a minimum standard of reasonable care. For important classes of bailees, liabilities in case of loss, damages, or destruction, as well as other legal questions associated with particular documents of title, are governed by federal statutes, international treaties, and in some cases regulatory state laws, which supersede the provisions of this article in case of inconsistency. See section 7-103.

7-102 Definitions and index of definitions.

(a) In this article, unless the context otherwise requires:

(1) “Bailee” means a person that by a warehouse receipt, bill of lading, or other document of title acknowledges possession of goods and contracts to deliver them.

- (2) “Carrier” means a person that issues a bill of lading.
- (3) “Consignee” means a person named in a bill of lading to which or to whose order the bill promises delivery.
- (4) “Consignor” means a person named in a bill of lading as the person from which the goods have been received for shipment.
- (5) “Delivery order” means a record that contains an order to deliver goods directed to a warehouse, carrier, or other person that in the ordinary course of business issues warehouse receipts or bills of lading.
- (6) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.
- (7) “Goods” means all things that are treated as movable for the purposes of a contract for storage or transportation.
- (8) “Issuer” means a bailee that issues a document of title or, in the case of an unaccepted delivery order, the person that orders the possessor of goods to deliver. The term includes a person for which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, even if the issuer did not receive any goods, the goods were misdescribed, or in any other respect the agent or employee violated the issuer’s instructions.
- (9) “Person entitled under the document” means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.
- (10) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (11) “Sign” means, with present intent to authenticate or adopt a record:
- (A) to execute or adopt a tangible symbol; or
 - (B) to attach to or logically associate with the record an electronic sound, symbol, or process.
- (12) “Shipper” means a person that enters into a contract of transportation with a carrier.
- (13) “Warehouse” means a person engaged in the business of storing goods for hire.
- (b) Definitions in other articles applying to this article and the sections in which they appear are:
- (1) “Contract for sale”, section 2-106.
 - (2) “Lessee in ordinary course of business”, section 2A-103.
 - (3) “Receipt” of goods, section 2-103.
- (c) In addition, article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 2005, LB 570, § 58.

COMMENT

Prior Uniform Statutory Provision: Former section 7-102.

Purposes:

Changes: New definitions of “carrier”, “good faith”, “record”, “sign”, and “shipper”. Other definitions revised to accommodate electronic mediums.

1. “Bailee” is used in this article as a blanket term to designate carriers, warehousemen, and others who normally

issue documents of title on the basis of goods which they have received. The definition does not, however, require actual possession of the goods. If a bailee acknowledges possession when it does not have possession, the bailee is bound by sections of this article which declare the "bailee's" obligations. (See definition of "issuer" in this section and sections 7-203 and 7-301 on liability in case of nonreceipt.) A "carrier" is one type of bailee and is defined as a person that issues a bill of lading. A "shipper" is a person who enters into the contract of transportation with the carrier. The definitions of "bailee", "consignee", "consignor", "goods", and "issuer", are unchanged in substance from prior law. "Document of title" is defined in article 1, and may be in either tangible or electronic form.

2. The definition of warehouse receipt contained in the general definitions section of this code (section 1-201) does not require that the issuing warehouse be "lawfully engaged" in business or for profit. The warehouse's compliance with applicable state regulations such as the filing of a bond has no bearing on the substantive issues dealt with in this article. Certainly the issuer's violations of law should not diminish its responsibility on documents the issuer has put in commercial circulation. But it is still essential that the business be storing goods "for hire" (section 1-201 and this section). A person does not become a warehouse by storing its own goods.

3. When a delivery order has been accepted by the bailee it is for practical purposes indistinguishable from a warehouse receipt. Prior to such acceptance there is no basis for imposing obligations on the bailee other than the ordinary obligation of contract which the bailee may have assumed to the depositor of the goods. Delivery orders may be either electronic or tangible documents of title. See definition of "document of title" in section 1-201.

4. The obligation of good faith imposed by this article and by article 1, section 1-304 includes the observance of reasonable commercial standards of fair dealing.

5. The definitions of "record" and "sign" are included to facilitate electronic mediums. See comment 9 to section 9-102 discussing "record" and the comment to amended section 2-103 discussing "sign".

6. "Person entitled under the document" is moved from former section 7-403.

7. These definitions apply in this article unless the context otherwise requires. The "context" is intended to refer to the context in which the defined term is used in the Uniform Commercial Code. The definition applies whenever the defined term is used unless the context in which the defined term is used in the statute indicates that the term was not used in its defined sense. See comment to section 1-201.

Cross References:

Point 1: Sections 1-201, 7-203, and 7-301.

Point 2: Sections 1-201 and 7-203.

Point 3: Section 1-201.

Point 4: Section 1-304.

Point 5: Sections 2-103 and 9-102.

See general comment to document of title in section 1-201.

Definitional Cross References:

"Bill of lading". Section 1-201.

"Contract". Section 1-201.

"Contract for sale". Section 2-106.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Person". Section 1-201.

"Purchase". Section 1-201.

"Receipt of goods". Section 2-103.

"Right". Section 1-201.

"Warehouse receipt". Section 1-201.

7-103 Relation of article to treaty or statute.

(a) This article is subject to any treaty or statute of the United States or regulatory statute of this state to the extent the treaty, statute, or regulatory statute is applicable.

(b) This article does not modify or repeal any law prescribing the form or content of a document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a bailee's business in respects not specifically treated in this article. However, violation of such a law does not affect the status of a document of title that otherwise is within the definition of a document of title.

(c) This article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. section 7001, et seq.) but does not modify, limit, or supersede section 101(c) of that act (15 U.S.C. section 7001(c)) or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. section 7003(b)).

(d) To the extent there is a conflict between the Uniform Electronic Transactions Act and this article, this article governs.

Source: Laws 2005, LB 570, § 59.

COMMENT

Prior Uniform Statutory Provision: Former sections 7-103 and 10-104.

Changes: Deletion of references to tariffs and classifications; incorporation of former section 10-104 into subsection (b), provide for intersection with federal and state law governing electronic transactions.

Purposes:

1. To make clear what would of course be true without the section, that applicable federal law is paramount.

2. To make clear also that regulatory state statutes (such as those fixing or authorizing a commission to fix rates and prescribe services, authorizing different charges for goods of differ-

ent values, and limiting liability for loss to the declared value on which the charge was based) are not affected by the article and are controlling on the matters which they cover unless preempted by federal law. The reference in former section 7-103 to tariffs, classifications, and regulations filed or issued pursuant to regulatory state statutes has been deleted as inappropriate in the modern era of diminished regulation of carriers and warehouses. If a regulatory scheme requires a carrier or warehouse to issue a tariff or classification, that tariff or classification would be given effect via the state regulatory scheme that this article recognizes as controlling. Permissive tariffs or classifications would not displace the provisions of this code, pursuant to this section, but may be given effect through the ability of parties to incorporate those terms by reference into their agreement.

3. The document of title provisions of this code supplement the federal law and regulatory state law governing bailees. This article focuses on the commercial importance and usage of documents of title. State ex. rel Public Service Commission v. Gunkelman & Sons, Inc., 219 N.W.2d 853 (N.D. 1974).

4. Subsection (c) is included to make clear the interrelationship between the federal Electronic Signatures in Global and National Commerce Act and this article and the conforming amendments to other articles of the Uniform Commercial Code promulgated as part of the revision of this article. Section 102 of the federal act allows a state statute to modify, limit, or supersede the provisions of section 101 of the federal act. See the comments to revised article 1, section 1-108.

5. Subsection (d) makes clear that once this article is in effect, its provisions regarding electronic commerce and regarding electronic documents of title control in the event there is a conflict with the provisions of the Uniform Electronic Transactions Act or other applicable state law governing electronic transactions.

Cross References:

Sections 1-108, 7-201, 7-202, 7-204, 7-206, 7-309, 7-401, and 7-403.

Definitional Cross References:

"Bill of lading". Section 1-201.

7-104 Negotiable and nonnegotiable document of title.

(a) Except as otherwise provided in subsection (c), a document of title is negotiable if by its terms the goods are to be delivered to bearer or to the order of a named person.

(b) A document of title other than one described in subsection (a) is nonnegotiable. A bill of lading that states that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against an order in a record signed by the same or another named person.

(c) A document of title is nonnegotiable if, at the time it is issued, the document has a conspicuous legend, however expressed, that it is nonnegotiable.

Source: Laws 2005, LB 570, § 60.

COMMENT

Prior Uniform Statutory Provision: Former section 7-104.

Changes: Subsection (a) is revised to reflect modern style and trade practice. Subsection (b) is revised for style and medium neutrality. Subsection (c) is new.

Purposes:

1. This article deals with a class of commercial paper representing commodities in storage or transportation. This "commodity paper" is to be distinguished from what might be called "money paper" dealt with in the article of this code on commercial paper (article 3) and "investment paper" dealt with in the article of this code on investment securities (article 8). The class of "commodity paper" is designated "document of title" following the terminology of the Uniform Sales Act section 76. Section 1-201. The distinction between negotiable and nonnegotiable documents in this section makes the most important subclassification employed in the article, in that the holder of negotiable documents may acquire more rights than its transferor had (see section 7-502). The former section 7-104, which provided that a document of title was negotiable if it runs to a named person or assigns if such designation was recognized in overseas trade, has been deleted as not necessary in light of current commercial practice.

A document of title is negotiable only if it satisfies this section. "Deliverable on proper indorsement and surrender of this receipt" will not render a document negotiable. Bailees often include such provisions as a means of insuring return of nonnegotiable receipts for record purposes. Such language may be regarded as insistence by the bailee upon a particular kind of receipt in connection with delivery of the goods. Subsection (a) makes it clear that a document is not negotiable which provides

for delivery to order or bearer only if written instructions to that effect are given by a named person. Either tangible or electronic documents of title may be negotiable if the document meets the requirement of this section.

2. Subsection (c) is derived from section 3-104(d). Prior to issuance of the document of title, an issuer may stamp or otherwise provide by a notation on the document that it is nonnegotiable even if the document would otherwise comply with the requirement of subsection (a). Once issued as a negotiable document of title, the document cannot be changed from a negotiable document to a nonnegotiable document. A document of title that is nonnegotiable cannot be made negotiable by stamping or providing a notation that the document is negotiable. The only way to make a document of title negotiable is to comply with subsection (a). A negotiable document of title may fail to be duly negotiated if the negotiation does not comply with the requirements for "due negotiation" stated in section 7-501.

Cross References:

Sections 7-501 and 7-502.

Definitional Cross References:

"Bearer". Section 1-201.

"Bill of lading". Section 1-201.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Person". Section 1-201.

"Sign". Section 7-102.

"Warehouse receipt". Section 1-201.

7-105 Reissuance in alternative medium.

(a) Upon request of a person entitled under an electronic document of title, the issuer of the electronic document may issue a tangible document of title as a substitute for the electronic document if:

- (1) the person entitled under the electronic document surrenders control of the document to the issuer; and
- (2) the tangible document when issued contains a statement that it is issued in substitution for the electronic document.

(b) Upon issuance of a tangible document of title in substitution for an electronic document of title in accordance with subsection (a):

- (1) the electronic document ceases to have any effect or validity; and
- (2) the person that procured issuance of the tangible document warrants to all subsequent persons entitled under the tangible document that the warrantor was a person entitled under the electronic document when the warrantor surrendered control of the electronic document to the issuer.

(c) Upon request of a person entitled under a tangible document of title, the issuer of the tangible document may issue an electronic document of title as a substitute for the tangible document if:

- (1) the person entitled under the tangible document surrenders possession of the document to the issuer; and
- (2) the electronic document when issued contains a statement that it is issued in substitution for the tangible document.

(d) Upon issuance of an electronic document of title in substitution for a tangible document of title in accordance with subsection (c):

- (1) the tangible document ceases to have any effect or validity; and
- (2) the person that procured issuance of the electronic document warrants to all subsequent persons entitled under the electronic document that the warrantor was a person entitled under the tangible document when the warrantor surrendered possession of the tangible document to the issuer.

Source: Laws 2005, LB 570, § 61.

COMMENT

Prior Uniform Statutory Provisions: None.

Other relevant law: UNCITRAL Draft Instrument on the Carriage of Goods by Sea—Transport Law.

Purpose:

1. This section allows for documents of title issued in one medium to be reissued in another medium. This section applies to both negotiable and nonnegotiable documents. This section sets forth minimum requirements for giving the reissued document effect and validity. The issuer is not required to issue a document in an alternative medium and if the issuer chooses to do so, it may impose additional requirements. Because a document of title imposes obligations on the issuer of the document, it is imperative for the issuer to be the one who issues the substitute document in order for the substitute document to be effective and valid.

2. The request must be made to the issuer by the person entitled to enforce the document of title (section 7-102(a)(9)) and that person must surrender possession or control of the original document to the issuer. The reissued document must have a notation that it has been issued as a substitute for the

original document. These minimum requirements must be met in order to give the substitute document effect and validity. If these minimum requirements are not met for issuance of a substitute document of title, the original document of title continues to be effective and valid. Section 7-402. However, if the minimum requirements imposed by this section are met, in addition to any other requirements that the issuer may impose, the substitute document will be the document that is effective and valid.

3. To protect parties who subsequently take the substitute document of title, the person who procured issuance of the substitute document warrants that it was a person entitled under the original document at the time it surrendered possession or control of the original document to the issuer. This warranty is modeled after the warranty found in section 4-209.

Cross References:

Sections 7-106, 7-402, and 7-601.

Definitional Cross References:

“Person entitled to enforce”. Section 7-102.

7-106 Control of electronic document of title.

(a) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(b) A system satisfies subsection (a), and a person is deemed to have control of an electronic document of title, if the document is created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as:

(A) the person to which the document was issued; or

(B) if the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

Source: Laws 2005, LB 570, § 62.

COMMENT

Prior Uniform Statutory Provision: Uniform Electronic Transactions Act section 16.

Purpose:

1. The section defines "control" for electronic documents of title and derives its rules from the Uniform Electronic Transactions Act section 16 on transferable records. Unlike UETA section 16, however, a document of title may be reissued in an alternative medium pursuant to section 7-105. At any point in time in which a document of title is in electronic form, the control concept of this section is relevant. As under UETA section 16, the control concept embodied in this section provides the legal framework for developing systems for electronic documents of title.

2. Control of an electronic document of title substitutes for the concept of indorsement and possession in the tangible document of title context. See section 7-501. A person with a tangible document of title delivers the document by voluntarily transferring possession and a person with an electronic document of title delivers the document by voluntarily transferring control. (Delivery is defined in section 1-201.)

3. Subsection (a) sets forth the general rule that the "system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred". The key to having a system that satisfies this test is that identity of the person to which the document was issued or transferred must be reliably established. Of great importance to the functioning of the control concept is to be able to demonstrate, at any point in time, the person entitled under the electronic document. For example, a carrier may issue an electronic bill of lading by having the required information in a data base that is encrypted and accessible by virtue of a password. If the computer system in which the required information is maintained

identifies the person as the person to which the electronic bill of lading was issued or transferred, that person has control of the electronic document of title. That identification may be by virtue of passwords or other encryption methods. Registry systems may satisfy this test. For example, see the electronic warehouse receipt system established pursuant to 7 C.F.R. part 735. This article leaves to the marketplace the development of sufficient technologies and business practices that will meet the test.

An electronic document of title is evidenced by a record consisting of information stored in an electronic medium. Section 1-201. For example, a record in a computer data base could be an electronic document of title assuming that it otherwise meets the definition of document of title. To the extent that third parties wish to deal in paper mediums, section 7-105 provides a mechanism for exiting the electronic environment by having the issuer reissue the document of title in a tangible medium. Thus if a person entitled to enforce an electronic document of title causes the information in the record to be printed onto paper without the issuer's involvement in issuing the document of title pursuant to section 7-105, that paper is not a document of title.

4. Subsection (a) sets forth the general test for control. Subsection (b) sets forth a safe harbor test that if satisfied, results in control under the general test in subsection (a). The test in subsection (b) is also used in section 9-105 although section 9-105 does not include the general test of subsection (a). Under subsection (b), at any point in time, a party should be able to identify the single authoritative copy which is unique and identifiable as the authoritative copy. This does not mean that once created that the authoritative copy need be static and never moved or copied from its original location. To the extent that backup systems exist which result in multiple copies, the key to this idea is that at any point in time, the one authoritative copy needs to be unique and identifiable.

Parties may not by contract provide that control exists. The test for control is a factual test that depends upon whether the general test in subsection (a) or the safe harbor in subsection (b) is satisfied.

5. Article 7 has historically provided for rights under documents of title and rights of transferees of documents of title as those rights relate to the goods covered by the document. Third parties may possess or have control of documents of title. While misfeasance or negligence in failure to transfer or misdelivery of the document by those third parties may create serious issues, this article has never dealt with those issues as it relates to tangible documents of title, preferring to leave those issues to the law of contracts, agency, and tort law. In the electronic document of title regime, third party registry systems are just beginning to develop. It is very difficult to write rules regulating those third parties without some definitive sense of how the third party registry systems will be structured. Systems that are evolving to date tend to be "closed" systems in which all participants must sign on to the master agreement which provides for rights as against the registry system as well as rights among the members. In those closed systems, the document of title never leaves the system so the parties rely upon the master agreement as to rights against the registry for its failures in

dealing with the document. This article contemplates that those "closed" systems will continue to evolve and that the control mechanism in this statute provides a method for the participants in the closed system to achieve the benefits of obtaining control allowed by this article.

This article also contemplates that parties will evolve open systems where parties need not be subject to a master agreement. In an open system a party that is expecting to obtain rights through an electronic document may not be a party to the master agreement. To the extent that open systems evolve by use of the control concept contained in this section, the law of contracts, agency, and torts as it applies to the registry's misfeasance or negligence concerning the transfer of control of the electronic document will allocate the risks and liabilities of the parties as that other law now does so for third parties who hold tangible documents and fail to deliver the documents.

Cross References:

Sections 7-105 and 7-501.

Definitional Cross References:

"Delivery". Section 1-201.

"Document of Title". Section 1-201.

Part 2

WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

7-201 Person that may issue a warehouse receipt; storage under bond.

(a) A warehouse receipt may be issued by any warehouse.

(b) If goods, including distilled spirits and agricultural commodities, are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods is deemed to be a warehouse receipt even if issued by a person that is the owner of the goods and is not a warehouse.

Source: Laws 2005, LB 570, § 63.

COMMENT

Prior Uniform Statutory Provision: Former section 7-201.

Changes: Update for style only.

Purposes:

It is not intended by reenactment of subsection (a) to repeal any provisions of special licensing or other statutes regulating who may become a warehouse. Limitations on the transfer of the receipts and criminal sanctions for violation of such limitations are not impaired. Section 7-103. Compare section 7-401(4) on the liability of the issuer in such cases. Subsection (b) covers

receipts issued by the owner for whiskey or other goods stored in bonded warehouses under such statutes as 26 U.S.C. chapter 51.

Cross References:

Sections 7-103 and 7-401.

Definitional Cross References:

"Warehouse receipt". Section 1-201.

"Warehouse". Section 7-102.

7-202 Form of warehouse receipt; effect of omission.

(a) A warehouse receipt need not be in any particular form.

(b) Unless a warehouse receipt provides for each of the following, the warehouse is liable for damages caused to a person injured by its omission:

(1) a statement of the location of the warehouse facility where the goods are stored;

(2) the date of issue of the receipt;

(3) the unique identification code of the receipt;

(4) a statement whether the goods received will be delivered to the bearer, to a named person, or to a named person or its order;

(5) the rate of storage and handling charges, unless goods are stored under a field warehousing arrangement, in which case a statement of that fact is sufficient on a nonnegotiable receipt;

(6) a description of the goods or the packages containing them;

(7) the signature of the warehouse or its agent;

(8) if the receipt is issued for goods that the warehouse owns, either solely, jointly, or in common with others, a statement of the fact of that ownership; and

(9) a statement of the amount of advances made and of liabilities incurred for which the warehouse claims a lien or security interest, unless the precise amount of advances made or liabilities incurred, at the time of the issue of the receipt, is unknown to the warehouse or to its agent that issued the receipt, in which case a statement of the fact that advances have been made or liabilities incurred and the purpose of the advances or liabilities is sufficient.

(c) A warehouse may insert in its receipt any terms that are not contrary to the Uniform Commercial Code and do not impair its obligation of delivery under section 7-403 or its duty of care under section 7-204. Any contrary provision is ineffective.

Source: Laws 2005, LB 570, § 64.

COMMENT

Prior Uniform Statutory Provision: Former section 7-202.

Changes: Language is updated to accommodate electronic commerce and to reflect modern style.

Purposes:

1. This section does not displace any particular legislation that requires other terms in a warehouse receipt or that may require a particular form of a warehouse receipt. This section does not require that a warehouse receipt be issued. A warehouse receipt that is issued need not contain any of the terms listed in subsection (b) in order to qualify as a warehouse receipt as long as the receipt falls within the definition of "warehouse receipt" in article 1. Thus the title has been changed to eliminate the phrase "essential terms" as provided in prior law. The only consequence of a warehouse receipt not containing any term listed in subsection (b) is that a person injured by a term's omission has a right as against the warehouse for harm caused by the omission. Cases, such as *In re Celotex Corp.*, 134 B.R. 993 (Bankr. M.D. Fla. (1991)), that held that in order to have a valid warehouse receipt all of the terms listed in this section must be contained in the receipt, are disapproved.

2. The unique identification code referred to in subsection (b)(3) can include any combination of letters, numbers, signs, and/or symbols that provide a unique identification. Whether an electronic or tangible warehouse receipt contains a signature will be resolved with the definition of sign in section 7-102.

Cross References:

Sections 7-103 and 7-401.

Definitional Cross References:

"Bearer". Section 1-201.

"Delivery". Section 1-201.

"Goods". Section 7-102.

"Person". Section 1-201.

"Security interest". Section 1-201.

"Sign". Section 7-102.

"Term". Section 1-201.

"Warehouse receipt". Section 1-201.

"Warehouse". Section 7-102.

7-203 Liability for nonreceipt or misdescription.

A party to or purchaser for value in good faith of a document of title, other than a bill of lading, that relies upon the description of the goods in the document may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

(1) the document conspicuously indicates that the issuer does not know whether all or part of the goods in fact were received or conform to the description, such as a case in which the description is in terms of marks or labels or kind, quantity, or condition, or the receipt or description is qualified by "contents, condition, and quality unknown", "said to contain", or words of similar import, if the indication is true; or

(2) the party or purchaser otherwise has notice of the nonreceipt or misdescription.

Source: Laws 2005, LB 570, § 65.

COMMENT

Prior Uniform Statutory Provision: Former section 7-203.

Changes: Changes to this section are for style only.

Purpose:

This section is a simplified restatement of existing law as to the method by which a bailee may avoid responsibility for the accuracy of descriptions which are made by or in reliance upon information furnished by the depositor. The issuer is liable on documents issued by an agent, contrary to instructions of its principal, without receiving goods. No disclaimer of the latter liability is permitted.

Cross References:

Section 7-301.

Definitional Cross References:

“Conspicuous”. Section 1-201.

“Document of title”. Section 1-201.

“Goods”. Section 7-102.

“Good faith”. Sections 1-201 and 7-102.

“Issuer”. Section 7-102.

“Notice”. Section 1-202.

“Party”. Section 1-201.

“Purchaser”. Section 1-201.

“Receipt of goods”. Section 2-103.

“Value”. Section 1-204.

7-204 Duty of care; contractual limitation of warehouse’s liability.

(a) A warehouse is liable for damages for loss of or injury to the goods caused by its failure to exercise care with regard to the goods that a reasonably careful person would exercise under similar circumstances. Unless otherwise agreed, the warehouse is not liable for damages that could not have been avoided by the exercise of that care.

(b) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage beyond which the warehouse is not liable. Such a limitation is not effective with respect to the warehouse’s liability for conversion to its own use. On request of the bailor in a record at the time of signing the storage agreement or within a reasonable time after receipt of the warehouse receipt, the warehouse’s liability may be increased on part or all of the goods covered by the storage agreement or the warehouse receipt. In this event, increased rates may be charged based on an increased valuation of the goods.

(c) Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the bailment may be included in the warehouse receipt or storage agreement.

(d) This section does not modify or repeal any law of this state that imposes a higher responsibility upon the warehouse or invalidates contractual limitations that would be permissible under this article.

Source: Laws 2005, LB 570, § 66.

COMMENT

Prior Uniform Statutory Provision: Former section 7-204.

Changes: Updated to reflect modern, standard commercial practices.

Purposes of Changes:

1. Subsection (a) continues the rule without change from former section 7-204 on the warehouse’s obligation to exercise reasonable care.

2. Former section 7-204(2) required that the term limiting damages do so by setting forth a specific liability per article or item or of a value per unit of weight. This requirement has been deleted as out of step with modern industry practice. Under subsection (b) a warehouse may limit its liability for damages for loss of or damage to the goods by a term in the warehouse receipt or storage agreement without the term constituting an impermissible disclaimer of the obligation of reasonable care. The parties cannot disclaim by contract the warehouse’s obligation of care. Section 1-302. For example, limitations based upon per unit of weight, per package, per occurrence, or per receipt as well as limitations based upon a multiple of the

storage rate may be commercially appropriate. As subsection (d) makes clear, the states or the federal government may supplement this section with more rigid standards of responsibility for some or all bailees.

3. Former section 7-204(2) also provided that an increased rate can not be charged if contrary to a tariff. That language has been deleted. If a tariff is required under state or federal law, pursuant to section 7-103(a), the tariff would control over the rule of this section allowing an increased rate. The provisions of a nonmandatory tariff may be incorporated by reference in the parties’ agreement. See comment 2 to section 7-103. Subsection (c) deletes the reference to tariffs for the same reason that the reference has been omitted in subsection (b).

4. As under former section 7-204(2), subsection (b) provides that a limitation of damages is ineffective if the warehouse has converted the goods to its own use. A mere failure to redeliver the goods is not conversion to the warehouse’s own use. See *Adams v. Ryan & Christie Storage, Inc.*, 563 F.Supp. 409 (E.D. Pa. 1983) aff’d 725 F.2d 666 (3rd Cir. 1983). Cases such as *I.C.C. Metals Inc. v. Municipal Warehouse Co.*, 409 N.E.2d 849

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(N.Y. Ct. App. 1980) holding that mere failure to redeliver results in a presumption of conversion to the warehouse's own use are disapproved. "Conversion to its own use" is narrower than the idea of conversion generally. Cases such as *Lipman v. Peterson*, 575 P.2d 19 (Kan. 1978) holding to the contrary are disapproved.

5. Storage agreements commonly establish the contractual relationship between warehouses and depositors who have an ongoing relationship. The storage agreement may allow for the movement of goods into and out of a warehouse without the necessity of issuing or amending a warehouse receipt upon each entry or exit of goods from the warehouse.

Cross References:

Sections 1-302, 7-103, 7-309, and 7-403.

Definitional Cross References:

"Goods". Section 7-102.
 "Reasonable time". Section 1-204.
 "Sign". Section 7-102.
 "Term". Section 1-201.
 "Value". Section 1-204.
 "Warehouse receipt". Section 1-201.
 "Warehouse". Section 7-102.

7-205 Title under warehouse receipt defeated in certain cases.

A buyer in ordinary course of business of fungible goods sold and delivered by a warehouse that is also in the business of buying and selling such goods takes the goods free of any claim under a warehouse receipt even if the receipt is negotiable and has been duly negotiated.

Source: Laws 2005, LB 570, § 67.

COMMENT

Prior Uniform Statutory Provision: Former section 7-205.

Changes: Changes for style only.

Purposes:

1. The typical case covered by this section is that of the warehouse-dealer in grain, and the substantive question at issue is whether in case the warehouse becomes insolvent the receipt holders shall be able to trace and recover grain shipped to farmers and other purchasers from the elevator. This was possible under the old acts, although courts were eager to find estoppels to prevent it. The practical difficulty of tracing fungible grain means that the preservation of this theoretical right adds little to the commercial acceptability of negotiable grain receipts, which really circulate on the credit of the warehouse. Moreover, on default of the warehouse, the receipt holders at least share in what grain remains, whereas retaking the grain from a good faith cash purchaser reduces the purchaser completely to the status of general creditor in a situation where there was very little the purchaser could do to guard against the loss. Compare 15 U.S.C. section 714p enacted in 1955.

2. This provision applies to both negotiable and nonnegotiable warehouse receipts. The concept of due negotiation is provided for in section 7-501. The definition of "buyer in ordinary

course" is in article 1 and provides, among other things, that a buyer must either have possession or a right to obtain the goods under article 2 in order to be a buyer in ordinary course. This section requires actual delivery of the fungible goods to the buyer in ordinary course. Delivery requires voluntary transfer of possession of the fungible goods to the buyer. See amended section 2-103. This section is not satisfied by the delivery of the document of title to the buyer in ordinary course.

Cross References:

Sections 2-403 and 9-320.

Definitional Cross References:

"Buyer in ordinary course of business". Section 1-201.
 "Delivery". Section 1-201.
 "Duly negotiate". Section 7-501.
 "Fungible goods". Section 1-201.
 "Goods". Section 7-102.
 "Value". Section 1-204.
 "Warehouse receipt". Section 1-201.
 "Warehouse". Section 7-102.

7-206 Termination of storage at warehouse's option.

(a) A warehouse, by giving notice to the person on whose account the goods are held and any other person known to claim an interest in the goods, may require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document of title or, if a period is not fixed, within a stated period not less than 30 days after the warehouse gives notice. If the goods are not removed before the date specified in the notice, the warehouse may sell them pursuant to section 7-210.

(b) If a warehouse in good faith believes that goods are about to deteriorate or decline in value to less than the amount of its lien within the time provided in subsection (a) and section 7-210, the warehouse may specify in the notice given under subsection (a) any reasonable shorter time for removal of the goods and, if the goods are not removed, may sell them at public sale held not less than one week after a single advertisement or posting.

(c) If, as a result of a quality or condition of the goods of which the warehouse did not have notice at the time of deposit, the goods are a hazard to

other property, the warehouse facilities, or other persons, the warehouse may sell the goods at public or private sale without advertisement or posting on reasonable notification to all persons known to claim an interest in the goods. If the warehouse, after a reasonable effort, is unable to sell the goods, it may dispose of them in any lawful manner and does not incur liability by reason of that disposition.

(d) A warehouse shall deliver the goods to any person entitled to them under this article upon due demand made at any time before sale or other disposition under this section.

(e) A warehouse may satisfy its lien from the proceeds of any sale or disposition under this section but shall hold the balance for delivery on the demand of any person to which the warehouse would have been bound to deliver the goods.

Source: Laws 2005, LB 570, § 68.

COMMENT

Prior Uniform Statutory Provision: Former section 7-206.

Changes: Changes for style.

Purposes:

1. This section provides for three situations in which the warehouse may terminate storage for reasons other than enforcement of its lien as permitted by section 7-210. Most warehousing is for an indefinite term, the bailor being entitled to delivery on reasonable demand. It is necessary to define the warehouse's power to terminate the bailment, since it would be commercially intolerable to allow warehouses to order removal of the goods on short notice. The thirty-day period provided where the document does not carry its own period of termination corresponds to commercial practice of computing rates on a monthly basis. The right to terminate under subsection (a) includes a right to require payment of "any charges", but does not depend on the existence of unpaid charges.

2. In permitting expeditious disposition of perishable and hazardous goods the precode Uniform Warehouse Receipts Act, section 34, made no distinction between cases where the warehouse knowingly undertook to store such goods and cases where the goods were discovered to be of that character subsequent to storage. The former situation presents no such emergency as justifies the summary power of removal and sale. Subsections (b) and (c) distinguish between the two situations. The reason of this section should apply if the goods become hazardous during the course of storage. The process for selling the goods described in section 7-210 governs the sale of goods under this section except as provided in subsections (b) and (c) for the situations described in those subsections respectively.

3. Protection of its lien is the only interest which the warehouse has to justify summary sale of perishable goods which are not hazardous. This same interest must be recognized when the stored goods, although not perishable, decline in market value to a point which threatens the warehouse's security.

4. The right to order removal of stored goods is subject to provisions of the public warehousing laws of some states forbidding warehouses from discriminating among customers. Nor does the section relieve the warehouse of any obligation under the state laws to secure the approval of a public official before disposing of deteriorating goods. Such regulatory statutes and the regulations under them remain in force and operative. Section 7-103.

Cross References:

Sections 7-103 and 7-403.

Definitional Cross References:

"Delivery". Section 1-201.

"Document of title". Section 1-102.

"Good faith". Sections 1-201 and 7-102.

"Goods". Section 7-102.

"Notice". Section 1-202.

"Notification". Section 1-202.

"Person". Section 1-201.

"Reasonable time". Section 1-205.

"Value". Section 1-204.

"Warehouse". Section 7-102.

7-207 Goods must be kept separate; fungible goods.

(a) Unless the warehouse receipt provides otherwise, a warehouse shall keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods. However, different lots of fungible goods may be commingled.

(b) If different lots of fungible goods are commingled, the goods are owned in common by the persons entitled thereto and the warehouse is severally liable to each owner for that owner's share. If, because of overissue, a mass of fungible goods is insufficient to meet all the receipts the warehouse has issued against it, the persons entitled include all holders to which overissued receipts have been duly negotiated.

Source: Laws 2005, LB 570, § 69.

COMMENT

Prior Uniform Statutory Provision: Former section 7-207.

Changes: Changes for style only.

Purposes:

No change of substance is made from former section 7-207. Holders to whom overissued receipts have been duly negotiated shall share in a mass of fungible goods. Where individual ownership interests are merged into claims on a common fund, as is necessarily the case with fungible goods, there is no policy reason for discriminating between successive purchasers of similar claims.

Definitional Cross References:

“Delivery”. Section 1-201.

“Duly negotiate”. Section 7-501.

“Fungible goods”. Section 1-201.

“Goods”. Section 7-102.

“Holder”. Section 1-201.

“Person”. Section 1-201.

“Warehouse receipt”. Section 1-201.

“Warehouse”. Section 7-102.

7-208 Altered warehouse receipts.

If a blank in a negotiable tangible warehouse receipt has been filled in without authority, a good faith purchaser for value and without notice of the lack of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any tangible or electronic warehouse receipt enforceable against the issuer according to its original tenor.

Source: Laws 2005, LB 570, § 70.

COMMENT

Prior Uniform Statutory Provision: Former section 7-208.

Changes: To accommodate electronic documents of title.

Purpose:

1. The execution of tangible warehouse receipts in blank is a dangerous practice. As between the issuer and an innocent purchaser the risks should clearly fall on the former. The purchaser must have purchased the tangible negotiable warehouse receipt in good faith and for value to be protected under the rule of the first sentence which is a limited exception to the general rule in the second sentence. Electronic document of title systems should have protection against unauthorized access and unauthorized changes. See section 7-106. Thus the protection for good faith purchasers found in the first sentence is not necessary in the context of electronic documents.

2. Under the second sentence of this section, an unauthorized alteration whether made with or without fraudulent intent does not relieve the issuer of its liability on the warehouse receipt as originally executed. The unauthorized alteration itself is of course ineffective against the warehouse. The rule stated in the second sentence applies to both tangible and electronic warehouse receipts.

Definitional Cross References:

“Good faith”. Sections 1-201 and 7-102.

“Issuer”. Section 7-102.

“Notice”. Section 1-202.

“Purchaser”. Section 1-201.

“Value”. Section 1-204.

“Warehouse receipt”. Section 1-201.

7-209 Lien of warehouse.

(a) A warehouse has a lien against the bailor on the goods covered by a warehouse receipt or storage agreement or on the proceeds thereof in its possession for charges for storage or transportation, including demurrage and terminal charges, insurance, labor, or other charges, present or future, in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for similar charges or expenses in relation to other goods whenever deposited and it is stated in the warehouse receipt or storage agreement that a lien is claimed for charges and expenses in relation to other goods, the warehouse also has a lien against the goods covered by the warehouse receipt or storage agreement or on the proceeds thereof in its possession for those charges and expenses, whether or not the other goods have been delivered by the warehouse. However, as against a person to which a negotiable warehouse receipt is duly negotiated, a warehouse’s lien is limited to charges in an amount or at a rate specified in the warehouse receipt or, if no charges are so specified, to a reasonable charge for storage of the specific goods covered by the receipt subsequent to the date of the receipt.

(b) A warehouse may also reserve a security interest against the bailor for the maximum amount specified on the receipt for charges other than those speci-

fied in subsection (a), such as for money advanced and interest. The security interest is governed by article 9.

(c) A warehouse's lien for charges and expenses under subsection (a) or a security interest under subsection (b) is also effective against any person that so entrusted the bailor with possession of the goods that a pledge of them by the bailor to a good faith purchaser for value would have been valid. However, the lien or security interest is not effective against a person that before issuance of a document of title had a legal interest or a perfected security interest in the goods and that did not:

(1) deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:

(A) actual or apparent authority to ship, store, or sell;

(B) power to obtain delivery under section 7-403; or

(C) power of disposition under section 2-403, 2A-304(2), 2A-305(2), 9-320, or 9-321(c) or other statute or rule of law; or

(2) acquiesce in the procurement by the bailor or its nominee of any document.

(d) A warehouse's lien on household goods for charges and expenses in relation to the goods under subsection (a) is also effective against all persons if the depositor was the legal possessor of the goods at the time of deposit. In this subsection, "household goods" means furniture, furnishings, or personal effects used by the depositor in a dwelling.

(e) A warehouse loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

Source: Laws 2005, LB 570, § 71.

COMMENT

Prior Uniform Statutory Provision: Former sections 7-209 and 7-503.

Changes: Expanded to recognize warehouse lien when a warehouse receipt is not issued but goods are covered by a storage agreement.

Purposes:

1. Subsection (a) defines the warehouse's statutory lien. Other than allowing a warehouse to claim a lien under this section when there is a storage agreement and not a warehouse receipt, this section remains unchanged in substance from former section 7-209(1). Under the first sentence, a specific lien attaches automatically without express notation on the receipt or storage agreement with regard to goods stored under the receipt or the storage agreement. That lien is limited to the usual charges arising out of a storage transaction.

Example 1: Bailor stored goods with a warehouse and the warehouse issued a warehouse receipt. A lien against those goods arose as set forth in subsection (a), the first sentence, for the charges for storage and the other expenses of those goods. The warehouse may enforce its lien under section 7-210 as against the bailor. Whether the warehouse receipt is negotiable or nonnegotiable is not important to the warehouse's rights as against the bailor.

Under the second sentence, by notation on the receipt or storage agreement, the lien can be made a general lien extending to like charges in relation to other goods. Both the specific lien and general lien are as to goods in the possession of the warehouse and extend to proceeds from the goods as long as the proceeds are in the possession of the warehouse. The same rules apply whether the receipt is negotiable or nonnegotiable.

Example 2: Bailor stored goods (lot A) with a warehouse and the warehouse issued a warehouse receipt for those goods. In the warehouse receipt it is stated that the warehouse will also have a lien on goods covered by the warehouse receipt for storage charges and the other expenses for any other goods that are stored with the warehouse by the bailor. The statement about the lien on other goods does not specify an amount or a rate. Bailor then stored other goods (lot B) with the warehouse. Under subsection (a), first sentence, the warehouse has a lien on the specific goods (lot A) covered by the warehouse receipt. Under subsection (a), second sentence, the warehouse has a lien on the goods in lot A for the storage charges and the other expenses arising from the goods in lot B. That lien is enforceable as against the bailor regardless of whether the receipt is negotiable or nonnegotiable.

Under the third sentence, if the warehouse receipt is negotiable, the lien as against a holder of that receipt by due negotiation is limited to the amount or rate specified on the receipt for the specific lien or the general lien, or, if none is specified, to a reasonable charge for storage of the specific goods covered by the receipt for storage after the date of the receipt.

Example 3: Same facts as example 1 except that the warehouse receipt is negotiable and has been duly negotiated (section 7-501) to a person other than the bailor. Under the last sentence of subsection (a), the warehouse may enforce its lien against the bailor's goods stored in the warehouse as against the person to whom the negotiable warehouse receipt has been duly negotiated. Section 7-502. That lien is limited to the charges or rates specified in the receipt or a reasonable charge for storage as stated in the last sentence of subsection (a).

Example 4: Same facts as example 2 except that the warehouse receipt is negotiable and has been duly negotiated (sec-

tion 7-501) to a person other than the bailor. Under the last sentence of subsection (a), the lien on lot A goods for the storage charges and the other expenses arising from storage of lot B goods is not enforceable as against the person to whom the receipt has been duly negotiated. Without a statement of a specified amount or rate for the general lien, the warehouse's general lien is not enforceable as against the person to whom the negotiable document has been duly negotiated. However, the warehouse lien for charges and expenses related to storage of lot A goods is still enforceable as against the person to whom the receipt was duly negotiated.

Example 5: Same facts as examples 2 and 4 except the warehouse had stated on the negotiable warehouse receipt a specified amount or rate for the general lien on other goods (lot B). Under the last sentence of subsection (a), the general lien on lot A goods for the storage charges and the other expenses arising from storage of lot B goods is enforceable as against the person to whom the receipt has been duly negotiated.

2. Subsection (b) provides for a security interest based upon agreement. Such a security interest arises out of relations between the parties other than bailment for storage or transportation, as where the bailee assumes the role of financier or performs a manufacturing operation, extending credit in reliance upon the goods covered by the receipt. Such a security interest is not a statutory lien. Compare sections 9-109 and 9-333. It is governed in all respects by article 9, except that subsection (b) requires that the receipt specify a maximum amount and limits the security interest to the amount specified. A warehouse could also take a security interest to secure its charges for storage and the other expenses listed in subsection (a) to protect these claims upon the loss of the statutory possessory warehouse lien if the warehouse loses possession of the goods as provided in subsection (c).

Example 6: Bailor stores goods with a warehouse and the warehouse issues a warehouse receipt that states that the warehouse is taking a security interest in the bailed goods for charges of storage, expenses, for money advanced, for manufacturing services rendered, and all other obligations that the bailor may owe the warehouse. That is a security interest covered in all respects by article 9. Subsection (b). As allowed by this section, a warehouse may rely upon its statutory possessory lien to protect its charges for storage and the other expenses related to storage. For those storage charges covered by the statutory possessory lien, the warehouse is not required to use a security interest under subsection (b).

3. Subsections (a) and (b) validate the lien and security interest "against the bailor". Under basic principles of derivative rights as provided in section 7-504, the warehouse lien is also valid as against parties who obtain their rights from the bailor except as otherwise provided in subsection (a), third sentence, or subsection (c).

Example 7: Bailor stores goods with a warehouse and the warehouse issues a nonnegotiable warehouse receipt that also claims a general lien in other goods stored with the warehouse. A lien on the bailed goods for the charges for storage and the other expenses arises under subsection (a). Bailor notifies the warehouse that the goods have been sold to Buyer and the bailee acknowledges that fact to the Buyer. Section 2-503. The warehouse lien for storage of those goods is effective against Buyer for both the specific lien and the general lien. Section 7-504.

Example 8: Bailor stores goods with a warehouse and the warehouse issues a nonnegotiable warehouse receipt. A lien on the bailed goods for the charges for storage and the other expenses arises under subsection (a). Bailor grants a security interest in the goods while the goods are in the warehouse's possession to secured party (SP) who properly perfects a security interest in the goods. See revised section 9-312(d). The warehouse lien is superior in priority over SP's security interest. See revised section 9-203(b)(2) (debtor can grant a security interest to the extent of debtor's rights in the collateral).

Example 9: Bailor stores goods with a warehouse and the warehouse issues a negotiable warehouse receipt. A lien on the bailed goods for the charges for storage and the other expenses

arises under subsection (a). Bailor grants a security interest in the negotiable document to SP. SP properly perfects its interest in the negotiable document by taking possession through a "due negotiation". Revised section 9-312(c). SP's security interest is subordinate to the warehouse lien. Section 7-209(a), third sentence. Given that bailor's rights are subject to the warehouse lien, the bailor cannot grant to the SP greater rights than the bailor has under section 9-203(b)(2), perfection of the security interest in the negotiable document and the goods covered by the document through SP's filing of a financing statement should not give a different result.

As against third parties who have interests in the goods prior to the storage with the warehouse, subsection (c) continues the rule under the prior uniform statutory provision that to validate the lien or security interest of the warehouse, the owner must have entrusted the goods to the depositor, and that the circumstances must be such that a pledge by the depositor to a good faith purchaser for value would have been valid. Thus the owner's interest will not be subjected to a lien or security interest arising out of a deposit of its goods by a thief. The warehouse may be protected because of the actual, implied, or apparent authority of the depositor, because of a Factor's Act, or because of other circumstances which would protect a bona fide pledgee, unless those circumstances are denied effect under the second sentence of subsection (c). The language of section 7-503 is brought into subsection (c) for purposes of clarity. The comments to section 7-503 are helpful in interpreting delivery, entrustment, or acquiescence.

Where the third party is the holder of a security interest, obtained prior to the issuance of a negotiable warehouse receipt, the rights of the warehouse depend on the priority given to a hypothetical bona fide pledgee by article 9, particularly section 9-322. Thus the special priority granted to statutory liens by section 9-333 does not apply to liens under subsection (a) of this section, since subsection (c), second sentence, "expressly provides otherwise" within the meaning of section 9-333.

As to household goods, however, subsection (d) makes the warehouse's lien "for charges and expenses in relation to the goods" effective against all persons if the depositor was the legal possessor. The purpose of the exception is to permit the warehouse to accept household goods for storage in sole reliance on the value of the goods themselves, especially in situations of family emergency.

Example 10: Bailor grants a perfected security interest in the goods to SP prior to storage of the goods with the warehouse. Bailor then stores goods with the warehouse and the warehouse issues a warehouse receipt for the goods. A warehouse lien on the bailed goods for the charges for storage or other expenses arises under subsection (a). The warehouse lien is not effective as against SP unless SP entrusted the goods to the bailor with actual or apparent authority to ship, store, or sell the goods or with power of disposition under subsection (c)(1) or acquiesced in the bailor's procurement of a document of title under subsection (c)(2). This result obtains whether the receipt is negotiable or nonnegotiable.

Example 11: Sheriff who had lawfully repossessed household goods in an eviction action stored the goods with a warehouse. A lien on the bailed goods arises under subsection (a). The lien is effective as against the owner of the goods. Subsection (d).

4. As under previous law, this section creates a statutory possessory lien in favor of the warehouse on the goods stored with the warehouse or on the proceeds of the goods. The warehouse loses its lien if it loses possession of the goods or the proceeds. Subsection (e).

5. Where goods have been stored under a nonnegotiable warehouse receipt and are sold by the person to whom the receipt has been issued, frequently the goods are not withdrawn by the new owner. The obligations of the seller of the goods in this situation are set forth in section 2-503(4) on tender of delivery and include procurement of an acknowledgment by the bailee of the buyer's right to possession of the goods. If a new receipt is requested, such an acknowledgment can be withheld until storage charges have been paid or provided for. The statutory lien for charges on the goods sold, granted by the first

sentence of subsection (a), continues valid unless the bailee gives it up. See section 7-403. But once a new receipt is issued to the buyer, the buyer becomes “the person on whose account the goods are held” under the second sentence of subsection (a); unless the buyer undertakes liability for charges in relation to other goods stored by the seller, there is no general lien against the buyer for such charges. Of course, the bailee may preserve the general lien in such a case either by an arrangement by which the buyer “is liable for” such charges, or by reserving a security interest under subsection (b).

6. A possessory warehouse lien arises as provided under subsection (a) if the parties to the bailment have a storage agreement or a warehouse receipt is issued. In the modern warehouse, the bailor and the bailee may enter into a master contract governing the bailment with the bailee and bailor keeping track of the goods stored pursuant to the master contract by notation on their respective books and records and the parties send notification via electronic communication as to what goods are covered by the master contract. Warehouse receipts are not issued. See comment 4 to section 7-204. There is no particular form for a warehouse receipt and failure to contain any of the terms listed in section 7-202 does not deprive the warehouse of its lien that arises under subsection (a). See the comment to section 7-202.

Cross References:

Point 1: Sections 7-501 and 7-502.

Point 2: Sections 9-109 and 9-333.

Point 3: Sections 2-503, 7-503, 7-504, 9-203, 9-312, and 9-322.

Point 4: Sections 2-503, 7-501, 7-502, 7-504, 9-312, 9-331, 9-333, and 9-401.

Point 5: Sections 2-503 and 7-403.

Point 6: Sections 7-202 and 7-204.

Definitional Cross References:

“Deliver”. Section 1-201.

“Document of title”. Section 1-201.

“Goods”. Section 7-102.

“Money”. Section 1-201.

“Person”. Section 1-201.

“Purchaser”. Section 1-201.

“Right”. Section 1-201.

“Security interest”. Section 1-201.

“Value”. Section 1-204.

“Warehouse receipt”. Section 1-201.

“Warehouse”. Section 7-102.

7-210 Enforcement of warehouse’s lien.

(a) Except as otherwise provided in subsection (b), a warehouse’s lien may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the warehouse is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The warehouse sells in a commercially reasonable manner if the warehouse sells the goods in the usual manner in any recognized market therefor, sells at the price current in that market at the time of the sale, or otherwise sells in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(b) A warehouse may enforce its lien on goods, other than goods stored by a merchant in the course of its business, only if the following requirements are satisfied:

(1) All persons known to claim an interest in the goods must be notified.

(2) The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than 10 days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.

(3) The sale must conform to the terms of the notification.

(4) The sale must be held at the nearest suitable place to where the goods are held or stored.

(5) After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two weeks consecutively in a

newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account the goods are being held, and the time and place of the sale. The sale must take place at least 15 days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least 10 days before the sale in not fewer than six conspicuous places in the neighborhood of the proposed sale.

(c) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying with this section. In that event, the goods may not be sold but must be retained by the warehouse subject to the terms of the receipt and this article.

(d) A warehouse may buy at any public sale held pursuant to this section.

(e) A purchaser in good faith of goods sold to enforce a warehouse's lien takes the goods free of any rights of persons against which the lien was valid, despite the warehouse's noncompliance with this section.

(f) A warehouse may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to which the warehouse would have been bound to deliver the goods.

(g) The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(h) If a lien is on goods stored by a merchant in the course of its business, the lien may be enforced in accordance with subsection (a) or (b).

(i) A warehouse is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

Source: Laws 2005, LB 570, § 72.

COMMENT

Prior Uniform Statutory Provision: Former section 7-210.

Changes: Update to accommodate electronic commerce and for style.

Purposes:

1. Subsection (a) makes "commercial reasonableness" the standard for foreclosure proceedings in all cases except non-commercial storage with a warehouse. The latter category embraces principally storage of household goods by private owners; and for such cases the detailed provisions as to notification, publication, and public sale are retained in subsection (b) with one change. The requirement in former section 7-210(2)(b) that the notification must be sent in person or by registered or certified mail has been deleted. Notification may be sent by any reasonable means as provided in section 1-202. The swifter, more flexible procedure of subsection (a) is appropriate to commercial storage. Compare seller's power of resale on breach by buyer under the provisions of the Article on Sales (section 2-706). Commercial reasonableness is a flexible concept that allows for a wide variety of actions to satisfy the rule of this section, including electronic means of posting and sale.

2. The provisions of subsections (d) and (e) permitting the bailee to bid at public sales and confirming the title of purchasers at foreclosure sales are designed to secure more bidding and better prices and remain unchanged from former section 7-210.

3. A warehouse may have recourse to an interpleader action in appropriate circumstances. See section 7-603.

4. If a warehouse has both a warehouse lien and a security interest, the warehouse may enforce both the lien and the

security interest simultaneously by using the procedures of article 9. Section 7-210 adopts as its touchstone "commercial reasonableness" for the enforcement of a warehouse lien. Following the procedures of article 9 satisfies "commercial reasonableness".

Cross References:

Sections 2-706, 7-403, 7-603, and part 6 of article 9.

Definitional Cross References:

"Bill of lading". Section 1-201.

"Conspicuous". Section 1-201.

"Creditor". Section 1-201.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Good faith". Sections 1-201 and 7-102.

"Goods". Section 7-102.

"Notification". Section 1-202.

"Notifies". Section 1-202.

"Person". Section 1-201.

"Purchaser". Section 1-201.

"Rights". Section 1-201.

"Term". Section 1-201.

"Warehouse". Section 7-102.

Part 3

BILLS OF LADING: SPECIAL PROVISIONS

7-301 Liability for nonreceipt or misdescription; “said to contain”; “shipper’s weight, load, and count”; improper handling.

(a) A consignee of a nonnegotiable bill of lading which has given value in good faith, or a holder to which a negotiable bill has been duly negotiated, relying upon the description of the goods in the bill or upon the date shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the bill indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, such as in a case in which the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by “contents or condition of contents of packages unknown”, “said to contain”, “shipper’s weight, load, and count”, or words of similar import, if that indication is true.

(b) If goods are loaded by the issuer of a bill of lading:

(1) the issuer shall count the packages of goods if shipped in packages and ascertain the kind and quantity if shipped in bulk; and

(2) words such as “shipper’s weight, load, and count”, or words of similar import indicating that the description was made by the shipper are ineffective except as to goods concealed in packages.

(c) If bulk goods are loaded by a shipper that makes available to the issuer of a bill of lading adequate facilities for weighing those goods, the issuer shall ascertain the kind and quantity within a reasonable time after receiving the shipper’s request in a record to do so. In that case, “shipper’s weight” or words of similar import are ineffective.

(d) The issuer of a bill of lading, by including in the bill the words “shipper’s weight, load, and count”, or words of similar import, may indicate that the goods were loaded by the shipper, and, if that statement is true, the issuer is not liable for damages caused by the improper loading. However, omission of such words does not imply liability for damages caused by improper loading.

(e) A shipper guarantees to an issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition, and weight, as furnished by the shipper, and the shipper shall indemnify the issuer against damage caused by inaccuracies in those particulars. This right of indemnity does not limit the issuer’s responsibility or liability under the contract of carriage to any person other than the shipper.

Source: Laws 2005, LB 570, § 73.

COMMENT

Prior Uniform Statutory Provision: Former section 7-301.

Changes: Changes for clarity, style, and to recognize deregulation in the transportation industry.

Purposes:

1. This section continues the rules from former section 7-301 with one substantive change. The obligations of the issuer of the bill of lading under former subsections (2) and (3) were limited to issuers who were common carriers. Subsections (b) and (c) apply the same rules to all issuers not just common carriers. This section is compatible with the policies stated in the federal Bills of Lading Act, 49 U.S.C. section 80113 (2000).

2. The language of the precode Uniform Bills of Lading Act suggested that a carrier is ordinarily liable for damage caused by improper loading, but may relieve itself of liability by disclosing on the bill that shipper actually loaded. A more accurate statement of the law is that the carrier is not liable for losses caused by act or default of the shipper, which would include improper loading. *D.H. Overmeyer Co. v. Nelson Brantley Glass Co.*, 168 S.E.2d 176 (Ga. Ct. App. 1969). There was some question whether under precode law a carrier was liable even to a good faith purchaser of a negotiable bill for such losses, if the shipper’s faulty loading in fact caused the loss. Subsection (d) permits the carrier to bar, by disclosure of shipper’s loading,

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liability to a good faith purchaser. There is no implication that decisions such as *Modern Tool Corp. v. Pennsylvania R. Co.*, 100 F.Supp. 595 (D.N.J.1951), are disapproved.

3. This section is a restatement of existing law as to the method by which a bailee may avoid responsibility for the accuracy of descriptions which are made by or in reliance upon information furnished by the depositor or shipper. The wording in this section—"contents or condition of contents of packages unknown" or "shipper's weight, load, and count"—to indicate that the shipper loaded the goods or that the carrier does not know the description, condition, or contents of the loaded packages continues to be appropriate as commonly understood in the transportation industry. The reasons for this wording are as important in 2002 as when the prior section initially was approved. The issuer is liable on documents issued by an agent, contrary to instructions of his or her principal, without receiving goods. No disclaimer of this liability is permitted since it is not a matter either of the care of the goods or their description.

4. The shipper's erroneous report to the carrier concerning the goods may cause damage to the carrier. Subsection (e) therefor provides appropriate indemnity.

5. The word "freight" in the former section 7-301 has been changed to "goods" to conform to international and domestic land transport usage in which "freight" means the price paid

for carriage of the goods and not the goods themselves. Hence, changing the word "freight" to the word "goods" is a clarifying change that fits both international and domestic practice.

Cross References:

Sections 7-203, 7-309, and 7-501.

Definitional Cross References:

"Bill of lading". Section 1-201.

"Consignee". Section 7-102.

"Document of title". Section 1-201.

"Duly negotiate". Section 7-501.

"Good faith". Sections 1-201 and 7-102.

"Goods". Section 7-102.

"Holder". Section 1-201.

"Issuer". Section 7-102.

"Notice". Section 1-202.

"Party". Section 1-201.

"Purchaser". Section 1-201.

"Receipt of goods". Section 2-103.

"Value". Section 1-204.

7-302 Through bills of lading and similar documents of title.

(a) The issuer of a through bill of lading, or other document of title embodying an undertaking to be performed in part by a person acting as its agent or by a performing carrier, is liable to any person entitled to recover on the bill or other document for any breach by the other person or the performing carrier of its obligation under the bill or other document. However, to the extent that the bill or other document covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability for breach by the other person or the performing carrier may be varied by agreement of the parties.

(b) If goods covered by a through bill of lading or other document of title embodying an undertaking to be performed in part by a person other than the issuer are received by that person, the person is subject, with respect to its own performance while the goods are in its possession, to the obligation of the issuer. The person's obligation is discharged by delivery of the goods to another person pursuant to the bill or other document and does not include liability for breach by any other person or by the issuer.

(c) The issuer of a through bill of lading or other document of title described in subsection (a) is entitled to recover from the performing carrier, or other person in possession of the goods when the breach of the obligation under the bill or other document occurred:

(1) the amount it may be required to pay to any person entitled to recover on the bill or other document for the breach, as may be evidenced by any receipt, judgment, or transcript of judgment; and

(2) the amount of any expense reasonably incurred by the issuer in defending any action commenced by any person entitled to recover on the bill or other document for the breach.

Source: Laws 2005, LB 570, § 74.

COMMENT

Prior Uniform Statutory Provision: Former section 7-302.

Changes: To conform to current terminology and for style.

Purposes:

1. This section continues the rules from former section 7-302 without substantive change. The term "performing carrier" is substituted for the term "connecting carrier" to conform the terminology of this section with terminology used in recent UNCITRAL and OAS proposals concerning transportation and through bills of lading. This change in terminology is not substantive. This section is compatible with liability on carriers under federal law. See 49 U.S.C. sections 11706, 14706, and 15906.

The purpose of this section is to subject the initial carrier under a through bill to suit for breach of the contract of carriage by any performing carrier and to make it clear that any such performing carrier holds the goods on terms which are defined by the document of title even though such performing carrier did not issue the document. Since the performing carrier does hold the goods on the terms of the document, it must honor a proper demand for delivery or a diversion order just as the original bailee would have to. Similarly it has the benefits of the excuses for nondelivery and limitations of liability provided for the original bailee who issued the bill. Unlike the original bailee-issuer, the performing carrier's responsibility is limited to the period while the goods are in its possession. The section does not impose any obligation to issue through bills.

2. The reference to documents other than through bills looks to the possibility that multi-purpose documents may come into use, e.g., combination warehouse receipts and bills of lading. As electronic documents of title come into common usage, storage

documents (e.g. warehouse receipts), and transportation documents (e.g. bills of lading) may merge seamlessly into one electronic document that can serve both the storage and transportation segments of the movement of goods.

3. Under subsection (a) the issuer of a through bill of lading may become liable for the fault of another person. Subsection (c) gives the issuer appropriate rights of recourse.

4. Despite the broad language of subsection (a), section 7-302 is subject to preemption by federal laws and treaties. Section 7-103. The precise scope of federal preemption in the transportation sector is a question determined under federal law.

Cross References:

Section 7-103.

Definitional Cross References:

"Agreement". Section 1-201.

"Bailee". Section 7-102.

"Bill of lading". Section 1-201.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Goods". Section 7-102.

"Issuer". Section 7-102.

"Party". Section 1-201.

"Person". Section 1-201.

7-303 Diversion; reconsignment; change of instructions.

(a) Unless the bill of lading otherwise provides, a carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, without liability for misdelivery, on instructions from:

(1) the holder of a negotiable bill;

(2) the consignor on a nonnegotiable bill, even if the consignee has given contrary instructions;

(3) the consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the tangible bill or in control of the electronic bill; or

(4) the consignee on a nonnegotiable bill, if the consignee is entitled as against the consignor to dispose of the goods.

(b) Unless instructions described in subsection (a) are included in a negotiable bill of lading, a person to which the bill is duly negotiated may hold the bailee according to the original terms.

Source: Laws 2005, LB 570, § 75.

COMMENT

Prior Uniform Statutory Provision: Former section 7-303.

Changes: To accommodate electronic documents and for style.

Purposes:

1. Diversion is a very common commercial practice which defeats delivery to the consignee originally named in a bill of lading. This section continues former section 7-303's safe harbor rules for carriers in situations involving diversion and adapts those rules to electronic documents of title. This section works compatibly with section 2-705. Carriers may as a business matter be willing to accept instructions from consignees in which case the carrier will be liable for misdelivery if the consignee was not the owner or otherwise empowered to dis-

pose of the goods under subsection (a)(4). The section imposes no duty on carriers to undertake diversion. The carrier is of course subject to the provisions of mandatory filed tariffs as provided in section 7-103.

2. It should be noted that the section provides only an immunity for carriers against liability for "misdelivery". It does not, for example, defeat the title to the goods which the consignee-buyer may have acquired from the consignor-seller upon delivery of the goods to the carrier under a nonnegotiable bill of lading. Thus if the carrier, upon instructions from the consignor, returns the goods to the consignor, the consignee may recover the goods from the consignor or the consignor's insolvent estate. However, under certain circumstances, the consignee's title may be defeated by diversion of the goods in transit to

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a different consignee. The rights that arise between the consign-or-seller and the consignee-buyer out of a contract for the sale of goods are governed by article 2.

Cross References:

Point 1: Sections 2-705 and 7-103.

Point 2: Article 2, sections 7-403 and 7-504(3).

Definitional Cross References:

"Bailee". Section 7-102.

"Bill of lading". Section 1-201.

"Carrier". Section 7-102.

"Consignee". Section 7-102.

"Consignor". Section 7-102.

"Delivery". Section 1-201.

"Goods". Section 7-102.

"Holder". Section 1-201.

"Notice". Section 1-202.

"Person". Section 1-201.

"Purchaser". Section 1-201.

"Term". Section 1-201.

7-304 Tangible bills of lading in a set.

(a) Except as customary in international transportation, a tangible bill of lading may not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

(b) If a tangible bill of lading is lawfully issued in a set of parts, each of which contains an identification code and is expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitutes one bill.

(c) If a tangible negotiable bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to which the first due negotiation is made prevails as to both the document of title and the goods even if any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by surrendering its part.

(d) A person that negotiates or transfers a single part of a tangible bill of lading issued in a set is liable to holders of that part as if it were the whole set.

(e) The bailee shall deliver in accordance with part 4 against the first presented part of a tangible bill of lading lawfully issued in a set. Delivery in this manner discharges the bailee's obligation on the whole bill.

Source: Laws 2005, LB 570, § 76.

COMMENT

Prior Uniform Statutory Provision: Former section 7-304.

Changes: To limit bills in a set to tangible bills of lading and to use terminology more consistent with modern usage.

Purposes:

1. Tangible bills of lading in a set are still used in some nations in international trade. Consequently, a tangible bill of lading part of a set could be at issue in a lawsuit that might come within article 7. The statement of the legal effect of a lawfully issued set is in accord with existing commercial law relating to maritime and other international tangible bills of lading. This law has been codified in the Hague and Warsaw Conventions and in the Carriage of Goods by Sea Act, the provisions of which would ordinarily govern in situations where bills in a set are recognized by this article. Tangible bills of lading in a set are prohibited in domestic trade.

2. Electronic bills of lading in domestic or international trade will not be issued in a set given the requirements of control necessary to deliver the bill to another person. An electronic bill of lading will be a single, authoritative copy. Section 7-106. Hence, this section differentiates between electronic bills of lading and tangible bills of lading. This section does not prohibit electronic data messages about goods in transit because these

electronic data messages are not the issued bill of lading. Electronic data messages contain information for the carrier's management and handling of the cargo but this information for the carrier's use is not the issued bill of lading.

Cross References:

Sections 7-103, 7-106, and 7-303.

Definitional Cross References:

"Bailee". Section 7-102.

"Bill of lading". Section 1-201.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Duly negotiate". Section 7-501.

"Good faith". Sections 1-201 and 7-102.

"Goods". Section 7-102.

"Holder". Section 1-201.

"Issuer". Section 7-102.

"Person". Section 1-201.

"Receipt of goods". Section 2-103.

7-305 Destination bills.

(a) Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier, at the request of the consignor, may procure the bill to be issued at destination or at any other place designated in the request.

(b) Upon request of any person entitled as against a carrier to control the goods while in transit and on surrender of possession or control of any outstanding bill of lading or other receipt covering the goods, the issuer, subject to section 7-105, may procure a substitute bill to be issued at any place designated in the request.

Source: Laws 2005, LB 570, § 77.

COMMENT

Prior Uniform Statutory Provision: Former section 7-305.

Changes: To accommodate electronic bills of lading and for style.

Purposes:

1. Subsection (a) continues the rules of former section 7-305(1) without substantive change. This proposal is designed to facilitate the use of order bills in connection with fast shipments. Use of order bills on high speed shipments is impeded by the fact that the goods may arrive at destination before the documents, so that no one is ready to take delivery from the carrier. This is especially inconvenient for carriers by truck and air, who do not have terminal facilities where shipments can be held to await the consignee's appearance. Order bills would be useful to take advantage of bank collection. This may be preferable to C.O.D. shipment in which the carrier, e.g. a truck driver, is the collecting and remitting agent. Financing of shipments under this plan would be handled as follows: Seller at San Francisco delivers the goods to an airline with instructions to issue a bill in New York to a named bank. Seller receives a receipt embodying this undertaking to issue a destination bill. Airline wires its New York freight agent to issue the bill as instructed by the seller. Seller wires the New York bank a draft on buyer. New York bank indorses the bill to buyer when the buyer honors the draft. Normally seller would act through its

own bank in San Francisco, which would extend credit in reliance on the airline's contract to deliver a bill to the order of its New York correspondent. This section is entirely permissive; it imposes no duty to issue such bills. Whether a performing carrier will act as issuing agent is left to agreement between carriers.

2. Subsection (b) continues the rule from former section 7-305(2) with accommodation for electronic bills of lading. If the substitute bill changes from an electronic to a tangible medium or vice versa, the issuance of the substitute bill must comply with section 7-105 to give the substitute bill validity and effect.

Cross References:

Section 7-105.

Definitional Cross References:

"Bill of lading". Section 1-201.

"Consignor". Section 7-102.

"Goods". Section 7-102.

"Issuer". Section 7-102.

"Receipt of goods". Section 2-103.

7-306 Altered bills of lading.

An unauthorized alteration or filling in of a blank in a bill of lading leaves the bill enforceable according to its original tenor.

Source: Laws 2005, LB 570, § 78.

COMMENT

Prior Uniform Statutory Provision: Former section 7-306.

Changes: None

Purposes:

An unauthorized alteration or filling in of a blank, whether made with or without fraudulent intent, does not relieve the issuer of its liability on the document as originally executed. This section applies to both tangible and electronic bills of lading, applying the same rule to both types of bills of lading. The control concept of section 7-106 requires that any changes to the electronic document of title be readily identifiable as

authorized or unauthorized. Section 7-306 should be compared to section 7-208 where a different rule applies to the unauthorized filling in of a blank for tangible warehouse receipts.

Cross References:

Sections 7-106 and 7-208.

Definitional Cross References:

"Bill of lading". Section 1-201.

"Issuer". Section 7-102.

7-307 Lien of carrier.

(a) A carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges after the date of the carrier's receipt of the goods for storage or transportation, including demurrage and terminal charges, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. However, against a purchaser for value of a negotiable bill of lading, a carrier's lien is limited to charges stated in the bill or the applicable tariffs or, if no charges are stated, a reasonable charge.

(b) A lien for charges and expenses under subsection (a) on goods that the carrier was required by law to receive for transportation is effective against the

consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to those charges and expenses. Any other lien under subsection (a) is effective against the consignor and any person that permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked authority.

(c) A carrier loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

Source: Laws 2005, LB 570, § 79.

COMMENT

Prior Uniform Statutory Provision: Former section 7-307.

Changes: Expanded to cover proceeds of the goods transported.

Purposes:

1. The section is intended to give carriers a specific statutory lien for charges and expenses similar to that given to warehouses by the first sentence of section 7-209(a) and extends that lien to the proceeds of the goods as long as the carrier has possession of the proceeds. But because carriers do not commonly claim a lien for charges in relation to other goods or lend money on the security of goods in their hands, provisions for a general lien or a security interest similar to those in section 7-209(a) and (b) are omitted. Carriers may utilize article 9 to obtain a security interest and become a secured party or a carrier may agree to limit its lien rights in a transportation agreement with the shipper. As the lien given by this section is specific, and the storage or transportation often preserves or increases the value of the goods, subsection (b) validates the lien against anyone who permitted the bailor to have possession of the goods. Where the carrier is required to receive the goods for transportation, the owner's interest may be subjected to charges and expenses arising out of deposit of his or her goods by a thief. The crucial mental element is the carrier's knowledge or reason to know of the bailor's lack of authority. If the carrier does not know or have reason to know of the bailor's lack of authority, the carrier has a lien under this section against any person so long as the conditions of subsection (b) are satisfied. In light of the crucial mental element, sections 7-307 and 9-333 combine to give priority to a carrier's lien over security interests in the goods. In this regard, the judicial decision in *In re Sharon Steel Corp.*, 25

U.C.C. Rep.2d 503, 176 B.R. 384 (W.D. Pa. 1995) is correct and is the controlling precedent.

2. The reference to charges in this section means charges relating to the bailment relationship for transportation. Charges does not mean that the bill of lading must state a specific rate or a specific amount. However, failure to state a specific rate or a specific amount has legal consequences under the second sentence of subsection (a).

3. The carrier's specific lien under this section is a possessory lien. See subsection (c). Part 3 of article 7 does not require any particular form for a bill of lading. The carrier's lien arises when the carrier has issued a bill of lading.

Cross References:

Point 1: Sections 7-209, 9-109, and 9-333.

Point 3: Sections 7-202 and 7-209.

Definitional Cross References:

"Bill of lading". Section 1-201.

"Carrier". Section 7-102.

"Consignor". Section 7-102.

"Delivery". Section 1-201.

"Goods". Section 7-102.

"Person". Section 1-201.

"Purchaser". Section 1-201.

"Value". Section 1-204.

7-308 Enforcement of carrier's lien.

(a) A carrier's lien on goods may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The carrier sells goods in a commercially reasonable manner if the carrier sells the goods in the usual manner in any recognized market therefor, sells at the price current in that market at the time of the sale, or otherwise sells in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(b) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying with this section. In that event, the goods may

not be sold but must be retained by the carrier, subject to the terms of the bill of lading and this article.

(c) A carrier may buy at any public sale pursuant to this section.

(d) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against which the lien was valid, despite the carrier's noncompliance with this section.

(e) A carrier may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to which the carrier would have been bound to deliver the goods.

(f) The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(g) A carrier's lien may be enforced pursuant to either subsection (a) or the procedure set forth in section 7-210(b).

(h) A carrier is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

Source: Laws 2005, LB 570, § 80.

COMMENT

Prior Uniform Statutory Provision: Former section 7-308.

Changes: To conform language to modern usage and for style.

Purposes:

This section is intended to give the carrier an enforcement procedure of its lien coextensive with that given the warehouse in cases other than those covering noncommercial storage by the warehouse. See section 7-210 and comments.

Cross References:

Section 7-210.

Definitional Cross References:

"Bill of lading". Section 1-201.

"Carrier". Section 7-102.

"Creditor". Section 1-201.

"Delivery". Section 1-201.

"Good faith". Sections 1-201 and 7-102.

"Goods". Section 7-102.

"Notification". Section 1-202.

"Notifies". Section 1-202.

"Person". Section 1-201.

"Purchaser". Section 1-201.

"Rights". Section 1-201.

"Term". Section 1-201.

7-309 Duty of care; contractual limitation of carrier's liability.

(a) A carrier that issues a bill of lading, whether negotiable or nonnegotiable, shall exercise the degree of care in relation to the goods which a reasonably careful person would exercise under similar circumstances. This subsection does not affect any statute, regulation, or rule of law that imposes liability upon a common carrier for damages not caused by its negligence.

(b) Damages may be limited by a term in the bill of lading or in a transportation agreement that the carrier's liability may not exceed a value stated in the bill or transportation agreement if the carrier's rates are dependent upon value and the consignor is afforded an opportunity to declare a higher value and the consignor is advised of the opportunity. However, such a limitation is not effective with respect to the carrier's liability for conversion to its own use.

(c) Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the shipment may be included in a bill of lading or a transportation agreement.

Source: Laws 2005, LB 570, § 81.

COMMENT

Prior Uniform Statutory Provision: Former section 7-309.

Changes: References to tariffs eliminated because of deregulation, adding reference to transportation agreements, and for style.

Purposes:

1. A bill of lading may also serve as the contract between the carrier and the bailor. Parties in their contract should be able to limit the amount of damages for breach of that contract including breach of the duty to take reasonable care of the goods. The parties cannot disclaim by contract the carrier's obligation of care. Section 1-302.

Federal statutes and treaties for air, maritime, and rail transport may alter the standard of care. These federal statutes and treaties preempt this section when applicable. Section 7-103. Subsection (a) does not impair any rule of law imposing the liability of an insurer on a common carrier in intrastate commerce. Subsection (b), however, applies to the common carrier's liability as an insurer as well as to liability based on negligence. Subsection (b) allows the term limiting damages to appear either in the bill of lading or in the parties' transportation agreement. Compare section 7-204(b). Subsection (c) allows the parties to agree to provisions regarding time and manner of presenting claims or commencing actions if the provisions are either in the bill of lading or the transportation agreement. Compare section 7-204(c). Transportation agreements are commonly used to establish agreed terms between carriers and shippers that have an ongoing relationship.

2. References to public tariffs in former section 7-309(2) and (3) have been deleted in light of the modern era of deregulation. See comment 2 to section 7-103. If a tariff is required under state or federal law, pursuant to section 7-103(a), the tariff would control over the rule of this section. As governed by

contract law, parties may incorporate by reference the limits on the amount of damages or the reasonable provisions as to the time and manner of presenting claims set forth in applicable tariffs, e.g. a maximum unit value beyond which goods are not taken or a disclaimer of responsibility for undeclared articles of extraordinary value.

3. As under former section 7-309(2), subsection (b) provides that a limitation of damages is ineffective if the carrier has converted the goods to its own use. A mere failure to redeliver the goods is not conversion to the carrier's own use. "Conversion to its own use" is narrower than the idea of conversion generally. *Art Masters Associates, Ltd. v. United Parcel Service*, 77 N.Y.2d 200, 567 N.E.2d 226 (1990); see, *Kemper Ins. Co. v. Fed. Ex. Corp.*, 252 F.3d 509 (1st Cir.), cert. denied 534 U.S. 1020 (2001) (opinion interpreting federal law).

4. As used in this section, damages may include damages arising from delay in delivery. Delivery dates and times are often specified in the parties' contract. See section 7-403.

Cross References:

Sections 1-302, 7-103, 7-204, and 7-403.

Definitional Cross References:

"Action". Section 1-201.

"Bill of lading". Section 1-201.

"Carrier". Section 7-102.

"Consignor". Section 7-102.

"Document of title". Section 1-102.

"Goods". Section 7-102.

"Value". Section 1-204.

Part 4

WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL OBLIGATIONS

7-401 Irregularities in issue of receipt or bill or conduct of issuer.

The obligations imposed by this article on an issuer apply to a document of title even if:

- (1) the document does not comply with the requirements of this article or of any other statute, rule, or regulation regarding its issuance, form, or content;
- (2) the issuer violated laws regulating the conduct of its business;
- (3) the goods covered by the document were owned by the bailee when the document was issued; or
- (4) the person issuing the document is not a warehouse but the document purports to be a warehouse receipt.

Source: Laws 2005, LB 570, § 82.

COMMENT

Prior Uniform Statutory Provision: Former section 7-401.

Changes: Changes for style only.

Purposes:

The bailee's liability on its document despite nonreceipt or misdescription of the goods is affirmed in sections 7-203 and 7-301. The purpose of this section is to make it clear that regardless of irregularities a document which falls within the definition of document of title imposes on the issuer the obligations stated in this article. For example, a bailee will not be permitted to avoid its obligation to deliver the goods (section

7-403) or its obligation of due care with respect to them (sections 7-204 and 7-309) by taking the position that no valid "document" was issued because it failed to file a statutory bond or did not pay stamp taxes or did not disclose the place of storage in the document. *Tate v. Action Moving & Storage, Inc.*, 383 S.E.2d 229 (N.C. App. 1989), rev. denied 389 S.E.2d 104 (N.C. 1990). Sanctions against violations of statutory or administrative duties with respect to documents should be limited to revocation of license or other measures prescribed by the regulation imposing the duty. See section 7-103.

Cross References:

Sections 7-103, 7-203, 7-204, 7-301, and 7-309.

"Goods". Section 7-102.

"Issuer". Section 7-102.

Definitional Cross References:

"Bailee". Section 7-102.

"Person". Section 1-201.

"Warehouse receipt". Section 1-201.

"Document of title". Section 1-201.

"Warehouse". Section 7-102.

7-402 Duplicate document of title; overissue.

A duplicate or any other document of title purporting to cover goods already represented by an outstanding document of the same issuer does not confer any right in the goods, except as provided in the case of tangible bills of lading in a set of parts, overissue of documents for fungible goods, substitutes for lost, stolen, or destroyed documents, or substitute documents issued pursuant to section 7-105. The issuer is liable for damages caused by its overissue or failure to identify a duplicate document by a conspicuous notation.

Source: Laws 2005, LB 570, § 83.

COMMENT

Prior Uniform Statutory Provision: Former section 7-402.

Changes: Changes to accommodate electronic documents.

Purposes:

1. This section treats a duplicate which is not properly identified as a duplicate like any other overissue of documents: A purchaser of such a document acquires no title but only a cause of action for damages against the person that made the deception possible, except in the cases noted in the section. But parts of a tangible bill lawfully issued in a set of parts are not "overissue" (section 7-304). Of course, if the issuer has clearly indicated that a document is a duplicate so that no one can be deceived by it, and in fact the duplicate is a correct copy of the original, the issuer is not liable for preparing and delivering such a duplicate copy.

Section 7-105 allows documents of title to be reissued in another medium. Reissuance of a document in an alternative medium under section 7-105 requires that the original document be surrendered to the issuer in order to make the substitute document the effective document. If the substitute document is not issued in compliance with section 7-105, then the document should be treated as a duplicate under this section.

2. The section applies to nonnegotiable documents to the extent of providing an action for damages for one who acquires an unmarked duplicate from a transferor who knew the facts and would therefore have had no cause of action against the issuer of the duplicate. Ordinarily the transferee of a nonnegotiable document acquires only the rights of its transferor.

3. Overissue is defined so as to exclude the common situation where two valid documents of different issuers are outstanding for the same goods at the same time. Thus freight forwarders commonly issue bills of lading to their customers for small shipments to be combined into carload shipments for which the railroad will issue a bill of lading to the forwarder. So also a warehouse receipt may be outstanding against goods, and the holder of the receipt may issue delivery orders against the same goods. In these cases dealings with the subsequently issued documents may be effective to transfer title; e.g. negotiation of a delivery order will effectively transfer title in the ordinary case where no dishonesty has occurred and the goods are available to satisfy the orders. Section 7-503 provides for cases of conflict between documents of different issuers.

Cross References:

Point 1: Sections 7-105, 7-207, 7-304, and 7-601.

Point 3: Section 7-503.

Definitional Cross References:

"Bill of lading". Section 1-201.

"Conspicuous". Section 1-201.

"Document of title". Section 1-201.

"Fungible goods". Section 1-201.

"Goods". Section 7-102.

"Issuer". Section 7-102.

"Right". Section 1-201.

7-403 Obligation of bailee to deliver; excuse.

(a) A bailee shall deliver the goods to a person entitled under a document of title if the person complies with subsections (b) and (c), unless and to the extent that the bailee establishes any of the following:

(1) delivery of the goods to a person whose receipt was rightful as against the claimant;

(2) damage to or delay, loss, or destruction of the goods for which the bailee is not liable;

(3) previous sale or other disposition of the goods in lawful enforcement of a lien or on a warehouse's lawful termination of storage;

(4) the exercise by a seller of its right to stop delivery pursuant to section 2-705 or by a lessor of its right to stop delivery pursuant to section 2A-526;

(5) a diversion, reconsignment, or other disposition pursuant to section 7-303;

(6) release, satisfaction, or any other personal defense against the claimant; or

(7) any other lawful excuse.

(b) A person claiming goods covered by a document of title shall satisfy the bailee's lien if the bailee so requests or if the bailee is prohibited by law from delivering the goods until the charges are paid.

(c) Unless a person claiming the goods is a person against which the document of title does not confer a right under section 7-503(a):

(1) the person claiming under a document shall surrender possession or control of any outstanding negotiable document covering the goods for cancellation or indication of partial deliveries; and

(2) the bailee shall cancel the document or conspicuously indicate in the document the partial delivery or the bailee is liable to any person to which the document is duly negotiated.

Source: Laws 2005, LB 570, § 84.

COMMENT

Prior Uniform Statutory Provision: Former section 7-403.

Changes: Definition in former section 7-403(4) moved to section 7-102; bracketed language in former section 7-403(1)(b) deleted; added cross reference to section 2A-526; changes for style.

Purposes:

1. The present section, following former section 7-403, is constructed on the basis of stating what previous deliveries or other circumstances operate to excuse the bailee's normal obligation on the document. Accordingly, "justified" deliveries under the precode uniform acts now find their place as "excuse" under subsection (a).

2. The principal case covered by subsection (a)(1) is delivery to a person whose title is paramount to the rights represented by the document. For example, if a thief deposits stolen goods in a warehouse facility and takes a negotiable receipt, the warehouse is not liable on the receipt if it has surrendered the goods to the true owner, even though the receipt is held by a good faith purchaser. See section 7-503(a). However, if the owner entrusted the goods to a person with power of disposition, and that person deposited the goods and took a negotiable document, the owner receiving delivery would not be rightful as against a holder to whom the negotiable document was duly negotiated, and delivery to the owner would not give the bailee a defense against such a holder. See sections 7-502(a)(2) and 7-503(a)(1).

3. Subsection (a)(2) amounts to a cross reference to all the tort law that determines the varying responsibilities and standards of care applicable to commercial bailees. A restatement of this tort law would be beyond the scope of this code. Much of the applicable law as to responsibility of bailees for the preservation of the goods and limitation of liability in case of loss has been codified for particular classes of bailees in interstate and foreign commerce by federal legislation and treaty and for intrastate carriers and other bailees by the regulatory state laws preserved by section 7-103. In the absence of governing legislation the common law will prevail subject to the minimum standard of reasonable care prescribed by sections 7-204 and 7-309 of this article.

The bracketed language found in former section 7-403(1)(b) has been deleted thereby leaving the allocations of the burden of going forward with the evidence and the burden of proof to the procedural law of the various states.

Subsection (a)(4) contains a cross reference to both the seller's and the lessor's rights to stop delivery under article 2 and article 2A respectively.

4. As under former section 7-403, there is no requirement that a request for delivery must be accompanied by a formal tender of the amount of the charges due. Rather, the bailee must request payment of the amount of its lien when asked to deliver, and only in case this request is refused is it justified in declining to deliver because of nonpayment of charges. Where delivery without payment is forbidden by law, the request is treated as implicit. Such a prohibition reflects a policy of uniformity to prevent discrimination by failure to request payment in particular cases. Subsection (b) must be read in conjunction with the priorities given to the warehouse lien and the carrier lien under sections 7-209 and 7-307, respectively. If the parties are in dispute about whether the request for payment of the lien is legally proper, the bailee may have recourse to interpleader. See section 7-603.

5. Subsection (c) states the obvious duty of a bailee to take up a negotiable document or note partial deliveries conspicuously thereon, and the result of failure in that duty. It is subject to only one exception, that stated in subsection (a)(1) of this section and in section 7-503(a). Subsection (c) is limited to cases of delivery to a claimant; it has no application, for example, where goods held under a negotiable document are lawfully sold to enforce the bailee's lien.

6. When courts are considering subsection (a)(7), "any other lawful excuse", among others, refers to compliance with court orders under sections 7-601, 7-602, and 7-603.

Cross References:

Point 2: Sections 7-502 and 7-503.

Point 3: Sections 2-705, 2A-526, 7-103, 7-204, 7-309, and 10-103.

Point 4: Sections 7-209, 7-307, and 7-603.

Point 5: Section 7-503(1).

Point 6: Sections 7-601, 7-602, and 7-603.

Definitional Cross References:

"Bailee". Section 7-102.

"Conspicuous". Section 1-201.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Duly negotiate". Section 7-501.
 "Goods". Section 7-102.
 "Lessor". Section 2A-103.
 "Person". Section 1-201.

"Receipt of goods". Section 2-103.
 "Right". Section 1-201.
 "Terms". Section 1-201.
 "Warehouse". Section 7-102.

7-404 No liability for good faith delivery pursuant to document of title.

A bailee that in good faith has received goods and delivered or otherwise disposed of the goods according to the terms of a document of title or pursuant to this article is not liable for the goods even if:

- (1) the person from which the bailee received the goods did not have authority to procure the document or to dispose of the goods; or
- (2) the person to which the bailee delivered the goods did not have authority to receive the goods.

Source: Laws 2005, LB 570, § 85.

COMMENT

Prior Uniform Statutory Provision: Former section 7-404.

Changes: Changes reflect the definition of good faith in sections 1-201 and 7-102 and for style.

Purposes:

This section uses the test of good faith, as defined in sections 1-201 and 7-102, to continue the policy of former section 7-404. Good faith now means "honesty in fact and the observance of reasonable commercial standards of fair dealing". The section states explicitly that the common-law rule of "innocent conversion" by unauthorized "intermeddling" with another's property is inapplicable to the operations of commercial carriers and warehousemen that in good faith perform obligations that they have assumed and that generally they are under a legal compulsion to assume. The section applies to delivery to a fraudulent holder of a valid document as well as to delivery to the holder of an invalid document. Of course, in appropriate circumstances, a

bailee may use interpleader or other dispute resolution process. See section 7-603.

Cross References:

Section 7-603.

Definitional Cross References:

"Bailee". Section 7-102.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Good faith". Sections 1-201 and 7-102.

"Goods". Section 7-102.

"Person". Section 1-201.

"Receipt of goods". Section 2-103.

"Term". Section 1-201.

Part 5

WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND TRANSFER

7-501 Form of negotiation and requirements of due negotiation.

(a) The following rules apply to a negotiable tangible document of title:

(1) If the document's original terms run to the order of a named person, the document is negotiated by the named person's indorsement and delivery. After the named person's indorsement in blank or to bearer, any person may negotiate the document by delivery alone.

(2) If the document's original terms run to bearer, it is negotiated by delivery alone.

(3) If the document's original terms run to the order of a named person and it is delivered to the named person, the effect is the same as if the document had been negotiated.

(4) Negotiation of the document after it has been indorsed to a named person requires indorsement by the named person and delivery.

(5) A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it

is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a monetary obligation.

(b) The following rules apply to a negotiable electronic document of title:

(1) If the document's original terms run to the order of a named person or to bearer, the document is negotiated by delivery of the document to another person. Indorsement by the named person is not required to negotiate the document.

(2) If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.

(3) A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.

(c) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.

(d) The naming in a negotiable bill of lading of a person to be notified of the arrival of the goods does not limit the negotiability of the bill or constitute notice to a purchaser of the bill of any interest of that person in the goods.

Source: Laws 2005, LB 570, § 86.

COMMENT

Prior Uniform Statutory Provision: Former section 7-501.

Changes: To accommodate negotiable electronic documents of title.

Purpose:

1. Subsection (a) has been limited to tangible negotiable documents of title but otherwise remains unchanged in substance from the rules in former section 7-501. Subsection (b) is new and applies to negotiable electronic documents of title. Delivery of a negotiable electronic document is through voluntary transfer of control. Section 1-201 definition of "delivery". The control concept as applied to negotiable electronic documents of title is the substitute for both possession and indorsement as applied to negotiable tangible documents of title. Section 7-106.

Article 7 does not separately define the term "duly negotiated". However, the elements of "duly negotiated" are set forth in subsection (a)(5) for tangible documents and (b)(3) for electronic documents. As under former section 7-501, in order to effect a "due negotiation", the negotiation must be in the "regular course of business or financing" in order to transfer greater rights than those held by the person negotiating. The foundation of the mercantile doctrine of good faith purchase for value has always been, as shown by the case situations, the furtherance and protection of the regular course of trade. The reason for allowing a person, in bad faith or in error, to convey away rights which are not its own has from the beginning been to make possible the speedy handling of that great run of commercial transactions which are patently usual and normal.

There are two aspects to the usual and normal course of mercantile dealings, namely, the person making the transfer and the nature of the transaction itself. The first question which arises is: Is the transferor a person with whom it is reasonable to deal as having full powers? In regard to documents of title the only holder whose possession or control appears, commercially, to be in order is almost invariably a person in the trade.

No commercial purpose is served by allowing a tramp or a professor to "duly negotiate" an order bill of lading for hides or cotton not their own, and since such a transfer is obviously not in the regular course of business, it is excluded from the scope of the protection of subsection (a)(5) or (b)(3).

The second question posed by the "regular course" qualification is: Is the transaction one which is normally proper to pass full rights without inquiry, even though the transferor itself may not have such rights to pass, and even though the transferor may be acting in breach of duty? In raising this question the "regular course" criterion has the further advantage of limiting the effective wrongful disposition to transactions whose protection will really further trade. Obviously, the snapping up of goods for quick resale at a price suspiciously below the market deserves no protection as a matter of policy: It is also clearly outside the range of regular course.

Any notice on the document sufficient to put a merchant on inquiry as to the "regular course" quality of the transaction will frustrate a "due negotiation". Thus irregularity of the document or unexplained staleness of a bill of lading may appropriately be recognized as negating a negotiation in "regular" course.

A preexisting claim constitutes value, and "due negotiation" does not require "new value". A usual and ordinary transaction in which documents are received as security for credit previously extended may be in "regular" course, even though there is a demand for additional collateral because the creditor "deems himself or herself insecure". But the matter has moved out of the regular course of financing if the debtor is thought to be insolvent, the credit previously extended is in effect cancelled, and the creditor snatches a plank in the shipwreck under the guise of a demand for additional collateral. Where a money debt is "paid" in commodity paper, any question of "regular" course disappears, as the case is explicitly excepted from "due negotiation".

2. Negotiation under this section may be made by any holder no matter how the holder acquired possession or control of the document.

3. Subsections (a)(3) and (b)(2) make explicit a matter upon which the intent of the precode law was clear but the language somewhat obscure: A negotiation results from a delivery to a banker or buyer to whose order the document has been taken by the person making the bailment. There is no presumption of irregularity in such a negotiation; it may very well be in "regular course".

4. This article does not contain any provision creating a presumption of due negotiation to, and full rights in, a holder of a document of title akin to that created by Uniform Commercial Code article 3. But the reason of the provisions of this code (section 1-307) on the prima facie authenticity and accuracy of third party documents, joins with the reason of the present section to work such a presumption in favor of any person who has power to make a due negotiation. It would not make sense for this code to authorize a purchaser to indulge the presumption of regularity if the courts were not also called upon to do so. Allocations of the burden of going forward with the evidence and the burden of proof are left to the procedural law of the various states.

5. Subsections (c) and (d) are unchanged from prior law and apply to both tangible and electronic documents of title.

Cross References:

Sections 1-307, 7-502, and 7-503.

Definitional Cross References:

"Bearer". Section 1-201.

"Control". Section 7-106.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Good faith". Sections 1-201 and 7-102.

"Holder". Section 1-201.

"Notice". Section 1-202.

"Person". Section 1-201.

"Purchase". Section 1-201.

"Rights". Section 1-201.

"Term". Section 1-201.

"Value". Section 1-204.

7-502 Rights acquired by due negotiation.

(a) Subject to sections 7-205 and 7-503, a holder to which a negotiable document of title has been duly negotiated acquires thereby:

(1) title to the document;

(2) title to the goods;

(3) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(4) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by the issuer except those arising under the terms of the document or under this article, but in the case of a delivery order, the bailee's obligation accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(b) Subject to section 7-503, title and rights acquired by due negotiation are not defeated by any stoppage of the goods represented by the document of title or by surrender of the goods by the bailee and are not impaired even if:

(1) the due negotiation or any prior due negotiation constituted a breach of duty;

(2) any person has been deprived of possession of a negotiable tangible document or control of a negotiable electronic document by misrepresentation, fraud, accident, mistake, duress, loss, theft, or conversion; or

(3) a previous sale or other transfer of the goods or document has been made to a third person.

Source: Laws 2005, LB 570, § 87.

COMMENT

Prior Uniform Statutory Provision: Former section 7-502.

Changes: To accommodate electronic documents of title and for style.

Purpose:

1. This section applies to both tangible and electronic documents of title. The elements of duly negotiated, which constitutes a due negotiation, are set forth in section 7-501. The several necessary qualifications of the broad principle that the

holder of a document acquired in a due negotiation is the owner of the document and the goods have been brought together in the next section (section 7-503).

2. Subsection (a)(3) covers the case of "feeding" of a duly negotiated document by subsequent delivery to the bailee of such goods as the document falsely purported to cover; the bailee in such case is estopped as against the holder of the document.

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3. The explicit statement in subsection (a)(4) of the bailee's direct obligation to the holder precludes the defense that the document in question was "spent" after the carrier had delivered the goods to a previous holder. But the holder is subject to such defenses as nonnegligent destruction even though not apparent on the document. The sentence on delivery orders applies only to delivery orders in negotiable form which have been duly negotiated. On delivery orders, see also section 7-503(b) and comment.

4. Subsection (b) continues the law which gave full effect to the issuance or due negotiation of a negotiable document. The subsection adds nothing to the effect of the rules stated in subsection (a), but it has been included since such explicit reference was provided under former section 7-502 to preserve the right of a purchaser by due negotiation. The listing is not exhaustive. The language "any stoppage" is included lest an inference be drawn that a stoppage of the goods before or after transit might cut off or otherwise impair the purchaser's rights.

Cross References:

Sections 7-103, 7-205, 7-403, 7-501, and 7-503.

Definitional Cross References:

"Bailee". Section 7-102.
 "Control". Section 7-106.
 "Delivery". Section 1-201.
 "Delivery order". Section 7-102.
 "Document of title". Section 1-201.
 "Duly negotiate". Section 7-501.
 "Fungible goods". Section 1-201.
 "Goods". Section 7-102.
 "Holder". Section 1-201.
 "Issuer". Section 7-102.
 "Person". Section 1-201.
 "Rights". Section 1-201.
 "Term". Section 1-201.
 "Warehouse receipt". Section 1-201.

7-503 Document of title to goods defeated in certain cases.

(a) A document of title confers no right in goods against a person that before issuance of the document had a legal interest or a perfected security interest in the goods and that did not:

(1) deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:

(A) actual or apparent authority to ship, store, or sell;

(B) power to obtain delivery under section 7-403; or

(C) power of disposition under section 2-403, 2A-304(2), 2A-305(2), 9-320, or 9-321(c) or other statute or rule of law; or

(2) acquiesce in the procurement by the bailor or its nominee of any document.

(b) Title to goods based upon an unaccepted delivery order is subject to the rights of any person to which a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. That title may be defeated under section 7-504 to the same extent as the rights of the issuer or a transferee from the issuer.

(c) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of any person to which a bill issued by the freight forwarder is duly negotiated. However, delivery by the carrier in accordance with part 4 pursuant to its own bill of lading discharges the carrier's obligation to deliver.

Source: Laws 2005, LB 570, § 88.

COMMENT

Prior Uniform Statutory Provision: Former section 7-503.

Changes: Changes to cross reference to article 2A and for style.

Purposes:

1. In general it may be said that the title of a purchaser by due negotiation prevails over almost any interest in the goods which existed prior to the procurement of the document of title if the possession of the goods by the person obtaining the document derived from any action by the prior claimant which introduced the goods into the stream of commerce or carried them along that stream. A thief of the goods cannot indeed by shipping or storing them to the thief's own order acquire power to transfer them to a good faith purchaser. Nor can a tenant or mortgagor

defeat any rights of a landlord or mortgagee which have been perfected under the local law merely by wrongfully shipping or storing a portion of the crop or other goods. However, "acquiescence" by the landlord or mortgagee does not require active consent under subsection (a)(2) and knowledge of the likelihood of storage or shipment with no objection or effort to control it is sufficient to defeat the landlord's or the mortgagee's rights as against one who takes by due negotiation of a negotiable document. In re Sharon Steel, 176 B.R. 384 (Bankr. W.D. Pa. 1995); In re R.V. Segars Co., 54 B.R. 170 (Bankr. S.C. 1985); In re Jamestown Elevators, Inc., 49 B.R. 661 (Bankr. N.D. 1985).

On the other hand, where goods are delivered to a factor for sale, even though the factor has made no advances and is

limited in its duty to sell for cash, the goods are “entrusted” to the factor “with actual . . . authority . . . to sell” under subsection (a)(1), and if the factor procures a negotiable document of title it can transfer the owner’s interest to a purchaser by due negotiation. Further, where the factor is in the business of selling, goods entrusted to it simply for safekeeping or storage may be entrusted under circumstances which give the factor “apparent authority to ship, store, or sell” under subsection (a)(1), or power of disposition under section 2-403, 2A-304(2), 2A-305(2), 7-205, 9-320, or 9-321(c) or under a statute such as the earlier Factors Acts, or under a rule of law giving effect to apparent ownership. See section 1-103.

Persons having an interest in goods also frequently deliver or entrust them to agents or servants other than factors for the purpose of shipping or warehousing or under circumstances reasonably contemplating such action. This code is clear that such persons assume full risk that the agent to whom the goods are so delivered may ship or store in breach of duty, take a document to the agent’s own order, and then proceed to misappropriate the negotiable document of title that embodies the goods. This code makes no distinction between possession or mere custody in such situations and finds no exception in the case of larceny by a bailee or the like. The safeguard in such situations lies in the requirement that a due negotiation can occur only “in the regular course of business or financing” and that the purchase be in good faith and without notice. See section 7-501. Documents of title have no market among the commercially inexperienced and the commercially experienced do not take them without inquiry from persons known to be truck drivers or petty clerks even though such persons purport to be operating in their own names.

Again, where the seller allows a buyer to receive goods under a contract for sale, though as a “conditional delivery” or under “cash sale” terms and on explicit agreement for immediate payment, the buyer thereby acquires power to defeat the seller’s interest by transfer of the goods to certain good faith purchasers. See section 2-403. Both in policy and under the language of subsection (a)(1) that same power must be extended to accomplish the same result if the buyer procures a negotiable document of title to the goods and duly negotiates it.

This comment 1 should be considered in interpreting delivery, entrustment, or acquiescence in application of section 7-209.

2. Under subsection (a) a delivery order issued by a person having no right in or power over the goods is ineffective unless

the owner acts as provided in subsection (a)(1) or (2). Thus the rights of a transferee of a nonnegotiable warehouse receipt can be defeated by a delivery order subsequently issued by the transferor only if the transferee “delivers or entrusts” to the “person procuring” the delivery order or “acquiesces” in that person’s procurement. Similarly, a second delivery order issued by the same issuer for the same goods will ordinarily be subject to the first, both under this section and under section 7-402. After a delivery order is validly issued but before it is accepted, it may nevertheless be defeated under subsection (b) in much the same way that the rights of a transferee may be defeated under section 7-504. For example, a buyer in ordinary course from the issuer may defeat the rights of the holder of a prior delivery order if the bailee receives notification of the buyer’s rights before notification of the holder’s rights. Section 7-504(b)(2). But an accepted delivery order has the same effect as a document issued by the bailee.

3. Under subsection (c) a bill of lading issued to a freight forwarder is subordinated to the freight forwarder’s document of title, since the bill on its face gives notice of the fact that a freight forwarder is in the picture and the freight forwarder has in all probability issued a document of title. But the carrier is protected in following the terms of its own bill of lading.

Cross References:

Point 1: Sections 1-103, 2-403, 2A-304(2), 2A-305(2), 7-205, 7-209, 7-501, 9-320, 9-321(c), and 9-331.

Point 2: Sections 7-402 and 7-504.

Point 3: Sections 7-402, 7-403, and 7-404.

Definitional Cross References:

“Bill of lading”. Section 1-201.

“Contract for sale”. Section 2-106.

“Delivery”. Section 1-201.

“Delivery order”. Section 7-102.

“Document of title”. Section 1-201.

“Duly negotiate”. Section 7-501.

“Goods”. Section 7-102.

“Person”. Section 1-201.

“Right”. Section 1-201.

“Warehouse receipt”. Section 1-201.

7-504 Rights acquired in absence of due negotiation; effect of diversion; stoppage of delivery.

(a) A transferee of a document of title, whether negotiable or nonnegotiable, to which the document has been delivered but not duly negotiated, acquires the title and rights that its transferor had or had actual authority to convey.

(b) In the case of a transfer of a nonnegotiable document of title, until but not after the bailee receives notice of the transfer, the rights of the transferee may be defeated:

(1) by those creditors of the transferor which could treat the transfer as void under section 2-402 or 2A-308;

(2) by a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of the buyer’s rights;

(3) by a lessee from the transferor in ordinary course of business if the bailee has delivered the goods to the lessee or received notification of the lessee’s rights; or

(4) as against the bailee, by good faith dealings of the bailee with the transferor.

(c) A diversion or other change of shipping instructions by the consignor in a nonnegotiable bill of lading which causes the bailee not to deliver the goods to the consignee defeats the consignee's title to the goods if the goods have been delivered to a buyer in ordinary course of business or a lessee in ordinary course of business and, in any event, defeats the consignee's rights against the bailee.

(d) Delivery of the goods pursuant to a nonnegotiable document of title may be stopped by a seller under section 2-705 or a lessor under section 2A-526, subject to the requirements of due notification in those sections. A bailee that honors the seller's or lessor's instructions is entitled to be indemnified by the seller or lessor against any resulting loss or expense.

Source: Laws 2005, LB 570, § 89.

COMMENT

Prior Uniform Statutory Provision: Former section 7-504.

Changes: To include cross references to article 2A and for style.

Purposes:

1. Under the general principles controlling negotiable documents, it is clear that in the absence of due negotiation a transferor cannot convey greater rights than the transferor has, even when the negotiation is formally perfect. This section recognizes the transferor's power to transfer rights which the transferor has or has "actual authority to convey". Thus, where a negotiable document of title is being transferred the operation of the principle of estoppel is not recognized, as contrasted with situations involving the transfer of the goods themselves. (Compare section 2-403 on good faith purchase of goods.) This section applies to both tangible and electronic documents of title.

A necessary part of the price for the protection of regular dealings with negotiable documents of title is an insistence that no dealing which is in any way irregular shall be recognized as a good faith purchase of the document or of any rights pertaining to it. So, where the transfer of a negotiable document fails as a negotiation because a requisite indorsement is forged or otherwise missing, the purchaser in good faith and for value may be in the anomalous position of having less rights, in part, than if the purchaser had purchased the goods themselves. True, the purchaser's rights are not subject to defeat by attachment of the goods or surrender of them to the purchaser's transferor (contrast subsection (b)); but on the other hand, the purchaser cannot acquire enforceable rights to control or receive the goods over the bailee's objection merely by giving notice to the bailee. Similarly, a consignee who makes payment to its consignor against a straight bill of lading can thereby acquire the position of a good faith purchaser of goods under provisions of the article of this code on Sales (section 2-403), whereas the same payment made in good faith against an unendorsed order bill would not have such effect. The appropriate remedy of a purchaser in such a situation is to regularize its status by compelling indorsement of the document (see section 7-506).

2. As in the case of transfer—as opposed to "due negotiation"—of negotiable documents, subsection (a) empowers the transferor of a nonnegotiable document to transfer only such rights as the transferor has or has "actual authority" to convey. In contrast to situations involving the goods themselves the operation of estoppel or agency principles is not here recognized to enable the transferor to convey greater rights than the transferor actually has. Subsection (b) makes it clear, however, that the transferee of a nonnegotiable document may acquire rights greater in some respects than those of his or her transferor by giving notice of the transfer to the bailee. New subsection (b)(3) provides for the rights of a lessee in the ordinary course.

Subsection (b)(2) and (3) require delivery of the goods. Delivery of the goods means the voluntary transfer of physical possession of the goods. See amended section 2-103.

3. Subsection (c) is in part a reiteration of the carrier's immunity from liability if it honors instructions of the consignor to divert, but there is added a provision protecting the title of the substituted consignee if the latter is a buyer in ordinary course of business. A typical situation would be where a manufacturer, having shipped a lot of standardized goods to A on nonnegotiable bill of lading, diverts the goods to customer B who pays for them. Under precode passage-of-title-by-appropriation doctrine A might reclaim the goods from B. However, no consideration of commercial policy supports this involvement of an innocent third party in the default of the manufacturer on his or her contract to A; and the common commercial practice of diverting goods in transit suggests a trade understanding in accordance with this subsection. The same result should obtain if the substituted consignee is a lessee in ordinary course. The extent of the lessee's interest in the goods is less than a buyer's interest in the goods. However, as against the first consignee and the lessee in ordinary course as the substituted consignee, the lessee's rights in the goods as granted under the lease are superior to the first consignee's rights.

4. Subsection (d) gives the carrier an express right to indemnity where the carrier honors a seller's request to stop delivery.

5. Section 1-202 gives the bailee protection, if due diligence is exercised where the bailee's organization has not had time to act on a notification.

Cross References:

Point 1: Sections 2-403 and 7-506.

Point 2: Sections 2-403 and 2A-304.

Point 3: Sections 7-303, 7-403(a)(5), and 7-404.

Point 4: Sections 2-705 and 7-403(a)(4).

Point 5: Section 1-202.

Definitional Cross References:

"Bailee". Section 7-102.

"Bill of lading". Section 1-201.

"Buyer in ordinary course of business". Section 1-201.

"Consignee". Section 7-102.

"Consignor". Section 7-102.

"Creditor". Section 1-201.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Duly negotiate". Section 7-501.

"Good faith". Sections 1-201 and 7-102.

"Goods". Section 7-102.

"Honor". Section 1-201.

"Lessee in ordinary course". Section 2A-103.

"Notification". Section 1-202.

"Purchaser". Section 1-201.

“Rights”. Section 1-201.

7-505 Indorser not guarantor for other parties.

The indorsement of a tangible document of title issued by a bailee does not make the indorser liable for any default by the bailee or previous indorsers.

Source: Laws 2005, LB 570, § 90.

COMMENT

Prior Uniform Statutory Provision: Former section 7-505.

Changes: Limited to tangible documents of title.

Purposes:

This section is limited to tangible documents of title as the concept of indorsement is irrelevant to electronic documents of title. Electronic documents of title will be transferred by delivery of control. Section 7-106. The indorsement of a tangible document of title is generally understood to be directed towards perfecting the transferee’s rights rather than towards assuming additional obligations. The language of the present section, however, does not preclude the one case in which an indorsement given for value guarantees future action, namely, that in which the bailee has not yet become liable upon the document at the time of the indorsement. Under such circumstances the indorser, of course, engages that appropriate honor of the

document by the bailee will occur. See section 7-502(a)(4) as to negotiable delivery orders. However, even in such a case, once the bailee attorns to the transferee, the indorser’s obligation has been fulfilled and the policy of this section excludes any continuing obligation on the part of the indorser for the bailee’s ultimate actual performance.

Cross References:

Sections 7-106 and 7-502.

Definitional Cross References:

“Bailee”. Section 7-102.

“Document of title”. Section 1-201.

“Party”. Section 1-201.

7-506 Delivery without indorsement: right to compel indorsement.

The transferee of a negotiable tangible document of title has a specifically enforceable right to have its transferor supply any necessary indorsement, but the transfer becomes a negotiation only as of the time the indorsement is supplied.

Source: Laws 2005, LB 570, § 91.

COMMENT

Prior Uniform Statutory Provision: Former section 7-506.

Changes: Limited to tangible documents of title.

Purposes:

1. This section is limited to tangible documents of title as the concept of indorsement is irrelevant to electronic documents of title. Electronic documents of title will be transferred by delivery of control. Section 7-106. From a commercial point of view the intention to transfer a tangible negotiable document of title which requires an indorsement for its transfer, is incompatible with an intention to withhold such indorsement and so defeat the effective use of the document. Further, the preceding section and the comment thereto make it clear that an indorsement generally imposes no responsibility on the indorser.

2. Although this section provides that delivery of a tangible document of title without the necessary indorsement is effective

as a transfer, the transferee, of course, has not regularized its position until such indorsement is supplied. Until this is done the transferee cannot claim rights under due negotiation within the requirements of this article (section 7-501(a)(5)) on “due negotiation”. Similarly, despite the transfer to the transferee of the transferor’s title, the transferee cannot demand the goods from the bailee until the negotiation has been completed and the document is in proper form for surrender. See section 7-403(c).

Cross References:

Point 1: Sections 7-106 and 7-505.

Point 2: Sections 7-403(c) and 7-501(a)(5).

Definitional Cross References:

“Document of title”. Section 1-201.

“Rights”. Section 1-201.

7-507 Warranties on negotiation or delivery of document of title.

If a person negotiates or delivers a document of title for value, otherwise than as a mere intermediary under section 7-508, unless otherwise agreed, the transferor, in addition to any warranty made in selling or leasing the goods, warrants to its immediate purchaser only that:

- (1) the document is genuine;
- (2) the transferor does not have knowledge of any fact that would impair the document’s validity or worth; and
- (3) the negotiation or delivery is rightful and fully effective with respect to the title to the document and the goods it represents.

Source: Laws 2005, LB 570, § 92.

COMMENT

Prior Uniform Statutory Provision: Former section 7-507.

Changes: Substitution of the word “delivery” for the word “transfer”, reference leasing transactions and style.

Purposes:

1. Delivery of goods by use of a document of title does not limit or displace the ordinary obligations of a seller or lessor as to any warranties regarding the goods that arise under other law. If the transfer of documents attends or follows the making of a contract for the sale or lease of goods, the general obligations on warranties as to the goods (sections 2-312 through 2-318 and 2A-210 through 2A-316) are brought to bear as well as the special warranties under this section.

2. The limited warranties of a delivering or collecting intermediary, including a collecting bank, are stated in section 7-508.

Cross References:

Point 1: Sections 2-312 through 2-318 and 2A-310 through 2A-316.

Point 2: Section 7-508.

Definitional Cross References:

“Delivery”. Section 1-201.

“Document of title”. Section 1-201.

“Genuine”. Section 1-201.

“Goods”. Section 7-102.

“Person”. Section 1-201.

“Purchaser”. Section 1-201.

“Value”. Section 1-204.

7-508 Warranties of collecting bank as to documents of title.

A collecting bank or other intermediary known to be entrusted with documents of title on behalf of another or with collection of a draft or other claim against delivery of documents warrants by the delivery of the documents only its own good faith and authority even if the collecting bank or other intermediary has purchased or made advances against the claim or draft to be collected.

Source: Laws 2005, LB 570, § 93.

COMMENT

Prior Uniform Statutory Provision: Former section 7-508.

Changes: Changes for style only.

Purposes:

1. To state the limited warranties given with respect to the documents accompanying a documentary draft.

2. In warranting its authority a collecting bank or other intermediary only warrants its authority from its transferor. See section 4-203. It does not warrant the genuineness or effectiveness of the document. Compare section 7-507.

3. Other duties and rights of banks handling documentary drafts for collection are stated in article 4, part 5. On the

meaning of draft, see section 4-104 and section 5-103, comment 11.

Cross References:

Sections 4-104, 4-203, 4-501 through 4-504, 5-102, and 7-507.

Definitional Cross References:

“Collecting bank”. Section 4-105.

“Delivery”. Section 1-201.

“Document of title”. Section 1-102.

“Documentary draft”. Section 4-104.

“Intermediary bank”. Section 4-105.

“Good faith”. Sections 1-201 and 7-102.

7-509 Adequate compliance with commercial contract.

Whether a document of title is adequate to fulfill the obligations of a contract for sale, a contract for lease, or the conditions of a letter of credit is determined by article 2, 2A, or 5.

Source: Laws 2005, LB 570, § 94.

COMMENT

Prior Uniform Statutory Provision: Former section 7-509.

Changes: To reference article 2A.

Purposes:

To cross-refer to the articles of this code which deal with the substantive issues of the type of document of title required under the contract entered into by the parties.

Cross References:

Articles 2, 2A, and 5.

Definitional Cross References:

“Contract for sale”. Section 2-106.

“Document of title”. Section 1-201.

“Lease”. Section 2A-103.

Part 6

WAREHOUSE RECEIPTS AND BILLS OF LADING: MISCELLANEOUS PROVISIONS

7-601 Lost, stolen, or destroyed documents of title.

(a) If a document of title is lost, stolen, or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with the order. If the document was negotiable, a court may not order delivery of the goods or issuance of a substitute document without the claimant's posting security unless it finds that any person that may suffer loss as a result of nonsurrender of possession or control of the document is adequately protected against the loss. If the document was nonnegotiable, the court may require security. The court may also order payment of the bailee's reasonable costs and attorney's fees in any action under this subsection.

(b) A bailee that, without a court order, delivers goods to a person claiming under a missing negotiable document of title is liable to any person injured thereby. If the delivery is not in good faith, the bailee is liable for conversion. Delivery in good faith is not conversion if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery which files a notice of claim within one year after the delivery.

Source: Laws 2005, LB 570, § 95.

COMMENT

Prior Uniform Statutory Provision: Former section 7-601.

Changes: To accommodate electronic documents; to provide flexibility to courts similar to the flexibility in section 3-309; to update to the modern era of deregulation; and for style.

Purposes:

1. Subsection (a) authorizes courts to order compulsory delivery of the goods or compulsory issuance of a substitute document. Compare section 7-402. Using language similar to that found in section 3-309, courts are given discretion as to what is adequate protection when the lost, stolen, or destroyed document was negotiable or whether security should be required when the lost, stolen, or destroyed document was nonnegotiable. In determining whether a party is adequately protected against loss in the case of a negotiable document, the court should consider the likelihood that the party will suffer a loss. The court is also given discretion as to the bailee's costs and attorney's fees. The rights and obligations of a bailee under this section depend upon whether the document of title is lost, stolen, or destroyed and is in addition to the ability of the bailee to bring an action for interpleader. See section 7-603.

2. Courts have the authority under this section to order a substitute document for either tangible or electronic documents. If the substitute document will be in a different medium than the original document, the court should fashion its order in light of the requirements of section 7-105.

3. Subsection (b) follows prior section 7-601 in recognizing the legality of the well established commercial practice of bailees making delivery in good faith when they are satisfied that the claimant is the person entitled under a missing (i.e. lost, stolen, or destroyed) negotiable document. Acting without a court order, the bailee remains liable on the original negotiable document and, to avoid conversion liability, the bailee may

insist that the claimant provide an indemnity bond. Compare section 7-403.

4. Claimants on nonnegotiable instruments are permitted to avail themselves of the subsection (a) procedure because straight (nonnegotiable) bills of lading sometimes contain provisions that the goods shall not be delivered except upon production of the bill. If the carrier should choose to insist upon production of the bill, the consignee should have some means of compelling delivery on satisfactory proof of entitlement. Without a court order, a bailee may deliver, subject to section 7-403, to a person claiming goods under a nonnegotiable document that the same person claims is lost, stolen, or destroyed.

5. The bailee's lien should be protected when a court orders delivery of the goods pursuant to this section.

Cross References:

Point 1: Sections 3-309, 7-402, and 7-603.

Point 2: Section 7-105.

Point 3: Section 7-403.

Point 4: Section 7-403.

Point 5: Sections 7-209 and 7-307.

Definitional Cross References:

"Bailee". Section 7-102.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Good faith". Sections 1-201 and 7-102.

"Goods". Section 7-102.

"Person". Section 1-201.

7-602 Judicial process against goods covered by negotiable document of title.

Unless a document of title was originally issued upon delivery of the goods by a person that did not have power to dispose of them, a lien does not attach by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless possession or control of the document is first surrendered to the bailee or the document's negotiation is enjoined. The bailee may not be compelled to deliver the goods pursuant to

process until possession or control of the document is surrendered to the bailee or to the court. A purchaser of the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

Source: Laws 2005, LB 570, § 96.

COMMENT

Prior Uniform Statutory Provisions: Former section 7-602.

Changes: Changes to accommodate electronic documents of title and for style.

Purposes:

1. The purpose of the section is to protect the bailee from conflicting claims of the document of title holder and the judgment creditors of the person who deposited the goods. The rights of the former prevail unless, in effect, the judgment creditors immobilize the negotiable document of title through the surrender of possession of a tangible document or control of an electronic document. However, if the document of title was issued upon deposit of the goods by a person who had no power to dispose of the goods so that the document is ineffective to pass title, judgment liens are valid to the extent of the debtor's interest in the goods.

2. The last sentence covers the possibility that the holder of a document who has been enjoined from negotiating it will violate

the injunction by negotiating to an innocent purchaser for value. In such case the lien will be defeated.

Cross References:

Sections 7-106 and 7-501 through 7-503.

Definitional Cross References:

"Bailee". Section 7-102.

"Delivery". Section 1-201.

"Document of title". Section 1-201.

"Goods". Section 7-102.

"Notice". Section 1-202.

"Person". Section 1-201.

"Purchase". Section 1-201.

"Value". Section 1-204.

7-603 Conflicting claims; interpleader.

If more than one person claims title to or possession of the goods, the bailee is excused from delivery until the bailee has a reasonable time to ascertain the validity of the adverse claims or to commence an action for interpleader. The bailee may assert an interpleader either in defending an action for nondelivery of the goods or by original action.

Source: Laws 2005, LB 570, § 97.

COMMENT

Prior Uniform Statutory Provisions: Former section 7-603.

Changes: Changes for style only.

Purposes:

1. The section enables a bailee faced with conflicting claims to the goods to compel the claimants to litigate their claims with each other rather than with the bailee. The bailee is protected from legal liability when the bailee complies with court orders from the interpleader. See e.g. *Northwestern National Sales, Inc. v. Commercial Cold Storage, Inc.*, 162 Ga. App. 741, 293 S.E.2d. 30 (1982).

2. This section allows the bailee to bring an interpleader action but does not provide an exclusive basis for allowing interpleader. If either state or federal procedural rules allow an interpleader in other situations, the bailee may commence an interpleader under those rules. Even in an interpleader to which this section applies, the state or federal process of interpleader

applies to the bailee's action for interpleader. For example, state or federal interpleader statutes or rules may permit a bailee to protect its lien or to seek attorney's fees and costs in the interpleader action.

Cross references:

Point 1: Section 7-403.

Definitional Cross References:

"Action". Section 1-201.

"Bailee". Section 7-102.

"Delivery". Section 1-201.

"Goods". Section 7-102.

"Person". Section 1-201.

"Reasonable time". Section 1-205.

Part 7

MISCELLANEOUS PROVISIONS

7-701 Omitted.

7-702 Omitted.

7-703 Applicability.

This article applies to a document of title that is issued or a bailment that arises on or after January 1, 2006. This article does not apply to a document of

title that is issued or a bailment that arises before January 1, 2006, even if the document of title or bailment would be subject to this article if the document of title had been issued or bailment had arisen on or after January 1, 2006. This article does not apply to a right of action that has accrued before January 1, 2006.

Source: Laws 2005, LB 570, § 98.

COMMENT

This article will apply prospectively only to documents of title issued or bailments that arise after the operative date of this article.

7-704 Savings clause.

A document of title issued or a bailment that arises before January 1, 2006, and the rights, obligations, and interests flowing from that document or bailment are governed by any statute or other rule amended or repealed by Laws 2005, LB 570, as if amendment or repeal had not occurred and may be terminated, completed, consummated, or enforced under that statute or other rule.

Source: Laws 2005, LB 570, § 99.

COMMENT

This article will apply prospectively only to documents of title issued or bailments that arise after the operative date of this article. To the extent that issues arise based upon documents of title or rights or obligations that arise prior to the operative date of this article, prior law will apply to resolve those issues.

ARTICLE 8

INVESTMENT SECURITIES

Part 1. SHORT TITLE AND GENERAL MATTERS

Section

8-103. Rules for determining whether certain obligations and interests are securities or financial assets.

Part 1

SHORT TITLE AND GENERAL MATTERS

8-103 Rules for determining whether certain obligations and interests are securities or financial assets.

(a) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(b) An “investment company security” is a security. “Investment company security” means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article, or it is

an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by this article and not by article 3, even though it also meets the requirements of that article. However, a negotiable instrument governed by article 3 is a financial asset if it is held in a securities account.

(e) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(f) A commodity contract, as defined in section 9-102(a)(15), is not a security or a financial asset.

(g) A document of title is not a financial asset unless section 8-102(a)(9)(iii) applies.

Source: Laws 1995, LB 97, § 7; Laws 1999, LB 550, § 66; Laws 2005, LB 570, § 100.

COMMENT

1. This section contains rules that supplement the definitions of “financial asset” and “security” in section 8-102. The section 8-102 definitions are worded in general terms, because they must be sufficiently comprehensive and flexible to cover the wide variety of investment products that now exist or may develop. The rules in this section are intended to foreclose interpretive issues concerning the application of the general definitions to several specific investment products. No implication is made about the application of the section 8-102 definitions to investment products not covered by this section.

2. Subsection (a) establishes an unconditional rule that ordinary corporate stock is a security. That is so whether or not the particular issue is dealt in or traded on securities exchanges or in securities markets. Thus, shares of closely held corporations are article 8 securities.

3. Subsection (b) establishes that the article 8 term “security” includes the various forms of the investment vehicles offered to the public by investment companies registered as such under the federal Investment Company Act of 1940, as amended. This clarification is prompted principally by the fact that the typical transaction in shares of open-end investment companies is an issuance or redemption, rather than a transfer of shares from one person to another as is the case with ordinary corporate stock. For similar reasons, the definitions of indorsement, instruction, and entitlement order in section 8-102 refer to “redemptions” as well as “transfers”, to ensure that the article 8 rules on such matters as signature guaranties, section 8-306, assurances, sections 8-402 and 8-507, and effectiveness, section 8-107, apply to directions to redeem mutual fund shares. The exclusion of insurance products is needed because some insurance company separate accounts are registered under the Investment Company Act of 1940, but these are not traded under the usual article 8 mechanics.

4. Subsection (c) is designed to foreclose interpretive questions that might otherwise be raised by the application of the “of a type” language of section 8-102(a)(15)(iii) to partnership interests. Subsection (c) establishes the general rule that partnership interests or shares of limited liability companies are not article 8 securities unless they are in fact dealt in or traded on securities exchanges or in securities markets. The issuer, however, may explicitly “opt-in” by specifying that the interests or shares are securities governed by article 8. Partnership interests or shares

of limited liability companies are included in the broader term “financial asset”. Thus, if they are held through a securities account, the indirect holding system rules of part 5 apply, and the interest of a person who holds them through such an account is a security entitlement.

5. Subsection (d) deals with the line between article 3 negotiable instruments and article 8 investment securities. It continues the rule of the prior version of article 8 that a writing that meets the article 8 definition is covered by article 8 rather than article 3, even though it also meets the definition of negotiable instrument. However, subsection (d) provides that an article 3 negotiable instrument is a “financial asset” so that the indirect holding system rules apply if the instrument is held through a securities intermediary. This facilitates making items such as money market instruments eligible for deposit in clearing corporations.

6. Subsection (e) is included to clarify the treatment of investment products such as traded stock options, which are treated as financial assets but not securities. Thus, the indirect holding system rules of part 5 apply, but the direct holding system rules of parts 2, 3, and 4 do not.

7. Subsection (f) excludes commodity contracts from all of article 8. However, the article 9 rules on security interests in investment property do apply to security interests in commodity positions. “Commodity contract” is defined in section 9-102(a)(15).

8. Subsection (g) allows a document of title to be a financial asset and thus subject to the indirect holding system rules of part 5 only to the extent that the intermediary and the person entitled under the document agree to do so. This is to prevent the inadvertent application of the part 5 rules to intermediaries who may hold either electronic or tangible documents of title.

Definitional Cross References:

“Clearing corporation”. Section 8-102(a)(5).

“Commodity contract”. Section 9-102(a)(15).

“Financial asset”. Section 8-102(a)(9).

“Security”. Section 8-102(a)(15).

“Security certificate”. Section 8-102(a)(16).

SECURED TRANSACTIONS

ARTICLE 9

SECURED TRANSACTIONS

Part 1. GENERAL PROVISIONS

Subpart 1. SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

Section

9-102. Definitions and index of definitions.

**Part 2. EFFECTIVENESS OF SECURITY AGREEMENT;
ATTACHMENT OF SECURITY INTEREST; RIGHTS
OF PARTIES TO SECURITY AGREEMENT**

Subpart 1. EFFECTIVENESS AND ATTACHMENT

9-203. Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites.

Subpart 2. RIGHTS AND DUTIES

9-207. Rights and duties of secured party having possession or control of collateral.

9-208. Additional duties of secured party having control of collateral.

Part 3. PERFECTION AND PRIORITY

Subpart 1. LAW GOVERNING PERFECTION AND PRIORITY

9-301. Law governing perfection and priority of security interests.

Subpart 2. PERFECTION

9-310. When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.

9-311. Perfection of security interests in property subject to certain statutes, regulations, and treaties.

9-312. Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.

9-313. When possession by or delivery to secured party perfects security interest without filing.

9-314. Perfection by control.

9-315. Secured party's rights on disposition of collateral and in proceeds.

Subpart 3. PRIORITY

9-317. Interests that take priority over or take free of security interest or agricultural lien.

9-320. Buyer of goods.

9-324. Priority of purchase-money security interests.

9-338. Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.

Part 5. FILING

**Subpart 1. FILING OFFICE; CONTENTS AND EFFECTIVENESS
OF FINANCING STATEMENT**

9-506. Effect of errors or omissions.

9-516. What constitutes filing; effectiveness of filing.

Subpart 2. DUTIES AND OPERATION OF FILING OFFICE

9-522. Maintenance and destruction of records.

9-525. Fees.

9-529. Secretary of State; implementation of centralized computer system.

9-531. Uniform Commercial Code Cash Fund; created; use; Secretary of State; duties; fees.

Section

Part 6. DEFAULT

Subpart 1. DEFAULT AND ENFORCEMENT OF SECURITY INTEREST

9-601. Rights after default; judicial enforcement; consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.

Part 7. TRANSITION

9-705. Effectiveness of action taken before July 1, 2001.

9-707. Amendment of pre-operative-date financing statement.

Part 1

GENERAL PROVISIONS

Subpart 1

SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

9-102 Definitions and index of definitions.

(a) In this article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account", except as used in "account for", means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting", except as used in "accounting for", means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) which secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

The term also includes every lien created under sections 52-202, 52-501, 52-701, 52-901, 52-1101, 52-1201, 54-201, and 54-208, Reissue Revised Statutes of Nebraska, and Chapter 52, article 14, Reissue Revised Statutes of Nebraska.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

(B) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subdivision, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is

evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) “Collateral” means the property subject to a security interest or agricultural lien. The term includes:

(A) proceeds to which a security interest attaches;

(B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) goods that are the subject of a consignment.

(13) “Commercial tort claim” means a claim arising in tort with respect to which:

(A) the claimant is an organization; or

(B) the claimant is an individual and the claim:

(i) arose in the course of the claimant’s business or profession; and

(ii) does not include damages arising out of personal injury to or the death of an individual.

(14) “Commodity account” means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) “Commodity contract” means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) “Commodity customer” means a person for which a commodity intermediary carries a commodity contract on its books.

(17) “Commodity intermediary” means a person that:

(A) is registered as a futures commission merchant under federal commodities law; or

(B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) “Communicate” means:

(A) to send a written or other tangible record;

(B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) “Consignee” means a merchant to which goods are delivered in a consignment.

(20) “Consignment” means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) the merchant:

(i) deals in goods of that kind under a name other than the name of the person making delivery;

(ii) is not an auctioneer; and

(iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) with respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery;

(C) the goods are not consumer goods immediately before delivery; and

(D) the transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee in a consignment.

(22) "Consumer debtor" means a debtor in a consumer transaction.

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) "Consumer-goods transaction" means a consumer transaction in which:

(A) an individual incurs an obligation primarily for personal, family, or household purposes; and

(B) a security interest in consumer goods secures the obligation.

(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means:

(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) a consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in section 7-201(b).

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) “Encumbrance” means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) “Equipment” means goods other than inventory, farm products, or consumer goods.

(34) “Farm products” means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) crops grown, growing, or to be grown, including:

(i) crops produced on trees, vines, and bushes; and

(ii) aquatic goods produced in aquacultural operations;

(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) supplies used or produced in a farming operation; or

(D) products of crops or livestock in their unmanufactured states.

(35) “Farming operation” means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) “File number” means the number assigned to an initial financing statement pursuant to section 9-519(a).

(37) “Filing office” means an office designated in section 9-501 as the place to file a financing statement.

(38) “Filing-office rule” means a rule adopted pursuant to section 9-526.

(39) “Financing statement” means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) “Fixture filing” means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) “Fixtures” means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) “General intangible” means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(44) “Goods” means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that

consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment including, but not limited to, a writing that would otherwise qualify as a certificate of deposit (defined in section 3-104(j)) but for the fact that the writing contains a limitation on transfer. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, which:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service; or

(D) consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment.

(53) “Manufactured home” means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(54) “Manufactured-home transaction” means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) “Mortgage” means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) “New debtor” means a person that becomes bound as debtor under section 9-203(d) by a security agreement previously entered into by another person.

(57) “New value” means (i) money, (ii) money’s worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) “Noncash proceeds” means proceeds other than cash proceeds.

(59) “Obligor” means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) “Original debtor”, except as used in section 9-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 9-203(d).

(61) “Payment intangible” means a general intangible under which the account debtor’s principal obligation is a monetary obligation.

(62) “Person related to”, with respect to an individual, means:

(A) the spouse of the individual;

(B) a brother, brother-in-law, sister, or sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual’s spouse; or

(D) any other relative, by blood or marriage, of the individual or the individual’s spouse who shares the same home with the individual.

(63) “Person related to”, with respect to an organization, means:

(A) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) an officer or director of, or a person performing similar functions with respect to, the organization;

(C) an officer or director of, or a person performing similar functions with respect to, a person described in subdivision (A);

(D) the spouse of an individual described in subdivision (A), (B), or (C); or

(E) an individual who is related by blood or marriage to an individual described in subdivision (A), (B), (C), or (D) and shares the same home with the individual.

(64) "Proceeds", except as used in section 9-609(b), means the following property:

(A) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) whatever is collected on, or distributed on account of, collateral;

(C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 9-620, 9-621, and 9-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least twenty years; and

(C) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(69) "Record", except as used in "for record", "of record", "record or legal title", and "record owner", means information that is inscribed on a tangible

medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(70) “Registered organization” means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(71) “Secondary obligor” means an obligor to the extent that:

(A) the obligor’s obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) “Secured party” means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under section 2-401, 2-505, 2-711(3), 2A-508(5), 4-210, or 5-118.

(73) “Security agreement” means an agreement that creates or provides for a security interest.

(74) “Send”, in connection with a record or notification, means:

(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subdivision (A).

(75) “Software” means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(76) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(77) “Supporting obligation” means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(78) “Tangible chattel paper” means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(79) “Termination statement” means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(80) "Transmitting utility" means a person primarily engaged in the business of:

(A) operating a railroad, subway, street railway, or trolley bus;

(B) transmitting communications electrically, electromagnetically, or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) "Control" as provided in section 7-106 and the following definitions in other articles apply to this article:

"Applicant".	Section 5-102.
"Beneficiary".	Section 5-102.
"Broker".	Section 8-102.
"Certificated security".	Section 8-102.
"Check".	Section 3-104.
"Clearing corporation".	Section 8-102.
"Contract for sale".	Section 2-106.
"Customer".	Section 4-104.
"Entitlement holder".	Section 8-102.
"Financial asset".	Section 8-102.
"Holder in due course".	Section 3-302.
"Issuer" (with respect to a letter of credit or letter-of-credit right).	Section 5-102.
"Issuer" (with respect to a security).	Section 8-201.
"Issuer" (with respect to documents of title).	Section 7-102.
"Lease".	Section 2A-103.
"Lease agreement".	Section 2A-103.
"Lease contract".	Section 2A-103.
"Leasehold interest".	Section 2A-103.
"Lessee".	Section 2A-103.
"Lessee in ordinary course of business".	Section 2A-103.
"Lessor".	Section 2A-103.
"Lessor's residual interest".	Section 2A-103.
"Letter of credit".	Section 5-102.
"Merchant".	Section 2-104.
"Negotiable instrument".	Section 3-104.
"Nominated person".	Section 5-102.
"Note".	Section 3-104.
"Proceeds of a letter of credit".	Section 5-114.
"Prove".	Section 3-103.
"Sale".	Section 2-106.
"Securities account".	Section 8-501.
"Securities intermediary".	Section 8-102.
"Security".	Section 8-102.
"Security certificate".	Section 8-102.
"Security entitlement".	Section 8-102.
"Uncertificated security".	Section 8-102.

(c) Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 1999, LB 550, § 75; Laws 2000, LB 929, § 25; Laws 2001, LB 54, § 28; Laws 2005, LB 570, § 101.

COMMENT

1. **Source.** All terms that are defined in article 9 and used in more than one section are consolidated in this section. Note that the definition of “security interest” is found in section 1-201, not in this article, and has been revised. See appendix I. Many of the definitions in this section are new; many others derive from those in former section 9-105. The following comments also indicate other sections of former article 9 that defined (or explained) terms.

2. Parties to Secured Transactions.

a. **“Debtor”; “Obligor”; “Secondary Obligor”.** Determining whether a person was a “debtor” under former section 9-105(1)(d) required a close examination of the context in which the term was used. To reduce the need for this examination, this article redefines “debtor” and adds new defined terms, “secondary obligor” and “obligor”. In the context of part 6 (default and enforcement), these definitions distinguish among three classes of persons: (i) Those persons who may have a stake in the proper enforcement of a security interest by virtue of their nonlien property interest (typically, an ownership interest) in the collateral; (ii) those persons who may have a stake in the proper enforcement of the security interest because of their obligation to pay the secured debt; and (iii) those persons who have an obligation to pay the secured debt but have no stake in the proper enforcement of the security interest. Persons in the first class are debtors. Persons in the second class are secondary obligors if any portion of the obligation is secondary or if the obligor has a right of recourse against the debtor or another obligor with respect to an obligation secured by collateral. One must consult the law of suretyship to determine whether an obligation is secondary. The Restatement (3d), Suretyship and Guaranty section 1 (1996), contains a useful explanation of the concept. Obligor in the third class are neither debtors nor secondary obligors. With one exception (section 9-616, as it relates to a consumer obligor), the rights and duties provided by part 6 affect nondebtor obligors only if they are “secondary obligors”.

By including in the definition of “debtor” all persons with a property interest (other than a security interest in or other lien on collateral), the definition includes transferees of collateral, whether or not the secured party knows of the transfer or the transferee’s identity. Exculpatory provisions in part 6 protect the secured party in that circumstance. See sections 9-605 and 9-628. The definition renders unnecessary former section 9-112, which governed situations in which collateral was not owned by the debtor. The definition also includes a “consignee”, as defined in this section, as well as a seller of accounts, chattel paper, payment intangibles, or promissory notes.

Secured parties and other lienholders are excluded from the definition of “debtor” because the interests of those parties normally derive from and encumber a debtor’s interest. However, if in a separate secured transaction a secured party grants, as debtor, a security interest in its own interest (i.e., its security interest and any obligation that it secures), the secured party is a debtor in that transaction. This typically occurs when a secured party with a security interest in specific goods assigns chattel paper.

Consider the following examples:

Example 1: Behnfeldt borrows money and grants a security interest in her Miata to secure the debt. Behnfeldt is a debtor and an obligor.

Example 2: Behnfeldt borrows money and grants a security interest in her Miata to secure the debt. Bruno cosigns a negotiable note as maker. As before, Behnfeldt is the debtor and an obligor. As an accommodation party (see section 3-419), Bruno is a secondary obligor. Bruno has this status even if the

note states that her obligation is a primary obligation and that she waives all suretyship defenses.

Example 3: Behnfeldt borrows money on an unsecured basis. Bruno cosigns the note and grants a security interest in her Honda to secure her obligation. Inasmuch as Behnfeldt does not have a property interest in the Honda, Behnfeldt is not a debtor. Having granted the security interest, Bruno is the debtor. Because Behnfeldt is a principal obligor, she is not a secondary obligor. Whatever the outcome of enforcement of the security interest against the Honda or Bruno’s secondary obligation, Bruno will look to Behnfeldt for her losses. The enforcement will not affect Behnfeldt’s aggregate obligations.

When the principal obligor (borrower) and the secondary obligor (surety) each has granted a security interest in different collateral, the status of each is determined by the collateral involved.

Example 4: Behnfeldt borrows money and grants a security interest in her Miata to secure the debt. Bruno cosigns the note and grants a security interest in her Honda to secure her obligation. When the secured party enforces the security interest in Behnfeldt’s Miata, Behnfeldt is the debtor, and Bruno is a secondary obligor. When the secured party enforces the security interest in the Honda, Bruno is the “debtor”. As in example 3, Behnfeldt is an obligor, but not a secondary obligor.

b. **“Secured Party”.** The secured party is the person in whose favor the security interest has been created, as determined by reference to the security agreement. This definition controls, among other things, which person has the duties and potential liability that part 6 imposes upon a secured party. The definition of “secured party” also includes a “consignor”, a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold, and the holder of an agricultural lien.

The definition of “secured party” clarifies the status of various types of representatives. Consider, for example, a multi-bank facility under which Bank A, Bank B, and Bank C are lenders and Bank A serves as the collateral agent. If the security interest is granted to the banks, then they are the secured parties. If the security interest is granted to Bank A as collateral agent, then Bank A is the secured party.

c. **Other Parties.** A “consumer obligor” is defined as the obligor in a consumer transaction. Definitions of “new debtor” and “original debtor” are used in the special rules found in sections 9-326 and 9-508.

3. Definitions Relating to Creation of a Security Interest.

a. **“Collateral”.** As under former section 9-105, “collateral” is the property subject to a security interest and includes accounts and chattel paper that have been sold. It has been expanded in this article. The term now explicitly includes proceeds subject to a security interest. It also reflects the broadened scope of the article. It includes property subject to an agricultural lien as well as payment intangibles and promissory notes that have been sold.

b. **“Security Agreement”.** The definition of “security agreement” is substantially the same as under former section 9-105—an agreement that creates or provides for a security interest. However, the term frequently was used colloquially in former article 9 to refer to the document or writing that contained a debtor’s security agreement. This article eliminates that usage, reserving the term for the more precise meaning specified in the definition.

Whether an agreement creates a security interest depends not on whether the parties intend that the law characterize the transaction as a security interest but rather on whether the transaction falls within the definition of “security interest” in

section 1-201. Thus, an agreement that the parties characterize as a “lease” of goods may be a “security agreement”, notwithstanding the parties’ stated intention that the law treat the transaction as a lease and not as a secured transaction. See section 1-203.

4. Goods—Related Definitions.

a. **“Goods”; “Consumer Goods”; “Equipment”; “Farm Products”; “Farming Operation”; “Inventory”.** The definition of “goods” is substantially the same as the definition in former section 9-105. This article also retains the four mutually-exclusive “types” of collateral that consist of goods: “Consumer goods”; “equipment”; “farm products”; and “inventory”. The revisions are primarily for clarification.

The classes of goods are mutually exclusive. For example, the same property cannot simultaneously be both equipment and inventory. In borderline cases—a physician’s car or a farmer’s truck that might be either consumer goods or equipment—the principal use to which the property is put is determinative. Goods can fall into different classes at different times. For example, a radio may be inventory in the hands of a dealer and consumer goods in the hands of a consumer. As under former article 9, goods are “equipment” if they do not fall into another category.

The definition of “consumer goods” follows former section 9-109. The classification turns on whether the debtor uses or bought the goods for use “primarily for personal, family, or household purposes”.

Goods are inventory if they are leased by a lessor or held by a person for sale or lease. The revised definition of “inventory” makes clear that the term includes goods leased by the debtor to others as well as goods held for lease. (The same result should have been obtained under the former definition.) Goods to be furnished or furnished under a service contract, raw materials, and work in process also are inventory. Implicit in the definition is the criterion that the sales or leases are or will be in the ordinary course of business. For example, machinery used in manufacturing is equipment, not inventory, even though it is the policy of the debtor to sell machinery when it becomes obsolete or worn. Inventory also includes goods that are consumed in a business (e.g., fuel used in operations). In general, goods used in a business are equipment if they are fixed assets or have, as identifiable units, a relatively long period of use, but are inventory, even though not held for sale or lease, if they are used up or consumed in a short period of time in producing a product or providing a service.

Goods are “farm products” if the debtor is engaged in farming operations with respect to the goods. Animals in a herd of livestock are covered whether the debtor acquires them by purchase or as a result of natural increase. Products of crops or livestock remain farm products as long as they have not been subjected to a manufacturing process. The terms “crops” and “livestock” are not defined. The new definition of “farming operations” is for clarification only.

Crops, livestock, and their products cease to be “farm products” when the debtor ceases to be engaged in farming operations with respect to them. If, for example, they come into the possession of a marketing agency for sale or distribution or of a manufacturer or processor as raw materials, they become inventory. Products of crops or livestock, even though they remain in the possession of a person engaged in farming operations, lose their status as farm products if they are subjected to a manufacturing process. What is and what is not a manufacturing operation is not specified in this article. At one end of the spectrum, some processes are so closely connected with farming—such as pasteurizing milk or boiling sap to produce maple syrup or sugar—that they would not constitute manufacturing. On the other hand an extensive canning operation would be manufacturing. Once farm products have been subjected to a manufacturing operation, they normally become inventory.

The revised definition of “farm products” clarifies the distinction between crops and standing timber and makes clear that aquatic goods produced in aquacultural operations may be either crops or livestock. Although aquatic goods that are vegetable in nature often would be crops and those that are animal

would be livestock, this article leaves the courts free to classify the goods on a case-by-case basis. See section 9-324, comment 11.

The definitions of “goods” and “software” are also mutually exclusive. Computer programs usually constitute “software”, and, as such, are not “goods” as this article uses the terms. However, under the circumstances specified in the definition of “goods”, computer programs embedded in goods are part of the “goods” and are not “software”.

b. **“Accession”; “Manufactured Home”; “Manufactured-Home Transaction”.** Other specialized definitions of goods include “accession” (see the special priority and enforcement rules in section 9-335), and “manufactured home” (see section 9-515, permitting a financing statement in a “manufactured-home transaction” to be effective for 30 years). The definition of “manufactured home” borrows from the federal Manufactured Housing Act, 42 U.S.C. section 5401 et seq., and is intended to have the same meaning.

c. **“As-Extracted Collateral”.** Under this article, oil, gas, and other minerals that have not been extracted from the ground are treated as real property, to which this article does not apply. Upon extraction, minerals become personal property (goods) and eligible to be collateral under this article. See the definition of “goods”, which excludes “oil, gas, and other minerals before extraction”. To take account of financing practices reflecting the shift from real to personal property, this article contains special rules for perfecting security interests in minerals which attach upon extraction and in accounts resulting from the sale of minerals at the wellhead or minehead. See, e.g., sections 9-301(4) (law governing perfection and priority), 9-501 (place of filing), 9-502 (contents of financing statement), and 9-519 (indexing of records). The new term, “as-extracted collateral”, refers to the minerals and related accounts to which the special rules apply. The term “at the wellhead” encompasses arrangements based on a sale of the produce at the moment that it issues from the ground and is measured, without technical distinctions as to whether title passes at the “Christmas tree” of a well, the far side of a gathering tank, or at some other point. The term “at ... the minehead” is comparable.

The following examples explain the operation of these provisions.

Example 5: Debtor owns an interest in oil that is to be extracted. To secure Debtor’s obligations to Lender, Debtor enters into an authenticated agreement granting Lender an interest in the oil. Although Lender may acquire an interest in the oil under real property law, Lender does not acquire a security interest under this article until the oil becomes personal property, i.e., until it is extracted and becomes “goods” to which this article applies. Because Debtor had an interest in the oil before extraction and Lender’s security interest attached to the oil as extracted, the oil is “as-extracted collateral”.

Example 6: Debtor owns an interest in oil that is to be extracted and contracts to sell the oil to Buyer at the wellhead. In an authenticated agreement, Debtor agrees to sell to Lender the right to payment from Buyer. This right to payment is an account that constitutes “as-extracted collateral”. If Lender then resells the account to Financer, Financer acquires a security interest. However, inasmuch as the debtor-seller in that transaction, Lender, had no interest in the oil before extraction, Financer’s collateral (the account it owns) is not “as-extracted collateral”.

Example 7: Under the facts of example 6, before extraction, Buyer grants a security interest in the oil to Bank. Although Bank’s security interest attaches when the oil is extracted, Bank’s security interest is not in “as-extracted collateral”, inasmuch as its debtor, Buyer, did not have an interest in the oil before extraction.

5. Receivables—Related Definitions.

a. **“Account”; “Health-Care-Insurance Receivable”; “As-Extracted Collateral”.** The definition of “account” has been expanded and reformulated. It is no longer limited to rights to payment relating to goods or services. Many categories of rights to payment that were classified as general intangibles under former article 9 are accounts under this article. Thus, if they are

sold, a financing statement must be filed to perfect the buyer's interest in them. Among the types of property that are expressly excluded from the definition is "a right to payment for money or funds advanced or sold". As defined in section 1-201, "money" is limited essentially to currency. As used in the exclusion from the definition of "account", however, "funds" is a broader concept (although the term is not defined). For example, when a bank-lender credits a borrower's deposit account for the amount of a loan, the bank's advance of funds is not a transaction giving rise to an account.

The definition of "health-care-insurance receivable" is new. It is a subset of the definition of "account". However, the rules generally applicable to account debtors on accounts do not apply to insurers obligated on health-care-insurance receivables. See sections 9-404(e), 9-405(d), and 9-406(i).

Note that certain accounts also are "as-extracted collateral". See comment 4(c), examples 6 and 7.

b. "Chattel Paper"; "Electronic Chattel Paper"; "Tangible Chattel Paper". "Chattel paper" consists of a monetary obligation together with a security interest in or a lease of specific goods if the obligation and security interest or lease are evidenced by "a record or records". The definition has been expanded from that found in former article 9 to include records that evidence a monetary obligation and a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, or a lease of specific goods and license of software used in the goods. The expanded definition covers transactions in which the debtor's or lessee's monetary obligation includes amounts owed with respect to software used in the goods. The monetary obligation with respect to the software need not be owed under a license from the secured party or lessor, and the secured party or lessor need not be a party to the license transaction itself. Among the types of monetary obligations that are included in "chattel paper" are amounts that have been advanced by the secured party or lessor to enable the debtor or lessee to acquire or obtain financing for a license of the software used in the goods. The definition also makes clear that rights to payment arising out of credit card transactions are not chattel paper.

Charters of vessels are expressly excluded from the definition of chattel paper; they are accounts. The term "charter" as used in this section includes bareboat charters, time charters, successive voyage charters, contracts of affreightment, contracts of carriage, and all other arrangements for the use of vessels.

Under former section 9-105, only if the evidence of an obligation consisted of "a writing or writings" could an obligation qualify as chattel paper. In this article, traditional, written chattel paper is included in the definition of "tangible chattel paper". "Electronic chattel paper" is chattel paper that is stored in an electronic medium instead of in tangible form. The concept of an electronic medium should be construed liberally to include electrical, digital, magnetic, optical, electromagnetic, or any other current or similar emerging technologies.

The definition of electronic chattel paper does not dictate that it be created in any particular fashion. For example, a record consisting of a tangible writing may be converted to electronic form (e.g., by creating electronic images of a signed writing). Or, records may be initially created and executed in electronic form (e.g., a lessee might authenticate an electronic record of a lease that is then stored in electronic form). In either case the resulting records are electronic chattel paper.

c. "Instrument"; "Promissory Note". The definition of "instrument" includes a negotiable instrument. As under former section 9-105, it also includes any other right to payment of a monetary obligation that is evidenced by a writing of a type that in ordinary course of business is transferred by delivery (and, if necessary, an indorsement or assignment). Except in the case of chattel paper, the fact that an instrument is secured by a security interest or encumbrance on property does not change the character of the instrument as such or convert the combination of the instrument and collateral into a separate classification of personal property. The definition makes clear that rights to payment arising out of credit card transactions are not instruments. The definition of "promissory note" is new, neces-

sitated by the inclusion of sales of promissory notes within the scope of article 9. It explicitly excludes obligations arising out of "orders" to pay (e.g., checks) as opposed to "promises" to pay. See section 3-104.

d. "General Intangible"; "Payment Intangible". "General intangible" is the residual category of personal property, including things in action, that is not included in the other defined types of collateral. Examples are various categories of intellectual property and the right to payment of a loan of funds that is not evidenced by chattel paper or an instrument. As used in the definition of "general intangible", "things in action" includes rights that arise under a license of intellectual property, including the right to exploit the intellectual property without liability for infringement. The definition has been revised to exclude commercial tort claims, deposit accounts, and letter-of-credit rights. Each of the three is a separate type of collateral. One important consequence of this exclusion is that tortfeasors (commercial tort claims), banks (deposit accounts), and persons obligated on letters of credit (letter-of-credit rights) are not "account debtors" having the rights and obligations set forth in sections 9-404, 9-405, and 9-406. In particular, tortfeasors, banks, and persons obligated on letters of credit are not obligated to pay an assignee (secured party) upon receipt of the notification described in section 9-404(a). See comment 5(h). Another important consequence relates to the adequacy of the description in the security agreement. See section 9-108.

"Payment intangible" is a subset of the definition of "general intangible". The sale of a payment intangible is subject to this article. See section 9-109(a)(3). Virtually any intangible right could give rise to a right to payment of money once one hypothesizes, for example, that the account debtor is in breach of its obligation. The term "payment intangible", however, embraces only those general intangibles "under which the account debtor's principal obligation is a monetary obligation".

In classifying intangible collateral, a court should begin by identifying the particular rights that have been assigned. The account debtor (promisor) under a particular contract may owe several types of monetary obligations as well as other, nonmonetary obligations. If the promisee's right to payment of money is assigned separately, the right is an account or payment intangible, depending on how the account debtor's obligation arose. When all the promisee's rights are assigned together, an account, a payment intangible, and a general intangible all may be involved, depending on the nature of the rights.

A right to the payment of money is frequently buttressed by ancillary covenants, such as covenants in a purchase agreement, note, or mortgage requiring insurance on the collateral or forbidding removal of the collateral, or covenants to preserve the creditworthiness of the promisor, such as covenants restricting dividends and the like. This article does not treat these ancillary rights separately from the rights to payment to which they relate. For example, attachment and perfection of an assignment of a right to payment of a monetary obligation, whether it be an account or payment intangible, also carries these ancillary rights.

Every "payment intangible" is also a "general intangible". Likewise, "software" is a "general intangible" for purposes of this article. See comment 25. Accordingly, except as otherwise provided, statutory provisions applicable to general intangibles apply to payment intangibles and software.

e. "Letter-of-Credit Right". The term "letter-of-credit right" embraces the rights to payment and performance under a letter of credit (defined in section 5-102). However, it does not include a beneficiary's right to demand payment or performance. Transfer of those rights to a transferee beneficiary is governed by article 5. See sections 9-107, comment 4, and 9-329, comments 3 and 4.

f. "Supporting Obligation". This new term covers the most common types of credit enhancements - suretyship obligations (including guarantees) and letter-of-credit rights that support one of the types of collateral specified in the definition. As explained in comment 2(a), suretyship law determines whether an obligation is "secondary" for purposes of this definition. Section 9-109 generally excludes from this article transfers of

interests in insurance policies. However, the regulation of a secondary obligation as an insurance product does not necessarily mean that it is a “policy of insurance” for purposes of the exclusion in section 9-109. Thus, this article may cover a secondary obligation (as a supporting obligation), even if the obligation is issued by a regulated insurance company and the obligation is subject to regulation as an “insurance” product.

This article contains rules explicitly governing attachment, perfection, and priority of security interests in supporting obligations. See sections 9-203, 9-308, 9-310, and 9-322. These provisions reflect the principle that a supporting obligation is an incident of the collateral it supports.

Collections of or other distributions under a supporting obligation are “proceeds” of the supported collateral as well as “proceeds” of the supporting obligation itself. See section 9-102 (defining “proceeds”) and comment 13(b). As such, the collections and distributions are subject to the priority rules applicable to proceeds generally. See section 9-322. However, under the special rule governing security interests in a letter-of-credit right, a secured party’s failure to obtain control (section 9-107) of a letter-of-credit right supporting collateral may leave its security interest exposed to a priming interest of a party who does take control. See section 9-329 (security interest in a letter-of-credit right perfected by control has priority over a conflicting security interest).

g. “Commercial Tort Claim”. This term is new. A tort claim may serve as original collateral under this article only if it is a “commercial tort claim”. See section 9-109(d). Although security interests in commercial tort claims are within its scope, this article does not override other applicable law restricting the assignability of a tort claim. See section 9-401. A security interest in a tort claim also may exist under this article if the claim is proceeds of other collateral.

h. “Account Debtor”. An “account debtor” is a person obligated on an account, chattel paper, or general intangible. The account debtor’s obligation often is a monetary obligation; however, this is not always the case. For example, if a franchisee uses its rights under a franchise agreement (a general intangible) as collateral, then the franchisor is an “account debtor”. As a general matter, article 3, and not article 9, governs obligations on negotiable instruments. Accordingly, the definition of “account debtor” excludes obligors on negotiable instruments constituting part of chattel paper. The principal effect of this change from the definition in former article 9 is that the rules in sections 9-403, 9-404, 9-405, and 9-406, dealing with the rights of an assignee and duties of an account debtor, do not apply to an assignment of chattel paper in which the obligation to pay is evidenced by a negotiable instrument. (Section 9-406(d), however, does apply to promissory notes, including negotiable promissory notes.) Rather, the assignee’s rights are governed by article 3. Similarly, the duties of an obligor on a nonnegotiable instrument are governed by nonarticle 9 law unless the nonnegotiable instrument is a part of chattel paper, in which case the obligor is an account debtor.

i. Receivables Under Government Entitlement Programs. This article does not contain a defined term that encompasses specifically rights to payment or performance under the many and varied government entitlement programs. Depending on the nature of a right under a program, it could be an account, a payment intangible, a general intangible other than a payment intangible, or another type of collateral. The right also might be proceeds of collateral (e.g., crops).

6. Investment-Property—Related Definitions: “Commodity Account”; “Commodity Contract”; “Commodity Customer”; “Commodity Intermediary”; “Investment Property”. These definitions are substantially the same as the corresponding definitions in former section 9-115. “Investment property” includes securities, both certificated and uncertificated, securities accounts, security entitlements, commodity accounts, and commodity contracts. The term investment property includes a “securities account” in order to facilitate transactions in which a debtor wishes to create a security interest in all of the investment positions held through a particular account rather than in particular positions carried in the account. Former section 9-115 was added in conjunction with revised article 8

and contained a variety of rules applicable to security interests in investment property. These rules have been relocated to the appropriate sections of article 9. See, e.g., sections 9-203 (attachment), 9-314 (perfection by control), and 9-328 (priority).

The terms “security”, “security entitlement”, and related terms are defined in section 8-102, and the term “securities account” is defined in section 8-501. The terms “commodity account”, “commodity contract”, “commodity customer”, and “commodity intermediary” are defined in this section. Commodity contracts are not “securities” or “financial assets” under article 8. See section 8-103(f). Thus, the relationship between commodity intermediaries and commodity customers is not governed by the indirect-holding-system rules of part 5 of article 8. For securities, article 9 contains rules on security interests, and article 8 contains rules on the rights of transferees, including secured parties, on such matters as the rights of a transferee if the transfer was itself wrongful and gives rise to an adverse claim. For commodity contracts, article 9 establishes rules on security interests, but questions of the sort dealt with in article 8 for securities are left to other law.

The indirect-holding-system rules of article 8 are sufficiently flexible to be applied to new developments in the securities and financial markets, where that is appropriate. Accordingly, the definition of “commodity contract” is narrowly drafted to ensure that it does not operate as an obstacle to the application of the article 8 indirect-holding-system rules to new products. The term “commodity contract” covers those contracts that are traded on or subject to the rules of a designated contract market and foreign commodity contracts that are carried on the books of American commodity intermediaries. The effect of this definition is that the category of commodity contracts that is excluded from article 8 but governed by article 9 is essentially the same as the category of contracts that falls within the exclusive regulatory jurisdiction of the federal Commodity Futures Trading Commission.

Commodity contracts are different from securities or other financial assets. A person who enters into a commodity futures contract is not buying an asset having a certain value and holding it in anticipation of increase in value. Rather the person is entering into a contract to buy or sell a commodity at set price for delivery at a future time. That contract may become advantageous or disadvantageous as the price of the commodity fluctuates during the term of the contract. The rules of the commodity exchanges require that the contracts be marked to market on a daily basis; that is, the customer pays or receives any increment attributable to that day’s price change. Because commodity customers may incur obligations on their contracts, they are required to provide collateral at the outset, known as “original margin”, and may be required to provide additional amounts, known as “variation margin”, during the term of the contract.

The most likely setting in which a person would want to take a security interest in a commodity contract is where a lender who is advancing funds to finance an inventory of a physical commodity requires the borrower to enter into a commodity contract as a hedge against the risk of decline in the value of the commodity. The lender will want to take a security interest in both the commodity itself and the hedging commodity contract. Typically, such arrangements are structured as security interests in the entire commodity account in which the borrower carries the hedging contracts, rather than in individual contracts.

One important effect of including commodity contracts and commodity accounts in article 9 is to provide a clearer legal structure for the analysis of the rights of commodity clearing organizations against their participants and futures commission merchants against their customers. The rules and agreements of commodity clearing organizations generally provide that the clearing organization has the right to liquidate any participant’s positions in order to satisfy obligations of the participant to the clearing corporation. Similarly, agreements between futures commission merchants and their customers generally provide that the futures commission merchant has the right to liquidate a customer’s positions in order to satisfy obligations of the customer to the futures commission merchant.

The main property that a commodity intermediary holds as collateral for the obligations that the commodity customer may incur under its commodity contracts is not other commodity contracts carried by the customer but the other property that the customer has posted as margin. Typically, this property will be securities. The commodity intermediary's security interest in such securities is governed by the rules of this article on security interests in securities, not the rules on security interests in commodity contracts or commodity accounts.

Although there are significant analytic and regulatory differences between commodities and securities, the development of commodity contracts on financial products in the past few decades has resulted in a system in which the commodity markets and securities markets are closely linked. The rules on security interests in commodity contracts and commodity accounts provide a structure that may be essential in times of stress in the financial markets. Suppose, for example that a firm has a position in a securities market that is hedged by a position in a commodity market, so that payments that the firm is obligated to make with respect to the securities position will be covered by the receipt of funds from the commodity position. Depending upon the settlement cycles of the different markets, it is possible that the firm could find itself in a position where it is obligated to make the payment with respect to the securities position before it receives the matching funds from the commodity position. If cross-margining arrangements have not been developed between the two markets, the firm may need to borrow funds temporarily to make the earlier payment. The rules on security interests in investment property would facilitate the use of positions in one market as collateral for loans needed to cover obligations in the other market.

7. Consumer—Related Definitions: “Consumer Debtor”; “Consumer Goods”; “Consumer-goods transaction”; “Consumer Obligor”; “Consumer Transaction”. The definition of “consumer goods” (discussed above) is substantially the same as the definition in former section 9-109. The definitions of “consumer debtor”, “consumer obligor”, “consumer-goods transaction”, and “consumer transaction” have been added in connection with various new (and old) consumer-related provisions and to designate certain provisions that are inapplicable in consumer transactions.

“Consumer-goods transaction” is a subset of “consumer transaction”. Under each definition, both the obligation secured and the collateral must have a personal, family, or household purpose. However, “mixed” business and personal transactions also may be characterized as a consumer-goods transaction or consumer transaction. Subparagraph (A) of the definition of consumer-goods transactions and clause (i) of the definition of consumer transaction are primary purposes tests. Under these tests, it is necessary to determine the primary purpose of the obligation or obligations secured. Subparagraph (B) and clause (iii) of these definitions are satisfied if any of the collateral is consumer goods, in the case of a consumer-goods transaction, or “is held or acquired primarily for personal, family, or household purposes”, in the case of a consumer transaction. The fact that some of the obligations secured or some of the collateral for the obligation does not satisfy the tests (e.g., some of the collateral is acquired for a business purpose) does not prevent a transaction from being a “consumer transaction” or “consumer-goods transaction”.

8. Filing—Related Definitions: “Continuation Statement”; “File Number”; “Filing Office”; “Filing-Office Rule”; “Financing Statement”; “Fixture Filing”; “Manufactured-Home Transaction”; “New Debtor”; “Original Debtor”; “Public-Finance Transaction”; “Termination Statement”; “Transmitting Utility”. These definitions are used exclusively or primarily in the filing-related provisions in part 5. Most are self-explanatory and are discussed in the comments to part 5. A financing statement filed in a manufactured-home transaction or a public-finance transaction may remain effective for 30 years instead of the 5 years applicable to other financing statements. See section 9-515(b). The definitions relating to medium neutrality also are significant for the filing provisions. See comment 9.

The definition of “transmitting utility” has been revised to embrace the business of transmitting communications generally

to take account of new and future types of communications technology. The term designates a special class of debtors for whom separate filing rules are provided in part 5, thereby obviating the many local fixture filings that would be necessary under the rules of section 9-501 for a far-flung public-utility debtor. A transmitting utility will not necessarily be regulated by or operating as such in a jurisdiction where fixtures are located. For example, a utility might own transmission lines in a jurisdiction, although the utility generates no power and has no customers in the jurisdiction.

9. Definitions Relating to Medium Neutrality.

a. “Record”. In many, but not all, instances, the term “record” replaces the term “writing” and “written”. A “record” includes information that is in intangible form (e.g., electronically stored) as well as tangible form (e.g., written on paper). Given the rapid development and commercial adoption of modern communication and storage technologies, requirements that documents or communications be “written”, “in writing”, or otherwise in tangible form do not necessarily reflect or aid commercial practices.

A “record” need not be permanent or indestructible, but the term does not include any oral or other communication that is not stored or preserved by any means. The information must be stored on paper or in some other medium. Information that has not been retained other than through human memory does not qualify as a record. Examples of current technologies commercially used to communicate or store information include, but are not limited to, magnetic media, optical discs, digital voice messaging systems, electronic mail, audio tapes, and photographic media, as well as paper. “Record” is an inclusive term that includes all of these methods of storing or communicating information. Any “writing” is a record. A record may be authenticated. See comment 9(b). A record may be created without the knowledge or intent of a particular person.

Like the terms “written” or “in writing”, the term “record” does not establish the purposes, permitted uses, or legal effect that a record may have under any particular provision of law. Whatever is filed in the article 9 filing system, including financing statements, continuation statements, and termination statements, whether transmitted in tangible or intangible form, would fall within the definition. However, in some instances, statutes or filing-office rules may require that a paper record be filed. In such cases, even if this article permits the filing of an electronic record, compliance with those statutes or rules is necessary. Similarly, a filer must comply with a statute or rule that requires a particular type of encoding or formatting for an electronic record.

This article sometimes uses the terms “for record”, “of record”, “record or legal title”, and “record owner”. Some of these are terms traditionally used in real property law. The definition of “record” in this article now explicitly excepts these usages from the defined term. Also, this article refers to a record that is filed or recorded in real property recording systems to record a mortgage as a “record of a mortgage”. This usage recognizes that the defined term “mortgage” means an interest in real property; it does not mean the record that evidences, or is filed or recorded with respect to, the mortgage.

b. “Authenticate”; “Communicate”; “Send”. The terms “authenticate” and “authenticated” generally replace “sign” and “signed”. “Authenticated” replaces and broadens the definition of “signed”, in section 1-201, to encompass authentication of all records, not just writings. (References to authentication of, e.g., an agreement, demand, or notification mean, of course, authentication of a record containing an agreement, demand, or notification.) The terms “communicate” and “send” also contemplate the possibility of communication by nonwritten media. These definitions include the act of transmitting both tangible and intangible records. The definition of “send” replaces, for purposes of this article, the corresponding term in section 1-201. The reference to “usual means of communication” in that definition contemplates an inquiry into the appropriateness of the method of transmission used in the particular circumstances involved.

10. Scope—Related Definitions.

a. **Expanded Scope of Article: “Agricultural Lien”;** “Consignment”;

“Payment Intangible”;

“Promissory Note”. These new definitions reflect the expanded scope of article 9, as provided in section 9-109(a).

b. **Reduced Scope of Exclusions: “Governmental Unit”;** “Health-Care-Insurance Receivable”;

“Commercial Tort Claims”. These new definitions reflect the reduced scope of the exclusions, provided in section 9-109(c) and (d), of transfers by governmental debtors and assignments of interests in insurance policies and commercial tort claims.

11. **Choice-of-Law—Related Definitions: “Certificate of Title”;** “Governmental Unit”;

“Jurisdiction of Organization”;

“Registered Organization”;

“State”. These new definitions reflect the changes in the law governing perfection and priority of security interests and agricultural liens provided in part 3, subpart 1.

Not every organization that may provide information about itself in the public records is a “registered organization”. For example, a general partnership is not a “registered organization”, even if it files a statement of partnership authority under section 303 of the Uniform Partnership Act (1994) or an assumed name (“dba”) certificate. This is because the state under whose law the partnership is organized is not required to maintain a public record showing that the partnership has been organized. In contrast, corporations, limited liability companies, and limited partnerships are “registered organizations”.

12. **Deposit-Account—Related Definitions: “Deposit Account”;** “Bank”. The revised definition of “deposit account” incorporates the definition of “bank”, which is new. The definition derives from the definitions of “bank” in sections 4-105(1) and 4A-105(a)(2), which focus on whether the organization is “engaged in the business of banking”.

Deposit accounts evidenced by article 9 “instruments” are excluded from the term “deposit account”. In contrast, former section 9-105 excluded from the former definition “an account evidenced by a certificate of deposit”. The revised definition clarifies the proper treatment of nonnegotiable or uncertificated certificates of deposit. Under the definition, an uncertificated certificate of deposit would be a deposit account (assuming there is no writing evidencing the bank’s obligation to pay) whereas a nonnegotiable certificate of deposit would be a deposit account only if it is not an “instrument” as defined in this section (a question that turns on whether the nonnegotiable certificate of deposit is “of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment”).

A deposit account evidenced by an instrument is subject to the rules applicable to instruments generally. As a consequence, a security interest in such an instrument cannot be perfected by “control” (see section 9-104), and the special priority rules applicable to deposit accounts (see sections 9-327 and 9-340) do not apply.

The term “deposit account” does not include “investment property”, such as securities and security entitlements. Thus, the term also does not include shares in a money-market mutual fund, even if the shares are redeemable by check.

13. **Proceeds—Related Definitions: “Cash Proceeds”;** “Non-cash Proceeds”;

“Proceeds”. The revised definition of “proceeds” expands the definition beyond that contained in former section 9-306 and resolves ambiguities in the former section.

a. **Distributions on Account of Collateral.** The phrase “whatever is collected on, or distributed on account of, collateral”, in subparagraph (B), is broad enough to cover cash or stock dividends distributed on account of securities or other investment property that is original collateral. Compare former section 9-306 (“Any payments or distributions made with respect to investment property collateral are proceeds”). This section rejects the holding of *Hastie v. FDIC*, 2 F.3d 1042 (10th Cir. 1993) (postpetition cash dividends on stock subject to a prepetition pledge are not “proceeds” under Bankruptcy Code section 552(b)), to the extent the holding relies on the article 9 definition of “proceeds”.

b. **Distributions on Account of Supporting Obligations.** Under subparagraph (B), collections on and distributions on account of collateral consisting of various credit-support arrangements (“supporting obligations”, as defined in section 9-102) also are proceeds. Consequently, they are afforded treatment identical to proceeds collected from or distributed by the obligor on the underlying (supported) right to payment or other collateral. Proceeds of supporting obligations also are proceeds of the underlying rights to payment or other collateral.

c. **Proceeds of Proceeds.** The definition of “proceeds” no longer provides that proceeds of proceeds are themselves proceeds. That idea is expressed in the revised definition of “collateral” in section 9-102. No change in meaning is intended.

d. **Proceeds Received by Person Who Did Not Create Security Interest.** When collateral is sold subject to a security interest and the buyer then resells the collateral, a question arose under former article 9 concerning whether the “debtor” had “received” what the buyer received on resale and, therefore, whether those receipts were “proceeds” under former section 9-306(2). This article contains no requirement that property be “received” by the debtor for the property to qualify as proceeds. It is necessary only that the property be traceable, directly or indirectly, to the original collateral.

e. **Cash Proceeds and Noncash Proceeds.** The definition of “cash proceeds” is substantially the same as the corresponding definition in former section 9-306. The phrase “and the like” covers property that is functionally equivalent to “money, checks, or deposit accounts”, such as some money market accounts that are securities or part of securities entitlements. Proceeds other than cash proceeds are noncash proceeds.

14. **Consignment—Related Definitions: “Consignee”;** “Consignment”;

“Consignor”. The definition of “consignment” excludes, in subparagraphs (B) and (C), transactions for which filing would be inappropriate or of insufficient benefit to justify the costs. A consignment excluded from the application of this article by one of those subparagraphs may still be a true consignment; however, it is governed by nonarticle 9 law. The definition also excludes, in subparagraph (D), what have been called “consignments intended for security”. These “consignments” are not bailments but secured transactions. Accordingly, all of article 9 applies to them. See sections 1-201(b)(35) and 9-109(a)(1). The “consignor” is the person who delivers goods to the “consignee” in a consignment.

The definition of “consignment” requires that the goods be delivered “to a merchant for the purpose of sale”. If the goods are delivered for another purpose as well, such as milling or processing, the transaction is a consignment nonetheless because a purpose of the delivery is “sale”. On the other hand, if a merchant-processor-bailee will not be selling the goods itself but will be delivering to buyers to which the owner-bailor agreed to sell the goods, the transaction would not be a consignment.

15. **“Accounting”.** This definition describes the record and information that a debtor is entitled to request under section 9-210.

16. **“Document”.** The definition of “document” incorporates both tangible and electronic documents of title. See section 1-201(b)(16) and comment 16.

17. **“Encumbrance”;** “Mortgage”. The definitions of “encumbrance” and “mortgage” are unchanged in substance from the corresponding definitions in former section 9-105. They are used primarily in the special real-property-related priority and other provisions relating to crops, fixtures, and accessions.

18. **“Fixtures”.** This definition is unchanged in substance from the corresponding definition in former section 9-313. See section 9-334 (priority of security interests in fixtures and crops).

19. **“Good Faith”.** This article expands the definition of “good faith” to include “the observance of reasonable commercial standards of fair dealing”. The definition in this section applies when the term is used in this article, and the same concept applies in the context of this article for purposes of the obligation of good faith imposed by section 1-203. See subsection (c).

20. **"Lien Creditor"**. This definition is unchanged in substance from the corresponding definition in former section 9-301.

21. **"New Value"**. This article deletes former section 9-108. Its broad formulation of new value, which embraced the taking of after-acquired collateral for a pre-existing claim, was unnecessary, counterintuitive, and ineffective for its original purpose of sheltering after-acquired collateral from attack as a voidable preference in bankruptcy. The new definition derives from Bankruptcy Code section 547(a). The term is used with respect to temporary perfection of security interests in instruments, certificated securities, or negotiable documents under section 9-312(e) and with respect to chattel paper priority in section 9-330.

22. **"Person Related To"**. Section 9-615 provides a special method for calculating a deficiency or surplus when "the secured party, a person related to the secured party, or a secondary obligor" acquires the collateral at a foreclosure disposition. Separate definitions of the term are provided with respect to an individual secured party and with respect to a secured party that is an organization. The definitions are patterned on the corresponding definition in section 1.301(32) of the Uniform Consumer Credit Code (1974).

23. **"Proposal"**. This definition describes a record that is sufficient to propose to retain collateral in full or partial satis-

faction of a secured obligation. See sections 9-620, 9-621, and 9-622.

24. **"Pursuant to Commitment"**. This definition is unchanged in substance from the corresponding definition in former section 9-105. It is used in connection with special priority rules applicable to future advances. See section 9-323.

25. **"Software"**. The definition of "software" is used in connection with the priority rules applicable to purchase-money security interests. See sections 9-103 and 9-324. Software, like a payment intangible, is a type of general intangible for purposes of this article. See comment 4(a), above, regarding the distinction between "goods" and "software".

26. **Terminology: "Assignment" and "Transfer"**. In numerous provisions, this article refers to the "assignment" or the "transfer" of property interests. These terms and their derivatives are not defined. This article generally follows common usage by using the terms "assignment" and "assign" to refer to transfers of rights to payment, claims, and liens and other security interests. It generally uses the term "transfer" to refer to other transfers of interests in property. Except when used in connection with a letter-of-credit transaction (see section 9-107, comment 4), no significance should be placed on the use of one term or the other. Depending on the context, each term may refer to the assignment or transfer of an outright ownership interest or to the assignment or transfer of a limited interest, such as a security interest.

Part 2

EFFECTIVENESS OF SECURITY AGREEMENT; ATTACHMENT OF SECURITY INTEREST; RIGHTS OF PARTIES TO SECURITY AGREEMENT

Subpart 1

EFFECTIVENESS AND ATTACHMENT

9-203 Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites.

(a) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) Except as otherwise provided in subsections (c) through (i), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(1) value has been given;

(2) the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(3) one of the following conditions is met:

(A) the debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(B) the collateral is not a certificated security and is in the possession of the secured party under section 9-313 pursuant to the debtor's security agreement;

(C) the collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under section 8-301 pursuant to the debtor's security agreement; or

(D) the collateral is deposit accounts, electronic chattel paper, investment property, letter-of-credit rights, or electronic documents, and the secured party

has control under section 7-106, 9-104, 9-105, 9-106, or 9-107 pursuant to the debtor's security agreement.

(c) Subsection (b) is subject to section 4-210 on the security interest of a collecting bank, section 5-118 on the security interest of a letter-of-credit issuer or nominated person, section 9-110 on a security interest arising under article 2 or 2A, and section 9-206 on security interests in investment property.

(d) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this article or by contract:

(1) the security agreement becomes effective to create a security interest in the person's property; or

(2) the person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) the agreement satisfies subdivision (b)(3) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(2) another agreement is not necessary to make a security interest in the property enforceable.

(f) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by section 9-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Source: Laws 1999, LB 550, § 86; Laws 2005, LB 570, § 102.

COMMENT

1. Source. Former sections 9-115(2) and (6) and 9-203.

2. Creation, Attachment, and Enforceability. Subsection (a) states the general rule that a security interest attaches to collateral only when it becomes enforceable against the debtor. Subsection (b) specifies the circumstances under which a security interest becomes enforceable. Subsection (b) states three basic prerequisites to the existence of a security interest: Value (paragraph (1)), rights or power to transfer rights in collateral (paragraph (2)), and agreement plus satisfaction of an evidentiary requirement (paragraph (3)). When all of these elements exist, a security interest becomes enforceable between the parties and attaches under subsection (a). Subsection (c) identifies certain exceptions to the general rule of subsection (b).

3. Security Agreement; Authentication. Under subsection (b)(3), enforceability requires the debtor's security agreement and compliance with an evidentiary requirement in the nature of a statute of frauds. Paragraph (3)(A) represents the most basic of the evidentiary alternatives, under which the debtor must

authenticate a security agreement that provides a description of the collateral. Under section 9-102, a "security agreement" is "an agreement that creates or provides for a security interest". Neither that definition nor the requirement of paragraph (3)(A) rejects the deeply rooted doctrine that a bill of sale, although absolute in form, may be shown in fact to have been given as security. Under this article, as under prior law, a debtor may show by parol evidence that a transfer purporting to be absolute was in fact for security. Similarly, a self-styled "lease" may serve as a security agreement if the agreement creates a security interest. See section 1-201(37) (distinguishing security interest from lease).

4. Possession, Delivery, or Control Pursuant to Security Agreement. The other alternatives in subsection (b)(3) dispense with the requirement of an authenticated security agreement and provide alternative evidentiary tests. Under paragraph (3)(B), the secured party's possession substitutes for the debtor's authentication under paragraph (3)(A) if the secured party's possession is "pursuant to the debtor's security agreement".

That phrase refers to the debtor's agreement to the secured party's possession for the purpose of creating a security interest. The phrase should not be confused with the phrase "debtor has authenticated a security agreement", used in paragraph (3)(A), which contemplates the debtor's authentication of a record. In the unlikely event that possession is obtained without the debtor's agreement, possession would not suffice as a substitute for an authenticated security agreement. However, once the security interest has become enforceable and has attached, it is not impaired by the fact that the secured party's possession is maintained without the agreement of a subsequent debtor (e.g., a transferee). Possession as contemplated by section 9-313 is possession for purposes of subsection (b)(3)(B), even though it may not constitute possession "pursuant to the debtor's agreement" and consequently might not serve as a substitute for an authenticated security agreement under subsection (b)(3)(A). Subsection (b)(3)(C) provides that delivery of a certificated security to the secured party under section 8-301 pursuant to the debtor's security agreement is sufficient as a substitute for an authenticated security agreement. Similarly, under subsection (b)(3)(D), control of investment property, a deposit account, electronic chattel paper, a letter-of-credit right, or electronic documents satisfies the evidentiary test if control is pursuant to the debtor's security agreement.

5. Collateral Covered by Other Statute or Treaty. One evidentiary purpose of the formal requisites stated in subsection (b) is to minimize the possibility of future disputes as to the terms of a security agreement (e.g., as to the property that stands as collateral for the obligation secured). One should distinguish the evidentiary functions of the formal requisites of attachment and enforceability (such as the requirement that a security agreement contain a description of the collateral) from the more limited goals of "notice filing" for financing statements under part 5, explained in section 9-502, comment 2. When perfection is achieved by compliance with the requirements of a statute or treaty described in section 9-311(a), such as a federal recording act or a certificate-of-title statute, the manner of describing the collateral in a registry imposed by the statute or treaty may or may not be adequate for purposes of this section and section 9-108. However, the description contained in the security agreement, not the description in a public registry or on a certificate of title, controls for purposes of this section.

6. Debtor's Rights; Debtor's Power to Transfer Rights. Subsection (b)(2) conditions attachment on the debtor's having "rights in the collateral or the power to transfer rights in the collateral to a secured party". A debtor's limited rights in collateral, short of full ownership, are sufficient for a security interest to attach. However, in accordance with basic personal property conveyancing principles, the baseline rule is that a security interest attaches only to whatever rights a debtor may have, broad or limited as those rights may be.

Certain exceptions to the baseline rule enable a debtor to transfer, and a security interest to attach to, greater rights than the debtor has. See part 3, subpart 3 (priority rules). The phrase, "or the power to transfer rights in the collateral to a secured

party", accommodates those exceptions. In some cases, a debtor may have power to transfer another person's rights only to a class of transferees that excludes secured parties. See, e.g., section 2-403(2) (giving certain merchants power to transfer an entruster's rights to a buyer in ordinary course of business). Under those circumstances, the debtor would not have the power to create a security interest in the other person's rights, and the condition in subsection (b)(2) would not be satisfied.

7. New Debtors. Subsection (e) makes clear that the enforceability requirements of subsection (b)(3) are met when a new debtor becomes bound under an original debtor's security agreement. If a new debtor becomes bound as debtor by a security agreement entered into by another person, the security agreement satisfies the requirement of subsection (b)(3) as to the existing and after-acquired property of the new debtor to the extent the property is described in the agreement.

Subsection (d) explains when a new debtor becomes bound. Persons who become bound under paragraph (2) are limited to those who both become primarily liable for the original debtor's obligations and succeed to (or acquire) its assets. Thus, the paragraph excludes sureties and other secondary obligors as well as persons who become obligated through veil piercing and other nonsuccessorship doctrines. In many cases, paragraph (2) will exclude successors to the assets and liabilities of a division of a debtor. See also section 9-508, comment 3.

8. Supporting Obligations. Under subsection (f), a security interest in a "supporting obligation" (defined in section 9-102) automatically follows from a security interest in the underlying, supported collateral. This result was implicit under former article 9. Implicit in subsection (f) is the principle that the secured party's interest in a supporting obligation extends to the supporting obligation only to the extent that it supports the collateral in which the secured party has a security interest. Complex issues may arise, however, if a supporting obligation supports many separate obligations of a particular account debtor and if the supported obligations are separately assigned as security to several secured parties. The problems may be exacerbated if a supporting obligation is limited to an aggregate amount that is less than the aggregate amount of the obligations it supports. This article does not contain provisions dealing with competing claims to a limited supporting obligation. As under former article 9, the law of suretyship and the agreements of the parties will control.

9. Collateral Follows Right to Payment or Performance. Subsection (g) codifies the common-law rule that a transfer of an obligation secured by a security interest or other lien on personal or real property also transfers the security interest or lien. See Restatement (3d), Property (Mortgages) section 5.4(a) (1997). See also section 9-308(e) (analogous rule for perfection).

10. Investment Property. Subsections (h) and (i) make clear that attachment of a security interest in a securities account or commodity account is also attachment in security entitlements or commodity contracts carried in the accounts.

Subpart 2

RIGHTS AND DUTIES

9-207 Rights and duties of secured party having possession or control of collateral.

(a) Except as otherwise provided in subsection (d), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) Except as otherwise provided in subsection (d), if a secured party has possession of collateral:

(1) reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) the risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(3) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) the secured party may use or operate the collateral:

(A) for the purpose of preserving the collateral or its value;

(B) as permitted by an order of a court having competent jurisdiction; or

(C) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) Except as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under section 7-106, 9-104, 9-105, 9-106, or 9-107:

(1) may hold as additional security any proceeds, except money or funds, received from the collateral;

(2) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) may create a security interest in the collateral.

(d) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignee:

(1) subsection (a) does not apply unless the secured party is entitled under an agreement:

(A) to charge back uncollected collateral; or

(B) otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) subsections (b) and (c) do not apply.

Source: Laws 1999, LB 550, § 90; Laws 2005, LB 570, § 103.

COMMENT

1. Source. Former section 9-207.

2. Duty of Care for Collateral in Secured Party's Possession. Like former section 9-207, subsection (a) imposes a duty of care, similar to that imposed on a pledgee at common law, on a secured party in possession of collateral. See Restatement, Security sections 17 and 18. In many cases a secured party in possession of collateral may satisfy this duty by notifying the debtor of action that should be taken and allowing the debtor to take the action itself. If the secured party itself takes action, its reasonable expenses may be added to the secured obligation. The revised definitions of "collateral", "debtor", and "secured party" in section 9-102 make this section applicable to collateral subject to an agricultural lien if the collateral is in the lienholder's possession. Under section 1-102 the duty to exercise reasonable care may not be disclaimed by agreement, although under that section the parties remain free to determine by agreement standards that are not manifestly unreasonable as to what constitutes reasonable care. Unless otherwise agreed, for a secured party in possession of chattel paper or an instrument, reasonable care includes the preservation of rights against prior parties. The secured party's right to have instruments or documents indorsed or transferred to it or its order is dealt with in

the relevant sections of articles 3, 7, and 8. See sections 3-201, 7-506, and 8-304(d).

3. Specific Rules When Secured Party in Possession or Control of Collateral. Subsections (b) and (c) provide rules following common-law precedents which apply unless the parties otherwise agree. The rules in subsection (b) apply to typical issues that may arise while a secured party is in possession of collateral, including expenses, insurance, and taxes, risk of loss or damage, identifiable and fungible collateral, and use or operation of collateral. Subsection (c) contains rules that apply in certain circumstances that may arise when a secured party is in either possession or control of collateral. These circumstances include the secured party's receiving proceeds from the collateral and the secured party's creation of a security interest in the collateral.

4. Applicability Following Default. This section applies when the secured party has possession of collateral either before or after default. See sections 9-601(b) and 9-609. Subsection (b)(4)(C) limits agreements concerning the use or operation of collateral to collateral other than consumer goods. Under section 9-602(1), a debtor cannot waive or vary that limitation.

5. “Repledges” and Right of Redemption. Subsection (c)(3) eliminates the qualification in former section 9-207 to the effect that the terms of a “repledge” may not “impair” a debtor’s “right to redeem” collateral. The change is primarily for clarification. There is no basis on which to draw from subsection (c)(3) any inference concerning the debtor’s right to redeem the collateral. The debtor enjoys that right under section 9-623; this section need not address it. For example, if the collateral is a negotiable note that the secured party (SP-1) repledges to SP-2, nothing in this section suggests that the debtor (D) does not retain the right to redeem the note upon payment to SP-1 of all obligations secured by the note. But, as explained below, the debtor’s unimpaired right to redeem as against the debtor’s original secured party nevertheless may not be enforceable as against the new secured party.

In resolving questions that arise from the creation of a security interest by SP-1, one must take care to distinguish D’s rights against SP-1 from D’s rights against SP-2. Once D discharges the secured obligation, D becomes entitled to the note; SP-1 has no legal basis upon which to withhold it. If, as a practical matter, SP-1 is unable to return the note because SP-2 holds it as collateral for SP-1’s unpaid debt, then SP-1 is liable to D under the law of conversion.

Whether SP-2 would be liable to D depends on the relative priority of SP-2’s security interest and D’s interest. By permitting SP-1 to create a security interest in the collateral (repledge), subsection (c)(3) provides a statutory power for SP-1 to give SP-2 a security interest (subject, of course, to any agreement by SP-1 not to give a security interest). In the vast majority of cases where repledge rights are significant, the security interest of the second secured party, SP-2 in the example, will be senior to the debtor’s interest. By virtue of the debtor’s consent or applicable legal rules, SP-2 typically would cut off D’s rights in investment property or be immune from D’s claims. See sections 3-306 and 9-331 (holder in due course), 8-303 (protected purchaser), 8-502 (acquisition of a security entitlement), and 8-503(e) (action by entitlement holder). Moreover, the expectations and business practices in some markets, such as the securities markets, are such that D’s consent to SP-2’s taking free of D’s rights inheres in D’s creation of SP-1’s security interest which gives rise to SP-1’s power under this section. In these situations, D would have no right to recover the collateral or recover damages from SP-2. Nevertheless, D would have a damage claim against SP-1 if SP-1 had given a security interest to SP-2 in breach of its agreement with D. Moreover, if SP-2’s security interest secures an amount that is less than the amount secured by SP-1’s security interest (granted by D), then D’s exercise of its right to redeem would provide value sufficient to discharge SP-1’s obligations to SP-2.

For the most part this section does not change the law under former section 9-207, although eliminating the reference to the debtor’s right of redemption may alter the secured party’s right to repledge in one respect. Former section 9-207 could have been read to limit the secured party’s statutory right to repledge collateral to repledge transactions in which the collateral did not secure a greater obligation than that of the original debtor. Inasmuch as this is a matter normally dealt with by agreement between the debtor and secured party, any change would appear to have little practical effect.

6. “Repledges” of Investment Property. The following example will aid the discussion of “repledges” of investment property.

9-208 Additional duties of secured party having control of collateral.

(a) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Within ten days after receiving an authenticated demand by the debtor:

(1) a secured party having control of a deposit account under section 9-104(a)(2) shall send to the bank with which the deposit account is maintained

Example: Debtor grants Alpha Bank a security interest in a security entitlement that includes 1000 shares of XYZ Co. stock that Debtor holds through an account with Able & Co. Alpha does not have an account with Able. Alpha uses Beta Bank as its securities custodian. Debtor instructs Able to transfer the shares to Beta, for the account of Alpha, and Able does so. Beta then credits Alpha’s account. Alpha has control of the security entitlement for the 1000 shares under section 8-106(d). (These are the facts of example 2, section 8-106, comment 4.) Although, as between Debtor and Alpha, Debtor may have become the beneficial owner of the new securities entitlement with Beta, Beta has agreed to act on Alpha’s entitlement orders because, as between Beta and Alpha, Alpha has become the entitlement holder.

Next, Alpha grants Gamma Bank a security interest in the security entitlement with Beta that includes the 1000 shares of XYZ Co. stock. In order to afford Gamma control of the entitlement, Alpha instructs Beta to transfer the stock to Gamma’s custodian, Delta Bank, which credits Gamma’s account for 1000 shares. At this point Gamma holds its securities entitlement for its benefit as well as that of its debtor, Alpha. Alpha’s derivative rights also are for the benefit of Debtor.

In many, probably most, situations and at any particular point in time, it will be impossible for Debtor or Alpha to “trace” Alpha’s “repledge” to any particular securities entitlement or financial asset of Gamma or anyone else. Debtor would retain, of course, a right to redeem the collateral from Alpha upon satisfaction of the secured obligation. However, in the absence of a traceable interest, Debtor would retain only a personal claim against Alpha in the event Alpha failed to restore the security entitlement to Debtor. Moreover, even in the unlikely event that Debtor could trace a property interest, in the context of the financial markets, normally the operation of this section, Debtor’s explicit agreement to permit Alpha to create a senior security interest, or legal rules permitting Gamma to cut off Debtor’s rights or become immune from Debtor’s claims would effectively subordinate Debtor’s interest to the holder of a security interest created by Alpha. And, under the shelter principle, all subsequent transferees would obtain interests to which Debtor’s interest also would be subordinate.

7. Buyers of Chattel Paper and Other Receivables; Consignors. This section has been revised to reflect the fact that a seller of accounts, chattel paper, payment intangibles, or promissory notes retains no interest in the collateral and so is not disadvantaged by the secured party’s noncompliance with the requirements of this section. Accordingly, subsection (d) provides that subsection (a) applies only to security interests that secure an obligation and to sales of receivables in which the buyer has recourse against the debtor. (Of course, a buyer of accounts or payment intangibles could not have “possession” of original collateral, but might have possession of proceeds, such as promissory notes or checks.) The meaning of “recourse” in this respect is limited to recourse arising out of the account debtor’s failure to pay or other default.

Subsection (d) makes subsections (b) and (c) inapplicable to buyers of accounts, chattel paper, payment intangibles, or promissory notes and consignors. Of course, there is no reason to believe that a buyer of receivables or a consignor could not, for example, create a security interest or otherwise transfer an interest in the collateral, regardless of who has possession of the collateral. However, this section leaves the rights of those owners to law other than article 9.

an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) a secured party having control of a deposit account under section 9-104(a)(3) shall:

(A) pay the debtor the balance on deposit in the deposit account; or

(B) transfer the balance on deposit into a deposit account in the debtor's name;

(3) a secured party, other than a buyer, having control of electronic chattel paper under section 9-105 shall:

(A) communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

(B) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(4) a secured party having control of investment property under section 8-106(d)(2) or 9-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party;

(5) a secured party having control of a letter-of-credit right under section 9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; and

(6) a secured party having control of an electronic document shall:

(A) give control of the electronic document to the debtor or its designated custodian;

(B) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.

Source: Laws 1999, LB 550, § 91; Laws 2005, LB 570, § 104.

COMMENT

1. **Source.** New.

2. **Scope and Purpose.** This section imposes duties on a secured party who has control of a deposit account, electronic chattel paper, investment property, a letter-of-credit right, or electronic documents of title. The duty to terminate the secured party's control is analogous to the duty to file a termination statement, imposed by section 9-513. Under subsection (a), it applies only when there is no outstanding secured obligation and the secured party is not committed to give value. The requirements of this section can be varied by agreement under section 1-102(3). For example, a debtor could by contract agree that the secured party may comply with subsection (b) by releasing control more than 10 days after demand. Also, duties under this section should not be read to conflict with the terms of the collateral itself. For example, if the collateral is a time deposit account, subsection (b)(2) should not require a secured party with control to make an early withdrawal of the funds

(assuming that were possible) in order to pay them over to the debtor or put them in an account in the debtor's name.

3. **Remedy for Failure to Relinquish Control.** If a secured party fails to comply with the requirements of subsection (b), the debtor has the remedy set forth in section 9-625(e). This remedy is identical to that applicable to failure to provide or file a termination statement under section 9-513.

4. **Duty to Relinquish Possession.** Although section 9-207 addresses directly the duties of a secured party in possession of collateral, that section does not require the secured party to relinquish possession when the secured party ceases to hold a security interest. Under common law, absent agreement to the contrary, the failure to relinquish possession of collateral upon satisfaction of the secured obligation would constitute a conversion. Inasmuch as problems apparently have not surfaced in the absence of statutory duties under former article 9 and the common-law duty appears to have been sufficient, this article does not impose a statutory duty to relinquish possession.

Part 3

PERFECTION AND PRIORITY

Subpart 1

LAW GOVERNING PERFECTION AND PRIORITY

9-301 Law governing perfection and priority of security interests.

Except as otherwise provided in sections 9-303 to 9-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subdivision (4), while tangible negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(A) perfection of a security interest in the goods by filing a fixture filing;

(B) perfection of a security interest in timber to be cut; and

(C) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

Source: Laws 1999, LB 550, § 94; Laws 2005, LB 570, § 105.

COMMENT

1. **Source.** Former sections 9-103(1)(a) and (b), 9-103(3)(a) and (b), and 9-103(5), substantially modified.

2. **Scope of this Subpart.** Part 3, subpart 1 (sections 9-301 through 9-307) contains choice of law rules similar to those of former section 9-103. Former section 9-103 generally addresses which state's law governs "perfection and the effect of perfec-

tion or nonperfection of" security interests. See, e.g., former section 9-103(1)(b). This article follows the broader and more precise formulation in former section 9-103(6)(b), which was revised in connection with the promulgation of revised article 8 in 1994: "Perfection, the effect of perfection or nonperfection, and the priority of" security interests. Priority, in this context, subsumes all of the rules in part 3, including "cut off" or "take

free” rules such as sections 9-317(b), (c), and (d), 9-320(a), (b), and (d), and 9-332. This subpart does not address choice of law for other purposes. For example, the law applicable to issues such as attachment, validity, characterization (e.g., true lease or security interest), and enforcement is governed by the rules in section 1-105; that governing law typically is specified in the same agreement that contains the security agreement. And, another jurisdiction’s law may govern other third-party matters addressed in this article. See section 9-401, comment 3.

3. Scope of Referral. In designating the jurisdiction whose law governs, this article directs the court to apply only the substantive (“local”) law of a particular jurisdiction and not its choice of law rules.

Example 1: Litigation over the priority of a security interest in accounts arises in State X. State X has adopted the official text of this article, which provides that priority is determined by the local law of the jurisdiction in which the debtor is located. See section 9-301(1). The debtor is located in State Y. Even if State Y has retained former article 9 or enacted a nonuniform choice of law rule (e.g., one that provides that perfection is governed by the law of State Z), a State X court should look only to the substantive law of State Y and disregard State Y’s choice of law rule. State Y’s substantive law (e.g., its section 9-501) provides that financing statements should be filed in a filing office in State Y. Note, however, that if the identical perfection issue were to be litigated in State Y, the court would look to State Y’s former section 9-103 or nonuniform section 9-301 and conclude that a filing in State Y is ineffective.

Example 2: In the preceding example, assume that State X has adopted the official text of this article, and State Y has adopted a nonuniform section 9-301(1) under which perfection is governed by the whole law of State X, including its choice of law rules. If litigation occurs in State X, the court should look to the substantive law of State Y, which provides that financing statements are to be filed in a filing office in State Y. If litigation occurs in State Y, the court should look to the law of State X, whose choice of law rule requires that the court apply the substantive law of State Y. Thus, regardless of the jurisdiction in which the litigation arises, the financing statement should be filed in State Y.

4. Law Governing Perfection: General Rule. Paragraph (1) contains the general rule: The law governing perfection of security interests in both tangible and intangible collateral, whether perfected by filing or automatically, is the law of the jurisdiction of the debtor’s location, as determined under section 9-307.

Paragraph (1) substantially simplifies the choice of law rules. Former section 9-103 contained different choice of law rules for different types of collateral. Under section 9-301(1), the law of a single jurisdiction governs perfection with respect to most types of collateral, both tangible and intangible. Paragraph (1) eliminates the need for former section 9-103(1)(c), which concerned purchase-money security interests in tangible collateral that is intended to move from one jurisdiction to the other. It is likely to reduce the frequency of cases in which the governing law changes after a financing statement is properly filed. (Presumably, debtors change their own location less frequently than they change the location of their collateral.) The approach taken in paragraph (1) also eliminates some difficult priority issues and the need to distinguish between “mobile” and “ordinary” goods, and it reduces the number of filing offices in which secured parties must file or search when collateral is located in several jurisdictions.

5. Law Governing Perfection: Exceptions. The general rule is subject to several exceptions. It does not apply to goods covered by a certificate of title (see section 9-303), deposit accounts (see section 9-304), investment property (see section 9-305), or letter-of-credit rights (see section 9-306). Nor does it apply to possessory security interests, i.e., security interests that the secured party has perfected by taking possession of the collateral (see paragraph (2)), security interests perfected by filing a fixture filing (see subparagraph (3)(A)), security interests in timber to be cut (subparagraph (3)(B)), or security interests in as-extracted collateral (see paragraph (4)).

a. Possessory Security Interests. Paragraph (2) applies to possessory security interests and provides that perfection is governed by the local law of the jurisdiction in which the collateral is located. This is the rule of former section 9-103(1)(b), except paragraph (2) eliminates the troublesome “last event” test of former law.

The distinction between nonpossessory and possessory security interests creates the potential for the same jurisdiction to apply two different choice of law rules to determine perfection in the same collateral. For example, were a secured party in possession of an instrument or a tangible document to relinquish possession in reliance on temporary perfection, the applicable law immediately would change from that of the location of the collateral to that of the location of the debtor. The applicability of two different choice of law rules for perfection is unlikely to lead to any material practical problems. The perfection rules of one article 9 jurisdiction are likely to be identical to those of another. Moreover, under paragraph (3), the relative priority of competing security interests in tangible collateral is resolved by reference to the law of the jurisdiction in which the collateral is located, regardless of how the security interests are perfected.

b. Fixtures. Application of the general rule in paragraph (1) to perfection of a security interest in fixtures would yield strange results. For example, perfection of a security interest in fixtures located in Arizona and owned by a Delaware corporation would be governed by the law of Delaware. Although Delaware law would send one to a filing office in Arizona for the place to file a financing statement as a fixture filing, see section 9-501, Delaware law would not take account of local, nonuniform, real property filing and recording requirements that Arizona law might impose. For this reason, paragraph (3)(A) contains a special rule for security interests perfected by a fixture filing; the law of the jurisdiction in which the fixtures are located governs perfection, including the formal requisites of a fixture filing. Under paragraph (3)(C), the same law governs priority. Fixtures are “goods” as defined in section 9-102.

c. Timber to Be Cut. Application of the general rule in paragraph (1) to perfection of a security interest in timber to be cut would yield undesirable results analogous to those described with respect to fixtures. Paragraph (3)(B) adopts a similar solution: Perfection is governed by the law of the jurisdiction in which the timber is located. As with fixtures, under paragraph (3)(C), the same law governs priority. Timber to be cut also is “goods” as defined in section 9-102.

Paragraph (3)(B) applies only to “timber to be cut”, not to timber that has been cut. Consequently, once the timber is cut, the general choice of law rule in paragraph (1) becomes applicable. To ensure continued perfection, a secured party should file in both the jurisdiction in which the timber to be cut is located and in the state where the debtor is located. The former filing would be with the office in which a real property mortgage would be filed, and the latter would be a central filing. See section 9-501.

d. As-Extracted Collateral. Paragraph (4) adopts the rule of former section 9-103(5) with respect to certain security interests in minerals and related accounts. Like security interests in fixtures perfected by filing a fixture filing, security interests in minerals that are as-extracted collateral are perfected by filing in the office designated for the filing or recording of a mortgage on the real property. For the same reasons, the law governing perfection and priority is the law of the jurisdiction in which the wellhead or minehead is located.

6. Change in Law Governing Perfection. When the debtor changes its location to another jurisdiction, the jurisdiction whose law governs perfection under paragraph (1) changes, as well. Similarly, the law governing perfection of a possessory security interest in collateral under paragraph (2) changes when the collateral is removed to another jurisdiction. Nevertheless, these changes will not result in an immediate loss of perfection. See section 9-316(a) and (b).

7. Law Governing Effect of Perfection and Priority: Goods, Documents, Instruments, Money, Negotiable Documents, and Tangible Chattel Paper. Under former section 9-103, the law of

a single jurisdiction governed both questions of perfection and those of priority. This article generally adopts that approach. See paragraph (1). But the approach may create problems if the debtor and collateral are located in different jurisdictions. For example, assume a security interest in equipment located in Pennsylvania is perfected by filing in Illinois, where the debtor is located. If the law of the jurisdiction in which the debtor is located were to govern priority, then the priority of an execution lien on goods located in Pennsylvania would be governed by rules enacted by the Illinois legislature.

To address this problem, paragraph (3)(C) divorces questions of perfection from questions of “the effect of perfection or nonperfection and the priority of a security interest”. Under paragraph (3)(C), the rights of competing claimants to tangible collateral are resolved by reference to the law of the jurisdiction in which the collateral is located. A similar bifurcation applied to security interests in investment property under former section 9-103(6). See section 9-305.

Paragraph (3)(C) applies the law of the situs to determine priority only with respect to goods (including fixtures), instruments, money, tangible negotiable documents, and tangible chattel paper. Compare former section 9-103(1), which applied the law of the location of the collateral to documents, instruments, and “ordinary” (as opposed to “mobile”) goods. This article does not distinguish among types of goods. The ordinary/mobile goods distinction appears to address concerns about where to file and search, rather than concerns about priority. There is no reason to preserve this distinction under the bifurcated approach.

Particularly serious confusion may arise when the choice of law rules of a given jurisdiction result in each of two competing security interests in the same collateral being governed by a different priority rule. The potential for this confusion existed under former section 9-103(4) with respect to chattel paper: Perfection by possession was governed by the law of the location of the paper, whereas perfection by filing was governed by the law of the location of the debtor. Consider the mess that would have been created if the language or interpretation of former section 9-308 were to differ in the two relevant states, or if one of the relevant jurisdictions (e.g., a foreign country) had not adopted article 9. The potential for confusion could have been exacerbated when a secured party perfected both by taking possession in the state where the collateral is located (State A) and by filing in the state where the debtor is located (State B—a common practice for some chattel paper financiers. By providing that the law of the jurisdiction in which the collateral is located governs priority, paragraph (3) substantially diminishes this problem.

8. Non-U.S. Debtors. This article applies the same choice of law rules to all debtors, foreign and domestic. For example, it adopts the bifurcated approach for determining the law applicable to security interests in goods and other tangible collateral. See comment 5(a), above. The article contains a new rule specifying the location of non-U.S. debtors for purposes of this part. The rule appears in section 9-307 and is explained in the Reporters’ Comments following that section. Former section 9-103(3)(c), which contained a special choice of law rule governing security interests created by debtors located in a non-U.S. jurisdiction, proved unsatisfactory and was deleted.

Subpart 2

PERFECTION

9-310 When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.

(a) Except as otherwise provided in subsection (b) and section 9-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) The filing of a financing statement is not necessary to perfect a security interest:

- (1) that is perfected under section 9-308(d), (e), (f), or (g);
- (2) that is perfected under section 9-309 when it attaches;
- (3) in property subject to a statute, regulation, or treaty described in section 9-311(a);
- (4) in goods in possession of a bailee which is perfected under section 9-312(d)(1) or (2);
- (5) in certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under section 9-312(e), (f), or (g);
- (6) in collateral in the secured party’s possession under section 9-313;
- (7) in a certificated security which is perfected by delivery of the security certificate to the secured party under section 9-313;
- (8) in deposit accounts, electronic chattel paper, electronic documents, investment property, or letter-of-credit rights which is perfected by control under section 9-314;
- (9) in proceeds which is perfected under section 9-315; or
- (10) that is perfected under section 9-316.

(c) If a secured party assigns a perfected security interest or agricultural lien, a filing under this article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

Source: Laws 1999, LB 550, § 103; Laws 2005, LB 570, § 106.

COMMENT

1. Source. Former section 9-302(1) and (2).

2. General Rule. Subsection (a) establishes a central article 9 principle: Filing a financing statement is necessary for perfection of security interests and agricultural liens. However, filing is not necessary to perfect a security interest that is perfected by another permissible method, see subsection (b), nor does filing ordinarily perfect a security interest in a deposit account, letter-of-credit right, or money. See section 9-312(b). Part 5 of the article deals with the office in which to file, mechanics of filing, and operations of the filing office.

3. Exemptions from Filing. Subsection (b) lists the security interests for which filing is not required as a condition of perfection, because they are perfected automatically upon attachment (subsections (b)(2) and (b)(9)) or upon the occurrence of another event (subsections (b)(1), (b)(5), and (b)(9)), because they are perfected under the law of another jurisdiction (subsection (b)(10)), or because they are perfected by another method, such as by the secured party's taking possession or control (subsections (b)(3), (b)(4), (b)(5), (b)(6), (b)(7), and (b)(8)).

4. Assignments of Perfected Security Interests. Subsection (c) concerns assignment of a perfected security interest or agricultural lien. It provides that no filing is necessary in connection with an assignment by a secured party to an assignee in order to maintain perfection as against creditors of and transferees from the original debtor.

Example 1: Buyer buys goods from Seller, who retains a security interest in them. After Seller perfects the security interest by filing, Seller assigns the perfected security interest to X. The security interest, in X's hands and without further steps on X's part, continues perfected against Buyer's transferees and creditors.

Example 2: Dealer creates a security interest in specific equipment in favor of Lender. After Lender perfects the security interest in the equipment by filing, Lender assigns the chattel paper (which includes the perfected security interest in Dealer's

equipment) to X. The security interest in the equipment, in X's hands and without further steps on X's part, continues perfected against Dealer's transferees and creditors. However, regardless of whether Lender made the assignment to secure Lender's obligation to X or whether the assignment was an outright sale of the chattel paper, the assignment creates a security interest in the chattel paper in favor of X. Accordingly, X must take whatever steps may be required for perfection in order to be protected against Lender's transferees and creditors with respect to the chattel paper.

Subsection (c) applies not only to an assignment of a security interest perfected by filing but also to an assignment of a security interest perfected by a method other than by filing, such as by control or by possession. Although subsection (c) addresses explicitly only the absence of an additional filing requirement, the same result normally will follow in the case of an assignment of a security interest perfected by a method other than by filing. For example, as long as possession of collateral is maintained by an assignee or by the assignor or another person on behalf of the assignee, no further perfection steps need be taken on account of the assignment to continue perfection as against creditors and transferees of the original debtor. Of course, additional action may be required for perfection of the assignee's interest as against creditors and transferees of the assignor.

Similarly, subsection (c) applies to the assignment of a security interest perfected by compliance with a statute, regulation, or treaty under section 9-311(b), such as a certificate-of-title statute. Unless the statute expressly provides to the contrary, the security interest will remain perfected against creditors of and transferees from the original debtor, even if the assignee takes no action to cause the certificate of title to reflect the assignment or to cause its name to appear on the certificate of title. See PEB Commentary No. 12, which discusses this issue under former section 9-302(3). Compliance with the statute is "equivalent to filing" under section 9-311(b).

9-311 Perfection of security interests in property subject to certain statutes, regulations, and treaties.

(a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section 9-310(a);

(2) the following statutes of this state: (i) section 60-164, Reissue Revised Statutes of Nebraska, but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of part 5 apply to a security interest in that collateral created by him or her as debtor; and (ii) section 37-1282, Reissue Revised Statutes of Nebraska, but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of part 5 apply to a security interest in that collateral created by him or her as debtor; or

(3) a certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the

security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (d) and sections 9-313 and 9-316(d) and (e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d) and section 9-316(d) and (e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(d) During any period in which collateral subject to a statute specified in subdivision (a)(2) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

Source: Laws 1999, LB 550, § 104; Laws 2000, LB 929, § 28; Laws 2005, LB 276, § 114.

COMMENT

1. Source. Former section 9-302(3) and (4).

2. Federal Statutes, Regulations, and Treaties. Subsection (a)(1) exempts from the filing provisions of this article transactions as to which a system of filing—state or federal—has been established under federal law. Subsection (b) makes clear that when such a system exists, perfection of a relevant security interest can be achieved only through compliance with that system (i.e., filing under this article is not a permissible alternative).

An example of the type of federal statute referred to in subsection (a)(1) is 49 U.S.C. sections 44107-11, for civil aircraft of the United States. The Assignment of Claims Act of 1940, as amended, provides for notice to contracting and disbursing officers and to sureties on bonds but does not establish a national filing system and therefore is not within the scope of subsection (a)(1). An assignee of a claim against the United States may benefit from compliance with the Assignment of Claims Act. But regardless of whether the assignee complies with that act, the assignee must file under this article in order to perfect its security interest against creditors and transferees of its assignor.

Subsection (a)(1) provides explicitly that the filing requirement of this article defers only to federal statutes, regulations, or treaties whose requirements for a security interest's obtaining priority over the rights of a lien creditor preempt section 9-310(a). The provision eschews reference to the term "perfection", inasmuch as section 9-308 specifies the meaning of that term and a preemptive rule may use other terminology.

3. State Statutes. Subsections (a)(2) and (3) exempt from the filing requirements of this article transactions covered by state certificate-of-title statutes covering motor vehicles and the like. The description of certificate-of-title statutes in subsections (a)(2) and (a)(3) tracks the language of the definition of "certificate of title" in section 9-102. For a discussion of the operation of state certificate-of-title statutes in interstate contexts, see the comments to section 9-303.

Some states have enacted central filing statutes with respect to secured transactions in kinds of property that are of special importance in the local economy. Subsection (a)(2) defers to these statutes with respect to filing for that property.

4. Inventory Covered by Certificate of Title. Under subsection (d), perfection of a security interest in the inventory of a person in the business of selling goods of that kind is governed by the normal perfection rules, even if the inventory is subject to a certificate-of-title statute. Compliance with a certificate-of-title statute is both unnecessary and ineffective to perfect a security interest in inventory to which this subsection applies. Thus, a secured party who finances an automobile dealer that is in the business of selling and leasing its inventory of automobiles can perfect a security interest in all the automobiles by filing a financing statement but not by compliance with a certificate-of-title statute.

Subsection (d), and thus the filing and other perfection provisions of this article, does not apply to inventory that is subject to a certificate-of-title statute and is of a kind that the debtor is not in the business of selling. For example, if goods are subject to a certificate-of-title statute and the debtor is in the business of leasing but not of selling goods of that kind, the other subsections of this section govern perfection of a security interest in the goods. The fact that the debtor eventually sells the goods does not, of itself, mean that the debtor "is in the business of selling goods of that kind".

The filing and other perfection provisions of this article apply to goods subject to a certificate-of-title statute only "during any period in which collateral is inventory held for sale or lease or leased". If the debtor takes goods of this kind out of inventory and uses them, say, as equipment, a filed financing statement would not remain effective to perfect a security interest.

5. Compliance with Perfection Requirements of Other Statute. Subsection (b) makes clear that compliance with the perfection requirements (i.e., the requirements for obtaining priority over a lien creditor), but not other requirements, of a statute, regulation, or treaty described in subsection (a), is sufficient for

perfection under this article. Perfection of a security interest under such a statute, regulation, or treaty has all the consequences of perfection under this article.

The interplay of this section with certain certificate-of-title statutes may create confusion and uncertainty. For example, statutes under which perfection does not occur until a certificate of title is issued will create a gap between the time that the goods are covered by the certificate under section 9-303 and the time of perfection. If the gap is long enough, it may result in turning some unobjectionable transactions into avoidable preferences under Bankruptcy Code section 547. (The preference risk arises if more than 10 days (or 20 days, in the case of a purchase-money security interest) passes between the time a security interest attaches (or the debtor receives possession of the collateral, in the case of a purchase-money security interest) and the time it is perfected.) Accordingly, the legislative note to this section instructs the legislature to amend the applicable certificate-of-title statute to provide that perfection occurs upon receipt by the appropriate state official of a properly tendered application for a certificate of title on which the security interest is to be indicated.

Under some certificate-of-title statutes, including the Uniform Motor Vehicle Certificate of Title and Anti-Theft Act, perfection generally occurs upon delivery of specified documents to a state official but may, under certain circumstances, relate back to the time of attachment. This relation-back feature can create great difficulties for the application of the rules in sections 9-303 and 9-311(b). Accordingly, the legislative note also recommends to legislatures that they remove any relation-back provisions from certificate-of-title statutes affecting security interests.

6. Compliance with Perfection Requirements of Other Statute as Equivalent to Filing. Under subsection (b), compliance with the perfection requirements (i.e., the requirements for obtaining priority over a lien creditor) of a statute, regulation, or treaty described in subsection (a) “is equivalent to the filing of a financing statement”.

The quoted phrase appeared in former section 9-302(3). Its meaning was unclear, and many questions arose concerning the extent to which and manner in which article 9 rules referring to “filing” were applicable to perfection by compliance with a certificate-of-title statute. This article takes a variety of approaches for applying article 9’s filing rules to compliance with other statutes and treaties. First, as discussed above in comment 5, it leaves the determination of some rules, such as the rule establishing time of perfection (section 9-516(a)), to the other

statutes themselves. Second, this article explicitly applies some article 9 filing rules to perfection under other statutes or treaties. See, e.g., section 9-505. Third, this article makes other article 9 rules applicable to security interests perfected by compliance with another statute through the “equivalent to ... filing” provision in the first sentence of section 9-311(b). The third approach is reflected for the most part in occasional comments explaining how particular rules apply when perfection is accomplished under section 9-311(b). See, e.g., section 9-310, comment 4; section 9-315, comment 6; and section 9-317, comment 8. The absence of a comment indicating that a particular filing provision applies to perfection pursuant to section 9-311(b) does not mean the provision is inapplicable.

7. Perfection by Possession of Goods Covered by Certificate-of-Title Statute. A secured party who holds a security interest perfected under the law of State A in goods that subsequently are covered by a State B certificate of title may face a predicament. Ordinarily, the secured party will have four months under State B’s section 9-316(c) and (d) in which to (re)perfect as against a purchaser of the goods by having its security interest noted on a State B certificate. This procedure is likely to require the cooperation of the debtor and any competing secured party whose security interest has been noted on the certificate. Comment 4(e) to former section 9-103 observed that “that cooperation is not likely to be forthcoming from an owner who wrongfully procured the issuance of a new certificate not showing the out-of-state security interest, or from a local secured party finding himself in a priority contest with the out-of-state secured party”. According to that comment, “(t)he only solution for the out-of-state secured party under present certificate of title statutes seems to be to reperfect by possession, i.e., by repossessing the goods”. But the “solution” may not have worked: Former section 9-302(4) provided that a security interest in property subject to a certificate-of-title statute “can be perfected only by compliance therewith”.

Sections 9-311(c), 9-313(b), and 9-316(d) and (e) of this article resolve the conflict by providing that a security interest that remains perfected solely by virtue of section 9-316(e) can be (re)perfected by the secured party’s taking possession of the collateral. These sections contemplate only that taking possession of goods covered by a certificate of title will work as a method of perfection. None of these sections creates a right to take possession. Section 9-609 and the agreement of the parties define the secured party’s right to take possession.

9-312 Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.

(a) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(b) Except as otherwise provided in section 9-315(c) and (d) for proceeds:

(1) a security interest in a deposit account may be perfected only by control under section 9-314;

(2) and except as otherwise provided in section 9-308(d), a security interest in a letter-of-credit right may be perfected only by control under section 9-314; and

(3) a security interest in money may be perfected only by the secured party’s taking possession under section 9-313.

(c) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) a security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) a security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

- (1) issuance of a document in the name of the secured party;
- (2) the bailee's receipt of notification of the secured party's interest; or
- (3) filing as to the goods.

(e) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of twenty days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

- (1) ultimate sale or exchange; or
- (2) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) A perfected security interest in a certificated security or instrument remains perfected for twenty days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

- (1) ultimate sale or exchange; or
- (2) presentation, collection, enforcement, renewal, or registration of transfer.

(h) After the twenty-day period specified in subsection (e), (f), or (g) expires, perfection depends upon compliance with this article.

Source: Laws 1999, LB 550, § 105; Laws 2005, LB 570, § 107.

COMMENT

1. Source. Former section 9-304, with additions and some changes.

2. Instruments. Under subsection (a), a security interest in instruments may be perfected by filing. This rule represents an important change from former article 9, under which the secured party's taking possession of an instrument was the only method of achieving long-term perfection. The rule is likely to be particularly useful in transactions involving a large number of notes that a debtor uses as collateral but continues to collect from the makers. A security interest perfected by filing is subject to defeat by certain subsequent purchasers (including secured parties). Under section 9-330(d), purchasers for value who take possession of an instrument without knowledge that the purchase violates the rights of the secured party generally would achieve priority over a security interest in the instrument perfected by filing. In addition, section 9-331 provides that filing a financing statement does not constitute notice that would preclude a subsequent purchaser from becoming a holder in due course and taking free of all claims under section 3-306.

3. Chattel Paper; Negotiable Documents. Subsection (a) further provides that filing is available as a method of perfection for security interests in chattel paper and negotiable documents. Tangible chattel paper is sometimes delivered to the assignee, and sometimes left in the hands of the assignor for collection.

Subsection (a) allows the assignee to perfect its security interest by filing in the latter case. Alternatively, the assignee may perfect by taking possession. See section 9-313(a). An assignee of electronic chattel paper may perfect by taking control. See sections 9-105 and 9-314(a). The security interest of an assignee who takes possession or control may qualify for priority over a competing security interest perfected by filing. See section 9-330.

Negotiable documents may be, and usually are, delivered to the secured party. See article 1, section 1-201 (definition of "delivery"). The secured party's taking possession of a tangible document or control of an electronic document will suffice as a perfection step. See sections 7-106, 9-313(a), and 9-314. However, as is the case with chattel paper, a security interest in a negotiable document may be perfected by filing.

4. Investment Property. A security interest in investment property, including certificated securities, uncertificated securities, security entitlements, and securities accounts, may be perfected by filing. However, security interests created by brokers, securities intermediaries, or commodity intermediaries are automatically perfected; filing is of no effect. See section 9-309(10) and (11). A security interest in all kinds of investment property also may be perfected by control, see sections 9-106 and 9-314, and a security interest in a certificated security also may be

perfected by the secured party's taking delivery under section 8-301. See section 9-313(a). A security interest perfected only by filing is subordinate to a conflicting security interest perfected by control or delivery. See section 9-328(1) and (5). Thus, although filing is a permissible method of perfection, a secured party who perfects by filing takes the risk that the debtor has granted or will grant a security interest in the same collateral to another party who obtains control. Also, perfection by filing would not give the secured party protection against other types of adverse claims, since the article 8 adverse claim cut-off rules require control. See section 8-510.

5. Deposit Accounts. Under new subsection (b)(1), the only method of perfecting a security interest in a deposit account as original collateral is by control. Filing is ineffective, except as provided in section 9-315 with respect to proceeds. As explained in section 9-104, "control" can arise as a result of an agreement among the secured party, debtor, and bank, whereby the bank agrees to comply with instructions of the secured party with respect to disposition of the funds on deposit, even though the debtor retains the right to direct disposition of the funds. Thus, subsection (b)(1) takes an intermediate position between certain non-Uniform Commercial Code law, which conditions the effectiveness of a security interest on the secured party's enjoyment of such dominion and control over the deposit account that the debtor is unable to dispose of the funds, and the approach this article takes to securities accounts, under which a secured party who is unable to reach the collateral without resort to judicial process may perfect by filing. By conditioning perfection on "control", rather than requiring the secured party to enjoy absolute dominion to the exclusion of the debtor, subsection (b)(1) permits perfection in a wide variety of transactions, including those in which the secured party actually relies on the deposit account in extending credit and maintains some meaningful dominion over it, but does not wish to deprive the debtor of access to the funds altogether.

6. Letter-of-Credit Rights. Letter-of-credit rights commonly are "supporting obligations", as defined in section 9-102. Perfection as to the related account, chattel paper, document, general intangible, instrument, or investment property will perfect as to the letter-of-credit rights. See section 9-308(d). Subsection (b)(2) provides that, in other cases, a security interest in a letter-of-credit right may be perfected only by control. "Control", for these purposes, is explained in section 9-107.

7. Goods Covered by Document of Title. Subsection (c) applies to goods in the possession of a bailee who has issued a negotiable document covering the goods. Subsection (d) applies to goods in the possession of a bailee who has issued a nonnegotiable document of title, including a document of title that is "nonnegotiable" under section 7-104. Section 9-313 governs perfection of a security interest in goods in the possession of a bailee who has not issued a document of title.

Subsection (c) clarifies the perfection and priority rules in former section 9-304(2). Consistently with the provisions of article 7, subsection (c) takes the position that, as long as a negotiable document covering goods is outstanding, title to the goods is, so to say, locked up in the document. Accordingly, a security interest in goods covered by a negotiable document may be perfected by perfecting a security interest in the document. The security interest also may be perfected by another method, e.g., by filing. The priority rule in subsection (c) governs only priority between (i) a security interest in goods which is perfected by perfecting in the document and (ii) a security interest in the goods which becomes perfected by another method while the goods are covered by the document.

Example 1: While wheat is in a grain elevator and covered by a negotiable warehouse receipt, Debtor creates a security interest in the wheat in favor of SP-1 and SP-2. SP-1 perfects by filing a financing statement covering "wheat". Thereafter, SP-2 perfects by filing a financing statement describing the warehouse receipt. Subsection (c)(1) provides that SP-2's security interest is perfected. Subsection (c)(2) provides that SP-2's security interest is senior to SP-1's.

Example 2: The facts are as in example 1, but SP-1's security interest attached and was perfected before the goods were delivered to the grain elevator. Subsection (c)(2) does not apply,

because SP-1's security interest did not become perfected during the time that the wheat was in the possession of a bailee. Rather, the first-to-file-or-perfect priority rule applies. See sections 7-503 and 9-322.

A secured party may become "a holder to whom a negotiable document of title has been duly negotiated" under section 7-501. If so, the secured party acquires the rights specified by article 7. Article 9 does not limit those rights, which may include the right to priority over an earlier-perfected security interest. See section 9-331(a).

Subsection (d) takes a different approach to the problem of goods covered by a nonnegotiable document. Here, title to the goods is not looked on as being locked up in the document, and the secured party may perfect its security interest directly in the goods by filing as to them. The subsection provides two other methods of perfection: Issuance of the document in the secured party's name (as consignee of a straight bill of lading or the person to whom delivery would be made under a nonnegotiable warehouse receipt) and receipt of notification of the secured party's interest by the bailee. Perfection under subsection (d) occurs when the bailee receives notification of the secured party's interest in the goods, regardless of who sends the notification. Receipt of notification is effective to perfect, regardless of whether the bailee responds. Unlike former section 9-304(3), from which it derives, subsection (d) does not apply to goods in the possession of a bailee who has not issued a document of title. Section 9-313(c) covers that case and provides that perfection by possession as to goods not covered by a document requires the bailee's acknowledgment.

8. Temporary Perfection Without Having First Otherwise Perfected. Subsection (e) follows former section 9-304(4) in giving perfected status to security interests in certificated securities, instruments, and negotiable documents for a short period (reduced from 21 to 20 days, which is the time period generally applicable in this article), although there has been no filing and the collateral is in the debtor's possession or control. The 20-day temporary perfection runs from the date of attachment. There is no limitation on the purpose for which the debtor is in possession, but the secured party must have given "new value" (defined in section 9-102) under an authenticated security agreement.

9. Maintaining Perfection After Surrendering Possession. There are a variety of legitimate reasons—many of them are described in subsections (f) and (g)—why certain types of collateral must be released temporarily to a debtor. No useful purpose would be served by cluttering the files with records of such exceedingly short-term transactions.

Subsection (f) affords the possibility of 20-day perfection in negotiable documents and goods in the possession of a bailee but not covered by a negotiable document. Subsection (g) provides for 20-day perfection in certificated securities and instruments. These subsections derive from former section 9-305(5). However, the period of temporary perfection has been reduced from 21 to 20 days, which is the time period generally applicable in this article, and "enforcement" has been added in subsection (g) as one of the special and limited purposes for which a secured party can release an instrument or certificated security to the debtor and still remain perfected. The period of temporary perfection runs from the date a secured party who already has a perfected security interest turns over the collateral to the debtor. There is no new value requirement, but the turnover must be for one or more of the purposes stated in subsection (f) or (g). The 20-day period may be extended by perfecting as to the collateral by another method before the period expires. However, if the security interest is not perfected by another method until after the 20-day period expires, there will be a gap during which the security interest is unperfected.

Temporary perfection extends only to the negotiable document or goods under subsection (f) and only to the certificated security or instrument under subsection (g). It does not extend to proceeds. If the collateral is sold, the security interest will continue in the proceeds for the period specified in section 9-315.

Subsections (f) and (g) deal only with perfection. Other sections of this article govern the priority of a security interest in goods after surrender of possession or control of the document covering them. In the case of a purchase-money security interest in inventory, priority may be conditioned upon giving notification to a prior inventory financier. See section 9-324.

9-313 When possession by or delivery to secured party perfects security interest without filing.

(a) Except as otherwise provided in subsection (b), a secured party may perfect a security interest in tangible negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under section 8-301.

(b) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in section 9-316(d).

(c) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) the person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) the person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

(d) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under section 8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) If a person acknowledges that it holds possession for the secured party's benefit:

(1) the acknowledgment is effective under subsection (c) or section 8-301(a), even if the acknowledgment violates the rights of a debtor; and

(2) unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) to hold possession of the collateral for the secured party's benefit; or

(2) to redeliver the collateral to the secured party.

(i) A secured party does not relinquish possession, even if a delivery under subsection (h) violates the rights of a debtor. A person to which collateral is delivered under subsection (h) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article otherwise provides.

Source: Laws 1999, LB 550, § 106; Laws 2005, LB 570, § 108.

COMMENT

1. Source. Former sections 9-115(6) and 9-305.

2. Perfection by Possession. As under the common law of pledge, no filing is required by this article to perfect a security interest if the secured party takes possession of the collateral. See section 9-310(b)(6).

This section permits a security interest to be perfected by the taking of possession only when the collateral is goods, instruments, tangible negotiable documents, money, or tangible chattel paper. Accounts, commercial tort claims, deposit accounts, investment property, letter-of-credit rights, letters of credit, and oil, gas, or other minerals before extraction are excluded. (But see comment 6, below, regarding certificated securities.) A security interest in accounts and payment intangibles—property not ordinarily represented by any writing whose delivery operates to transfer the right to payment—may under this article be perfected only by filing. This rule would not be affected by the fact that a security agreement or other record described the assignment of such collateral as a “pledge”. Section 9-309(2) exempts from filing certain assignments of accounts or payment intangibles which are out of the ordinary course of financing. These exempted assignments are perfected when they attach. Similarly, under section 9-309(3), sales of payment intangibles are automatically perfected.

3. “Possession”. This section does not define “possession”. It adopts the general concept as it developed under former article 9. As under former article 9, in determining whether a particular person has possession, the principles of agency apply. For example, if the collateral is in possession of an agent of the secured party for the purposes of possessing on behalf of the secured party, and if the agent is not also an agent of the debtor, the secured party has taken actual possession, and subsection (c) does not apply. Sometimes a person holds collateral both as an agent of the secured party and as an agent of the debtor. The fact of dual agency is not of itself inconsistent with the secured party’s having taken possession (and thereby having rendered subsection (c) inapplicable). The debtor cannot qualify as an agent for the secured party for purposes of the secured party’s taking possession. And, under appropriate circumstances, a court may determine that a person in possession is so closely connected to or controlled by the debtor that the debtor has retained effective possession, even though the person may have agreed to take possession on behalf of the secured party. If so, the person’s taking possession would not constitute the secured party’s taking possession and would not be sufficient for perfection. See also section 9-205(b). In a typical escrow arrangement, where the escrowee has possession of collateral as agent for both the secured party and the debtor, the debtor’s relationship to the escrowee is not such as to constitute retention of possession by the debtor.

4. Goods in Possession of Third Party: Perfection. Former section 9-305 permitted perfection of a security interest by notification to a bailee in possession of collateral. This article distinguishes between goods in the possession of a bailee who has issued a document of title covering the goods and goods in the possession of a third party who has not issued a document. Section 9-312(c) or (d) applies to the former, depending on whether the document is negotiable. Section 9-313(c) applies to the latter. It provides a method of perfection by possession when the collateral is possessed by a third person who is not the secured party’s agent.

Notification of a third person does not suffice to perfect under section 9-313(c). Rather, perfection does not occur unless the third person authenticates an acknowledgment that it holds

possession of the collateral for the secured party’s benefit. Compare section 9-312(d), under which receipt of notification of the secured party’s interest by a bailee holding goods covered by a nonnegotiable document is sufficient to perfect, even if the bailee does not acknowledge receipt of the notification. A third person may acknowledge that it will hold for the secured party’s benefit goods to be received in the future. Under these circumstances, perfection by possession occurs when the third person obtains possession of the goods.

Under subsection (c), acknowledgment of notification by a “lessee ... in ... ordinary course of ... business” (defined in section 2A-103) does not suffice for possession. The section thus rejects the reasoning of *In re Atlantic Systems, Inc.*, 135 B.R. 463 (Bankr. S.D.N.Y. 1992) (holding that notification to debtor-lessee sufficed to perfect security interest in leased goods). See Steven O. Weise, *Perfection by Possession: The Need for an Objective Test*, 29 Idaho Law Rev. 705 (1992-93) (arguing that lessee’s possession in ordinary course of debtor-lessee’s business does not provide adequate public notice of possible security interest in leased goods). Inclusion of a per se rule concerning lessees is not meant to preclude a court, under appropriate circumstances, from determining that a third person is so closely connected to or controlled by the debtor that the debtor has retained effective possession. If so, the third person’s acknowledgment would not be sufficient for perfection.

In some cases, it may be uncertain whether a person who has possession of collateral is an agent of the secured party or a nonagent bailee. Under those circumstances, prudence might suggest that the secured party obtain the person’s acknowledgment to avoid litigation and ensure perfection by possession regardless of how the relationship between the secured party and the person is characterized.

5. No Relation Back. Former section 9-305 provided that a security interest is perfected by possession from the time possession is taken “without a relation back”. As the comment to former section 9-305 observed, the relation-back theory, under which the taking of possession was deemed to relate back to the date of the original security agreement, has had little vitality since the 1938 revision of the Federal Bankruptcy Act. The theory is inconsistent with former article 9 and with this article. See section 9-313(d). Accordingly, this article deletes the quoted phrase as unnecessary. Where a pledge transaction is contemplated, perfection dates only from the time possession is taken, although a security interest may attach, unperfected. The only exceptions to this rule are the short, 20-day periods of perfection provided in section 9-312(e), (f), and (g), during which a debtor may have possession of specified collateral in which there is a perfected security interest.

6. Certificated Securities. The second sentence of subsection (a) reflects the traditional rule for perfection of a security interest in certificated securities. Compare sections 8-313(1)(a) and 8-321 (1978 Official Text); section 9-115(6) (1994 Official Text); and section 9-305 (1972 Official Text). It has been modified to refer to “delivery” under section 8-301. Corresponding changes appear in section 9-203(b).

Subsections (e), (f), and (g), which are new, apply to a person in possession of security certificates or holding security certificates for the secured party’s benefit under section 8-301. For delivery to occur when a person other than a secured party holds possession for the secured party, the person may not be a securities intermediary.

Under subsection (e), a possessory security interest in a certificated security remains perfected until the debtor obtains pos-

session of the security certificate. This rule is analogous to that of section 9-314(c), which deals with perfection of security interests in investment property by control. See section 9-314, comment 3.

7. Goods Covered by Certificate of Title. Subsection (b) is necessary to effect changes to the choice-of-law rules governing goods covered by a certificate of title. These changes are described in the comments to section 9-311. Subsection (b), like subsection (a), does not create a right to take possession. Rather, it indicates the circumstances under which the secured party's taking possession of goods covered by a certificate of title is effective to perfect a security interest in the goods: The goods become covered by a certificate of title issued by this state at a time when the security interest is perfected by any method under the law of another jurisdiction.

8. Goods in Possession of Third Party: No Duty to Acknowledge; Consequences of Acknowledgment. Subsections (f) and (g) are new and address matters as to which former article 9 was silent. They derive in part from section 8-106(g). Subsection (f) provides that a person in possession of collateral is not required to acknowledge that it holds for a secured party. Subsection (g)(1) provides that an acknowledgment is effective even if wrongful as to the debtor. Subsection (g)(2) makes clear that an acknowledgment does not give rise to any duties or responsibilities under this article. Arrangements involving the possession of goods are hardly standardized. They include bailments for services to be performed on the goods (such as repair or processing), for use (leases), as security (pledges), for carriage, and for

storage. This article leaves to the agreement of the parties and to any other applicable law the imposition of duties and responsibilities upon a person who acknowledges under subsection (c). For example, by acknowledging, a third party does not become obliged to act on the secured party's direction or to remain in possession of the collateral unless it agrees to do so or other law so provides.

9. Delivery to Third Party by Secured Party. New subsections (h) and (i) address the practice of mortgage warehouse lenders. These lenders typically send mortgage notes to prospective purchasers under cover of letters advising the prospective purchasers that the lenders hold security interests in the notes. These lenders relied on notification to maintain perfection under former section 9-305. Requiring them to obtain authenticated acknowledgments from each prospective purchaser under subsection (c) could be unduly burdensome and disruptive of established practices. Under subsection (h), when a secured party in possession itself delivers the collateral to a third party, instructions to the third party would be sufficient to maintain perfection by possession; an acknowledgment would not be necessary. Under subsection (i), the secured party does not relinquish possession by making a delivery under subsection (h), even if the delivery violates the rights of the debtor. That subsection also makes clear that a person to whom collateral is delivered under subsection (h) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article provides otherwise.

9-314 Perfection by control.

(a) A security interest in investment property, deposit accounts, letter-of-credit rights, electronic chattel paper, or electronic documents may be perfected by control of the collateral under section 7-106, 9-104, 9-105, 9-106, or 9-107.

(b) A security interest in deposit accounts, electronic chattel paper, letter-of-credit rights, or electronic documents is perfected by control under section 7-106, 9-104, 9-105, or 9-107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) A security interest in investment property is perfected by control under section 9-106 from the time the secured party obtains control and remains perfected by control until:

(1) the secured party does not have control; and

(2) one of the following occurs:

(A) if the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

(B) if the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

(C) if the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

Source: Laws 1999, LB 550, § 107; Laws 2005, LB 570, § 109.

COMMENT

1. Source. Substantially new; derived in part from former section 9-115(4).

2. Control. This section provides for perfection by control with respect to investment property, deposit accounts, letter-of-credit rights, electronic chattel paper, and electronic documents. For explanations of how a secured party takes control of these types of collateral, see section 7-106 and sections 9-104 through 9-107. Subsection (b) explains when a security interest

is perfected by control and how long a security interest remains perfected by control. Like section 9-313(d) and for the same reasons, subsection (b) makes no reference to the doctrine of "relation back". See section 9-313, comment 5. As to an electronic document that is reissued in a tangible medium, section 7-105, a secured party that is perfected by control in the electronic document should file as to the document before relinquishing control in order to maintain continuous perfection in the document. See section 9-308.

3. Investment Property. Subsection (c) provides a special rule for investment property. Once a secured party has control, its security interest remains perfected by control until the secured party ceases to have control and the debtor receives possession of collateral that is a certificated security, becomes the registered owner of collateral that is an uncertificated security, or becomes the entitlement holder of collateral that is a security entitlement. The result is particularly important in the "repledge" context. See section 9-207, comment 5.

In a transaction in which a secured party who has control grants a security interest in investment property or sells outright the investment property, by virtue of the debtor's consent or applicable legal rules, a purchaser from the secured party typically will cut off the debtor's rights in the investment property or be immune from the debtor's claims. See section 9-207, comments 5 and 6. If the investment property is a security, the debtor normally would retain no interest in the security follow-

ing the purchase from the secured party, and a claim of the debtor against the secured party for redemption (section 9-623) or otherwise with respect to the security would be a purely personal claim. If the investment property transferred by the secured party is a financial asset in which the debtor had a security entitlement credited to a securities account maintained with the secured party as a securities intermediary, the debtor's claim against the secured party could arise as a part of its securities account notwithstanding its personal nature. (This claim would be analogous to a "credit balance" in the securities account, which is a component of the securities account even though it is a personal claim against the intermediary.) In the case in which the debtor may retain an interest in investment property notwithstanding a repledge or sale by the secured party, subsection (c) makes clear that the security interest will remain perfected by control.

9-315 Secured party's rights on disposition of collateral and in proceeds.

(a)(1) Except as otherwise provided in this article and in section 2-403(2):

(A) a security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(B) a security interest attaches to any identifiable proceeds of collateral.

(2) Authorization to sell, lease, license, exchange, or otherwise dispose of farm products shall not be implied or otherwise result, nor shall a security interest in farm products be considered to be waived, modified, released, or terminated if such disposition is conditioned upon the secured party's receipt of proceeds or from any course of conduct, course of performance, or course of dealing between the parties or by any usage of trade in any case in which (A) the secured party has filed an effective financing statement in accordance with the provisions of sections 52-1301 to 52-1322, Reissue Revised Statutes of Nebraska, or (B) the buyer of farm products has received notice from the secured party or the seller of farm products in accordance with the provisions of 7 U.S.C. 1631(e)(1)(A), unless the buyer has secured a waiver or release of the security interest specified in such effective financing statement or notice from the secured party.

(b) Proceeds that are commingled with other property are identifiable proceeds:

(1) if the proceeds are goods, to the extent provided by section 9-336; and

(2) if the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this article with respect to commingled property of the type involved.

(c) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(d) A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless:

(1) the following conditions are satisfied:

(A) a filed financing statement covers the original collateral;

(B) the proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

(C) the proceeds are not acquired with cash proceeds;

(2) the proceeds are identifiable cash proceeds; or
 (3) the security interest in the proceeds is perfected other than under subsection (c) when the security interest attaches to the proceeds or within twenty days thereafter.

(e) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subdivision (d)(1) becomes unperfected at the later of:

(1) when the effectiveness of the filed financing statement lapses under section 9-515 or is terminated under section 9-513; or

(2) the twenty-first day after the security interest attaches to the proceeds.

Source: Laws 1999, LB 550, § 108; Laws 2003, LB 4, § 6; Laws 2007, LB124, § 70.

COMMENT

1. Source. Former section 9-306.

2. Continuation of Security Interest or Agricultural Lien Following Disposition of Collateral. Subsection (a)(1)(A), which derives from former section 9-306(2), contains the general rule that a security interest survives disposition of the collateral. In these cases, the secured party may repossess the collateral from the transferee or, in an appropriate case, maintain an action for conversion. The secured party may claim both any proceeds and the original collateral but, of course, may have only one satisfaction.

In many cases, a purchaser or other transferee of collateral will take free of a security interest, and the secured party's only right will be to proceeds. For example, the general rule does not apply, and a security interest does not continue in collateral, if the secured party authorized the disposition, in the agreement that contains the security agreement or otherwise. Subsection (a)(1)(A) adopts the view of PEB Commentary No. 3 and makes explicit that the authorized disposition to which it refers is an authorized disposition "free of" the security interest or agricultural lien. The secured party's right to proceeds under this section or under the express terms of an agreement does not in itself constitute an authorization of disposition. The change in language from former section 9-306(2) is not intended to address the frequently litigated situation in which the effectiveness of the secured party's consent to a disposition is conditioned upon the secured party's receipt of the proceeds. In that situation, subsection (a) leaves the determination of authorization to the courts, as under former article 9.

This article contains several provisions under which a transferee takes free of a security interest or agricultural lien. For example, section 9-317 states when transferees take free of unperfected security interests; sections 9-320 and 9-321 on goods, 9-321 on general intangibles, 9-330 on chattel paper and instruments, and 9-331 on negotiable instruments, negotiable documents, and securities state when purchasers of such collateral take free of a security interest, even though perfected and even though the disposition was not authorized. Section 9-332 enables most transferees (including nonpurchasers) of funds from a deposit account and most transferees of money to take free of a perfected security interest in the deposit account or money.

Likewise, the general rule that a security interest survives disposition does not apply if the secured party entrusts goods collateral to a merchant who deals in goods of that kind and the merchant sells the collateral to a buyer in ordinary course of business. Section 2-403(2) gives the merchant the power to transfer all the secured party's rights to the buyer, even if the sale is wrongful as against the secured party. Thus, under subsection (a)(1)(A), an entrusting secured party runs the same risk as any other entruster.

3. Secured Party's Right to Identifiable Proceeds. Under subsection (a)(1)(B), which derives from former section 9-306(2), a security interest attaches to any identifiable "pro-

ceeds", as defined in section 9-102. See also section 9-203(f). Subsection (b) is new. It indicates when proceeds commingled with other property are identifiable proceeds and permits the use of whatever methods of tracing other law permits with respect to the type of property involved. Among the "equitable principles" whose use other law may permit is the "lowest intermediate balance rule". See Restatement (2d), Trusts section 202.

4. Automatic Perfection in Proceeds: General Rule. Under subsection (c), a security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected. This article extends the period of automatic perfection in proceeds from 10 days to 20 days. Generally, a security interest in proceeds becomes unperfected on the 21st day after the security interest attaches to the proceeds. See subsection (d). The loss of perfected status under subsection (d) is prospective only. Compare, e.g., section 9-515(c) (deeming security interest unperfected retroactively).

5. Automatic Perfection in Proceeds: Proceeds Acquired with Cash Proceeds. Subsection (d)(1) derives from former section 9-306(3)(a). It carries forward the basic rule that a security interest in proceeds remains perfected beyond the period of automatic perfection if a filed financing statement covers the original collateral (e.g., inventory) and the proceeds are collateral in which a security interest may be perfected by filing in the office where the financing statement has been filed (e.g., equipment). A different rule applies if the proceeds are acquired with cash proceeds, as is the case if the original collateral (inventory) is sold for cash (cash proceeds) that is used to purchase equipment (proceeds). Under these circumstances, the security interest in the equipment proceeds remains perfected only if the description in the filed financing statement indicates the type of property constituting the proceeds (e.g., "equipment").

This section reaches the same result but takes a different approach. It recognizes that the treatment of proceeds acquired with cash proceeds under former section 9-306(3)(a) essentially was superfluous. In the example, had the filing covered "equipment" as well as "inventory", the security interest in the proceeds would have been perfected under the usual rules governing after-acquired equipment (see former sections 9-302 and 9-303); paragraph (3)(a) added only an exception to the general rule. Subsection (d)(1)(C) of this section takes a more direct approach. It makes the general rule of continued perfection inapplicable to proceeds acquired with cash proceeds, leaving perfection of a security interest in those proceeds to the generally applicable perfection rules under subsection (d)(3).

Example 1: Lender perfects a security interest in Debtor's inventory by filing a financing statement covering "inventory". Debtor sells the inventory and deposits the buyer's check into a deposit account. Debtor draws a check on the deposit account and uses it to pay for equipment. Under the "lowest intermediate balance rule", which is a permitted method of tracing in the relevant jurisdiction, see comment 3, the funds used to pay for

the equipment were identifiable proceeds of the inventory. Because the proceeds (equipment) were acquired with cash proceeds (deposit account), subsection (d)(1) does not extend perfection beyond the 20-day automatic period.

Example 2: Lender perfects a security interest in Debtor's inventory by filing a financing statement covering "all debtor's property". As in example 1, Debtor sells the inventory, deposits the buyer's check into a deposit account, draws a check on the deposit account, and uses the check to pay for equipment. Under the "lowest intermediate balance rule", which is a permitted method of tracing in the relevant jurisdiction, see comment 3, the funds used to pay for the equipment were identifiable proceeds of the inventory. Because the proceeds (equipment) were acquired with cash proceeds (deposit account), subsection (d)(1) does not extend perfection beyond the 20-day automatic period. However, because the financing statement is sufficient to perfect a security interest in debtor's equipment, under subsection (d)(3) the security interest in the equipment proceeds remains perfected beyond the 20-day period.

6. Automatic Perfection in Proceeds: Lapse or Termination of Financing Statement During 20-Day Period; Perfection Under Other Statute or Treaty. Subsection (e) provides that a security interest in proceeds perfected under subsection (d)(1) ceases to be perfected when the financing statement covering the original collateral lapses or is terminated. If the lapse or termination occurs before the 21st day after the security interest attaches, however, the security interest in the proceeds remains perfected until the 21st day. Section 9-311(b) provides that compliance with the perfection requirements of a statute or treaty described in section 9-311(a) "is equivalent to the filing of a financing statement". It follows that collateral subject to a security interest perfected by such compliance under section 9-311(b) is covered by a "filed financing statement" within the meaning of section 9-315(d) and (e).

7. Automatic Perfection in Proceeds: Continuation of Perfection in Cash Proceeds. Former section 9-306(3)(b) provided that if a filed financing statement covered original collateral, a security interest in identifiable cash proceeds of the collateral remained perfected beyond the ten-day period of automatic perfection. Former section 9-306(3)(c) contained a similar rule with respect to identifiable cash proceeds of investment property. Subsection (d)(2) extends the benefits of former sections 9-306(3)(b) and (3)(c) to identifiable cash proceeds of all types of original collateral in which a security interest is perfected by any method. Under subsection (d)(2), if the security interest in the original collateral was perfected, a security interest in identifiable cash proceeds will remain perfected indefinitely, regardless of whether the security interest in the original collateral remains perfected. In many cases, however, a purchaser or other transferee of the cash proceeds will take free of the perfected security interest. See, e.g., sections 9-330(d) (purchaser of check), 9-331 (holder in due course of check), and 9-332 (transferee of money or funds from a deposit account).

8. Insolvency Proceedings; Returned and Repossessed Goods. This article deletes former section 9-306(4), which dealt with proceeds in insolvency proceedings. Except as otherwise provided by the Bankruptcy Code, the debtor's entering into bankruptcy does not affect a secured party's right to proceeds.

This article also deletes former section 9-306(5), which dealt with returned and repossessed goods. Section 9-330, comments 9 to 11, explain and clarify the application of priority rules to returned and repossessed goods as proceeds of chattel paper.

9. Proceeds of Collateral Subject to Agricultural Lien. This article does not determine whether a lien extends to proceeds of farm products encumbered by an agricultural lien. If, however, the proceeds are themselves farm products on which an "agricultural lien" (defined in section 9-102) arises under other law, then the agricultural lien provisions of this article apply to the agricultural lien on the proceeds in the same way in which they would apply had the farm products not been proceeds.

Subpart 3

PRIORITY

9-317 Interests that take priority over or take free of security interest or agricultural lien.

(a) A security interest or agricultural lien is subordinate to the rights of:

(1) a person entitled to priority under section 9-322; and

(2) except as otherwise provided in subsection (e), a person that becomes a lien creditor before the earlier of the time:

(A) the security interest or agricultural lien is perfected; or

(B) one of the conditions specified in section 9-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, electronic documents, general intangibles, or investment property other than a certificated security takes free of a security

interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in sections 9-320 and 9-321, if a person files a financing statement with respect to a purchase-money security interest before or within thirty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

Source: Laws 1999, LB 550, § 110; Laws 2000, LB 929, § 29; Laws 2005, LB 82, § 8; Laws 2005, LB 570, § 110.

COMMENT

1. Source. Former sections 2A-307(2) and 9-301.

2. Scope of This Section. As did former section 9-301, this section lists the classes of persons who take priority over, or take free of, an unperfected security interest. Section 9-308 explains when a security interest or agricultural lien is "perfected". A security interest that has attached (see section 9-203) but as to which a required perfection step has not been taken is "unperfected". Certain provisions have been moved from former section 9-301. The definition of "lien creditor" now appears in section 9-102, and the rules governing priority in future advances are found in section 9-323.

3. Competing Security Interests. Section 9-322 states general rules for determining priority among conflicting security interests and refers to other sections that state special rules of priority in a variety of situations. The security interests given priority under section 9-322 and the other sections to which it refers take priority in general even over a perfected security interest. A fortiori they take priority over an unperfected security interest.

4. Filed but Unattached Security Interest vs. Lien Creditor. Under former section 9-301(1)(b), a lien creditor's rights had priority over an unperfected security interest. Perfection required attachment (former section 9-303) and attachment required the giving of value (former section 9-203). It followed that, if a secured party had filed a financing statement, but the debtor had not entered into a security agreement and value had not yet been given, an intervening lien creditor whose lien arose after filing but before attachment of the security interest acquired rights that are senior to those of the secured party who later gives value. This result comported with the *nemo dat* concept: When the security interest attached, the collateral was already subject to the judicial lien.

On the other hand, this approach treated the first secured advance differently from all other advances, even in circumstances in which a security agreement covering the collateral had been entered into before the judicial lien attached. The special rule for future advances in former section 9-301(4) (substantially reproduced in section 9-323(b)) afforded priority to a discretionary advance made by a secured party within 45 days after the lien creditor's rights arose as long as the secured party was "perfected" when the lien creditor's lien arose—i.e., as long as the advance was not the first one and an earlier advance had been made.

Subsection (a)(2) revises former section 9-301(1)(b) and, in appropriate cases, treats the first advance the same as subsequent advances. More specifically, a judicial lien that arises after the security-agreement condition of section 9-203(b)(3) is satisfied and a financing statement is filed, but before the security interest attaches and becomes perfected, is subordinate to all advances secured by the security interest, even the first advance, except as otherwise provided in section 9-323(b). However, if the security interest becomes unperfected (e.g., because the effectiveness of the filed financing statement lapses) before the judicial lien arises, the security interest is subordinate. If a financing statement is filed but a security interest does not attach, then no priority contest arises. The lien creditor has the only enforceable claim to the property.

5. Security Interest of Consignor or Receivables Buyer vs. Lien Creditor. Section 1-201(37) defines "security interest" to include the interest of most true consignors of goods and the interest of most buyers of certain receivables (accounts, chattel paper, payment intangibles, and promissory notes). A consignee of goods or a seller of accounts or chattel paper each is deemed to have rights in the collateral which a lien creditor may reach, as long as the competing security interest of the consignor or buyer is unperfected. This is so even though, as between the consignor and the debtor-consignee, the latter has only limited rights, and, as between the buyer and debtor-seller, the latter does not have any rights in the collateral. See sections 9-318 (seller) and 9-319 (consignee). Security interests arising from sales of payment intangibles and promissory notes are automatically perfected. See section 9-309. Accordingly, a subsequent judicial lien always would be subordinate to the rights of a buyer of those types of receivables.

6. Purchasers Other Than Secured Parties. Subsections (b), (c), and (d) afford priority over an unperfected security interest to certain purchasers (other than secured parties) of collateral. They derive from former sections 2A-307(2), 9-301(1)(c), and 9-301(1)(d). Former section 9-301(1)(c) and (1)(d) provided that unperfected security interests are "subordinate" to the rights of certain purchasers. But, as former comment 9 suggested, the practical effect of subordination in this context is that the purchaser takes free of the security interest. To avoid any possible misinterpretation, subsections (b) and (d) of this section use the phrase "takes free".

Subsection (b) governs goods, as well as intangibles of the type whose transfer is effected by physical delivery of the representative piece of paper (tangible chattel paper, tangible documents, instruments, and security certificates). To obtain priority, a buyer must both give value and receive delivery of the collateral without knowledge of the existing security interest and before perfection. Even if the buyer gave value without knowledge and before perfection, the buyer would take subject to the security interest if perfection occurred before physical delivery of the collateral to the buyer. Subsection (c) contains a similar rule with respect to lessees of goods. Note that a lessee of goods in ordinary course of business takes free of all security interests created by the lessor, even if perfected. See section 9-321.

Normally, there will be no question when a buyer of tangible chattel paper, tangible documents, instruments, or security certificates "receives delivery" of the property. See section 1-201 (defining "delivery"). However, sometimes a buyer or lessee of goods, such as complex machinery, takes delivery of the goods in stages and completes assembly at its own location. Under those circumstances, the buyer or lessee "receives delivery" within the meaning of subsections (b) and (c) when, after an inspection of the portion of the goods remaining with the seller or lessor, it would be apparent to a potential lender to the seller or lessor that another person might have an interest in the goods.

The rule of subsection (b) obviously is not appropriate where the collateral consists of intangibles and there is no representative piece of paper whose physical delivery is the only or the

customary method of transfer. Therefore, with respect to such intangibles (accounts, electronic chattel paper, electronic documents, general intangibles, and investment property other than certificated securities), subsection (d) gives priority to any buyer who gives value without knowledge, and before perfection, of the security interest. A licensee of a general intangible takes free of an unperfected security interest in the general intangible under the same circumstances. Note that a licensee of a general intangible in ordinary course of business takes rights under a nonexclusive license free of security interests created by the licensor, even if perfected. See section 9-321.

Unless section 9-109 excludes the transaction from this article, a buyer of accounts, chattel paper, payment intangibles, or promissory notes is a "secured party" (defined in section 9-102), and subsections (b) and (d) do not determine priority of the security interest created by the sale. Rather, the priority rules generally applicable to competing security interests apply. See section 9-322.

7. Agricultural Liens. Subsections (a), (b), and (c) subordinate unperfected agricultural liens in the same manner in which they subordinate unperfected security interests.

8. Purchase-Money Security Interests. Subsection (e) derives from former section 9-301(2). It provides that, if a purchase-money security interest is perfected by filing no later than 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of buyers, lessees, or lien creditors which arise between the time the security interest attaches and the time of filing. Subsection (e) differs from former section 9-301(2) in two significant respects. First, subsection (e) protects a purchase-money security interest against all buyers and lessees, not just against transferees in bulk. Second, subsection (e) conditions this protection on filing within 20, as opposed to ten, days after delivery.

Section 9-311(b) provides that compliance with the perfection requirements of a statute or treaty described in section 9-311(a) "is equivalent to the filing of a financing statement". It follows that a person who perfects a security interest in goods covered by a certificate of title by complying with the perfection requirements of an applicable certificate-of-title statute "files a financing statement" within the meaning of subsection (e).

9-320 Buyer of goods.

(a) Except as otherwise provided in subsection (e), a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence. A buyer of farm products may be subject to a security interest under sections 52-1301 to 52-1322, Reissue Revised Statutes of Nebraska.

(b) Except as otherwise provided in subsection (e), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

- (1) without knowledge of the security interest;
- (2) for value;
- (3) primarily for the buyer's personal, family, or household purposes; and
- (4) before the filing of a financing statement covering the goods.

(c) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (b), the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by section 9-316(a) and (b).

(d) A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(e) Subsections (a) and (b) do not affect a security interest in goods in the possession of the secured party under section 9-313.

(f) No buyer shall be allowed to take advantage of and apply the right of offset to defeat a priority established by any lien or security interest.

Source: Laws 1999, LB 550, § 113; Laws 2003, LB 4, § 7; Laws 2007, LB124, § 71.

COMMENT

1. Source. Former section 9-307.

2. Scope of This Section. This section states when buyers of goods take free of a security interest even though perfected. Of course, a buyer who takes free of a perfected security interest takes free of an unperfected one. Section 9-317 should be consulted to determine what purchasers, in addition to the

buyers covered in this section, take free of an unperfected security interest. Article 2 states general rules on purchase of goods from a seller with defective or voidable title (section 2-403).

3. Buyers in Ordinary Course. Subsection (a) derives from former section 9-307(1). The definition of "buyer in ordinary

course of business" in section 1-201 restricts its application to buyers "from a person, other than a pawnbroker, in the business of selling goods of that kind". Thus subsection (a) applies primarily to inventory collateral. The subsection further excludes from its operation buyers of "farm products" (defined in section 9-102) from a person engaged in farming operations. The buyer in ordinary course of business is defined as one who buys goods "in good faith, without knowledge that the sale violates the rights of another person and in the ordinary course". Subsection (a) provides that such a buyer takes free of a security interest, even though perfected, and even though the buyer knows the security interest exists. Reading the definition together with the rule of law results in the buyer's taking free if the buyer merely knows that a security interest covers the goods but taking subject to if the buyer knows, in addition, that the sale violates a term in an agreement with the secured party.

As did former section 9-307(1), subsection (a) applies only to security interests created by the seller of the goods to the buyer in ordinary course. However, under certain circumstances a buyer in ordinary course who buys goods that were encumbered with a security interest created by a person other than the seller may take free of the security interest, as example 2 explains. See also comment 6, below.

Example 1: Manufacturer, who is in the business of manufacturing appliances, owns manufacturing equipment subject to a perfected security interest in favor of Lender. Manufacturer sells the equipment to Dealer, who is in the business of buying and selling used equipment. Buyer buys the equipment from Dealer. Even if Buyer qualifies as a buyer in the ordinary course of business, Buyer does not take free of Lender's security interest under subsection (a), because Dealer did not create the security interest; Manufacturer did.

Example 2: Manufacturer, who is in the business of manufacturing appliances, owns manufacturing equipment subject to a perfected security interest in favor of Lender. Manufacturer sells the equipment to Dealer, who is in the business of buying and selling used equipment. Lender learns of the sale but does nothing to assert its security interest. Buyer buys the equipment from Dealer. Inasmuch as Lender's acquiescence constitutes an "entrusting" of the goods to Dealer within the meaning of section 2-403(3) Buyer takes free of Lender's security interest under section 2-403(2) if Buyer qualifies as a buyer in ordinary course of business.

4. Buyers of Farm Products. This section does not enable a buyer of farm products to take free of a security interest created by the seller, even if the buyer is a buyer in ordinary course of business. However, a buyer of farm products may take free of a security interest under section 1324 of the Food Security Act of 1985, 7 U.S.C. section 1631.

5. Buyers of Consumer Goods. Subsection (b), which derives from former section 9-307(2), deals with buyers of collateral that the debtor-seller holds as "consumer goods" (defined in section 9-102). Under section 9-309(1), a purchase-money security interest in consumer goods, except goods that are subject to a statute or treaty described in section 9-311(a) (such as automobiles that are subject to a certificate-of-title statute), is perfected automatically upon attachment. There is no need to file to perfect. Under subsection (b) a buyer of consumer goods takes free of a security interest, even though perfected, if the buyer buys (1) without knowledge of the security interest, (2) for value, (3) primarily for the buyer's own personal, family, or household purposes, and (4) before a financing statement is filed.

As to purchase-money security interests which are perfected without filing under section 9-309(1): A secured party may file a financing statement, although filing is not required for perfection. If the secured party does file, all buyers take subject to the security interest. If the secured party does not file, a buyer who meets the qualifications stated in the preceding paragraph takes free of the security interest.

As to security interests for which a perfection step is required: This category includes all non-purchase-money security interests, and all security interests, whether or not purchase-money, in goods subject to a statute or treaty described in section 9-311(a), such as automobiles covered by a certificate-of-title statute. As long as the required perfection step has not been taken and the security interest remains unperfected, not only the buyers described in subsection (b) but also the purchasers described in section 9-317 will take free of the security interest. After a financing statement has been filed or the perfection requirements of the applicable certificate-of-title statute have been complied with (compliance is the equivalent of filing a financing statement; see section 9-311(b)), all subsequent buyers, under the rule of subsection (b), are subject to the security interest.

The rights of a buyer under subsection (b) turn on whether a financing statement has been filed against consumer goods. Occasionally, a debtor changes his or her location after a filing is made. Subsection (c), which derives from former section 9-103(1)(d)(iii), deals with the continued effectiveness of the filing under those circumstances. It adopts the rules of section 9-316(a) and (b). These rules are explained in the comments to that section.

6. Authorized Dispositions. The limitations that subsections (a) and (b) impose on the persons who may take free of a security interest apply of course only to unauthorized sales by the debtor. If the secured party authorized the sale in an express agreement or otherwise, the buyer takes free under section 9-315(a)(1) without regard to the limitations of this section. (That section also states the right of a secured party to the proceeds of a sale, authorized or unauthorized.) Moreover, the buyer also takes free if the secured party waived or otherwise is precluded from asserting its security interest against the buyer. See section 1-103.

7. Oil, Gas, and Other Minerals. Under subsection (d), a buyer in ordinary course of business of minerals at the wellhead or minehead or after extraction takes free of a security interest created by the seller. Specifically, it provides that qualified buyers take free not only of article 9 security interests but also of interests "arising out of an encumbrance". As defined in section 9-102, the term "encumbrance" means "a right, other than an ownership interest, in real property". Thus, to the extent that a mortgage encumbers minerals not only before but also after extraction, subsection (d) enables a buyer in ordinary course of the minerals to take free of the mortgage. This subsection does not, however, enable these buyers to take free of interests arising out of ownership interests in the real property. This issue is significant only in a minority of states. Several of them have adopted special statutes and nonuniform amendments to article 9 to provide special protections to mineral owners, whose interests often are highly fractionalized in the case of oil and gas. See Terry I. Cross, *Oil and Gas Product Liens—Statutory Security Interests for Producers and Royalty Owners Under the Statutes of Kansas, New Mexico, Oklahoma, Texas and Wyoming*, 50 *Consumer Fin. L. Q. Rep.* 418 (1996). Inasmuch as a complete resolution of the issue would require the addition of complex provisions to this article, and there are good reasons to believe that a uniform solution would not be feasible, this article leaves its resolution to other legislation.

8. Possessory Security Interests. Subsection (e) is new. It rejects the holding of *Tanbro Fabrics Corp. v. Deering Milliken, Inc.*, 350 N.E.2d 590 (N.Y. 1976) and, together with section 9-317(b), prevents a buyer of goods collateral from taking free of a security interest if the collateral is in the possession of the secured party. "The secured party" referred in subsection (e) is the holder of the security interest referred to in subsection (a) or (b). Section 9-313 determines whether a secured party is in possession for purposes of this section. Under some circumstances, section 9-313 provides that a secured party is in possession of collateral even if the collateral is in the physical possession of a third party.

9-324 Priority of purchase-money security interests.

(a) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in goods other than inventory or livestock has priority

over a conflicting security interest in the same goods, and, except as otherwise provided in section 9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within thirty days thereafter.

(b) Subject to subsection (c) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in section 9-330, and, except as otherwise provided in section 9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the inventory;

(2) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) Subdivisions (b)(2) through (4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under section 9-312(f), before the beginning of the twenty-day period thereunder.

(d)(1) Subject to subsection (e) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in section 9-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(A) the purchase-money security interest is perfected when the debtor receives possession of the livestock;

(B) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(C) the holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

(D) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(2) For purposes of this subsection, possession means (A) possession by the debtor or (B) possession by a third party on behalf of or at the direction of the

debtor, including, but not limited to, possession by a bailee or an agent of the debtor.

(e) Subdivisions (d)(1)(B) through (D) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under section 9-312(f), before the beginning of the twenty-day period thereunder.

(f) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in section 9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) If more than one security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f):

(1) a security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) in all other cases, section 9-322(a) applies to the qualifying security interests.

Source: Laws 1999, LB 550, § 117; Laws 2005, LB 82, § 9; Laws 2008, LB851, § 27.

Cross References

Administrative Procedure Act, see section 84-920.

9-338 Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.

If a security interest or agricultural lien is perfected by a filed financing statement providing information described in section 9-516(b)(5) which is incorrect at the time the financing statement is filed:

(1) the security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) a purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, tangible documents, goods, instruments, or a security certificate, receives delivery of the collateral.

Source: Laws 1999, LB 550, § 131; Laws 2005, LB 570, § 111.

COMMENT

1. Source. New.**2. Effect of Incorrect Information in Financing Statement.**

Section 9-520(a) requires the filing office to reject financing statements that do not contain information concerning the debtor as specified in section 9-516(b)(5). An error in this information does not render the financing statement ineffective. On rare occasions, a subsequent purchaser of the collateral (i.e., a buyer or secured party) may rely on the misinformation to its detriment. This section subordinates a security interest or agricultural lien perfected by an effective, but flawed, financing statement to the rights of a buyer or holder of a perfected security interest to the extent that, in reasonable reliance on the incorrect information, the purchaser gives value and, in the case of

tangible collateral, receives delivery of the collateral. A purchaser who has not made itself aware of the information in the filing office with respect to the debtor cannot act in "reasonable reliance" upon incorrect information.

3. Relationship to Section 9-507. This section applies to financing statements that contain information that is incorrect at the time of filing and imposes a small risk of subordination on the filer. In contrast, section 9-507 deals with financing statements containing information that is correct at the time of filing but which becomes incorrect later. Except as provided in section 9-507 with respect to changes in the debtor's name, an otherwise effective financing statement does not become ineffective if the information contained in it becomes inaccurate.

Part 5

FILING

Subpart 1

FILING OFFICE; CONTENTS AND EFFECTIVENESS
OF FINANCING STATEMENT**9-506 Effect of errors or omissions.**

(a) A financing statement substantially satisfying the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(b) Except as otherwise provided in subsection (c) of this section, a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 9-503(a) is seriously misleading.

(c) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 9-503(a), the name provided does not make the financing statement seriously misleading.

(d) For purposes of section 9-508(b), the "debtor's correct name" in subsection (c) of this section means the correct name of the new debtor.

Source: Laws 1999, LB 550, § 150; Laws 2008, LB308A, § 1; Laws 2008, LB 851, § 28; Laws 2010, LB751, § 1.
Effective date March 4, 2010.

9-516 What constitutes filing; effectiveness of filing.

(a) Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) the record is not communicated by a method or medium of communication authorized by the filing office;

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or correction statement, the record:

(i) does not identify the initial financing statement as required by section 9-512 or 9-518, as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under section 9-515;

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

(D) in the case of a record filed or recorded in the filing office described in section 9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) provide a mailing address for the debtor;

(B) indicate whether the debtor is an individual or an organization; or

(C) if the financing statement indicates that the debtor is an organization, provide:

(i) a type of organization for the debtor;

(ii) a jurisdiction of organization for the debtor; or

(iii) an organizational identification number for the debtor or indicate that the debtor has none;

(6) in the case of an assignment reflected in an initial financing statement under section 9-514(a) or an amendment filed under section 9-514(b), the record does not provide a name and mailing address for the assignee;

(7) in the case of a continuation statement, the record is not filed within the six-month period prescribed by section 9-515(d); or

(8) in the case of a financing statement or an amendment to a financing statement, the same person or entity is listed as both debtor and secured party.

(c) For purposes of subsection (b):

(1) a record does not provide information if the filing office is unable to read or decipher the information; and

(2) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 9-512, 9-514, or 9-518, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b), is effective as a filed record except as against a

purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

Source: Laws 1999, LB 550, § 160; Laws 2003, LB 494, § 1.

COMMENT

1. Source. Subsection (a): Former section 9-403(1); the remainder is new.

2. What Constitutes Filing. Subsection (a) deals generically with what constitutes filing of a record, including an initial financing statement and amendments of all kinds (e.g., assignments, termination statements, and continuation statements). It follows former section 9-403(1), under which either acceptance of a record by the filing office or presentation of the record and tender of the filing fee constitutes filing.

3. Effectiveness of Rejected Record. Subsection (b) provides an exclusive list of grounds upon which the filing office may reject a record. See section 9-520(a). Although some of these grounds would also be grounds for rendering a filed record ineffective (e.g., an initial financing statement does not provide a name for the debtor), many others would not be (e.g., an initial financing statement does not provide a mailing address for the debtor or secured party of record). Neither this section nor section 9-520 requires or authorizes the filing office to determine, or even consider, the accuracy of information provided in a record. For example, the State A filing office may not reject under subsection (b)(5)(C) an initial financing statement indicating that the debtor is a State A corporation and providing a three-digit organizational identification number, even if all State A organizational identification numbers contain at least five digits and two letters.

A financing statement or other record that is communicated to the filing office but which the filing office refuses to accept provides no public notice, regardless of the reason for the rejection. However, this section distinguishes between records that the filing office rightfully rejects and those that it wrongfully rejects. A filer is able to prevent a rightful rejection by complying with the requirements of subsection (b). No purpose is served by giving effect to records that justifiably never find their way into the system, and subsection (b) so provides.

Subsection (d) deals with the filing office's unjustified refusal to accept a record. Here, the filer is in no position to prevent the rejection and as a general matter should not be prejudiced by it. Although wrongfully rejected records generally are effective, subsection (d) contains a special rule to protect a third-party purchaser of the collateral (e.g., a buyer or competing secured party) who gives value in reliance upon the apparent absence of the record from the files. As against a person who searches the public record and reasonably relies on what the public record shows, subsection (d) imposes upon the filer the risk that a record failed to make its way into the filing system because of the filing office's wrongful rejection of it. (Compare section 9-517, under which a mis-indexed financing statement is fully effective.) This risk is likely to be small, particularly when a record is presented electronically, and the filer can guard against this risk by conducting a post-filing search of the records. Moreover, section 9-520(b) requires the filing office to give prompt notice of its refusal to accept a record for filing.

4. Method or Medium of Communication. Rejection pursuant to subsection (b)(1) for failure to communicate a record properly should be understood to mean noncompliance with procedures relating to security, authentication, or other communication-related requirements that the filing office may impose. Subsection (b)(1) does not authorize a filing office to impose additional substantive requirements. See section 9-520, comment 2.

5. Address for Secured Party of Record. Under subsection (b)(4) and section 9-520(a), the lack of a mailing address for the secured party of record requires the filing office to reject an initial financing statement. The failure to include an address for the secured party of record no longer renders a financing statement ineffective. See section 9-502(a). The function of the address is not to identify the secured party of record but rather to provide an address to which others can send required notifications, e.g., of a purchase-money security interest in inventory or of the disposition of collateral. Inasmuch as the address shown on a filed financing statement is an "address that is reasonable under the circumstances", a person required to send a notification to the secured party may satisfy the requirement by sending a notification to that address, even if the address is or becomes incorrect. See section 9-102 (definition of "send"). Similarly, because the address is "held out by (the secured party) as the place for receipt of such communications (i.e., communications relating to security interests)", the secured party is deemed to have received a notification delivered to that address. See section 1-201(26).

6. Uncertainty Concerning Individual Debtor's Last Name. Subsection (b)(3)(C) requires the filing office to reject an initial financing statement or amendment adding an individual debtor if the office cannot index the record because it does not identify the debtor's last name (e.g., it is unclear whether the debtor's name is Elton John or John Elton).

7. Inability of Filing Office to Read or Decipher Information. Under subsection (c)(1), if the filing office cannot read or decipher information, the information is not provided by a record for purposes of subsection (b).

8. Classification of Records. For purposes of subsection (b), a record that does not indicate it is an amendment or identify an initial financing statement to which it relates is deemed to be an initial financing statement. See subsection (c)(2).

9. Effectiveness of Rejectable But Unrejected Record. Section 9-520(a) requires the filing office to refuse to accept an initial financing statement for a reason set forth in subsection (b). However, if the filing office accepts such a financing statement nevertheless, the financing statement generally is effective if it complies with the requirements of section 9-502(a) and (b). See section 9-520(c). Similarly, an otherwise effective financing statement generally remains so even though the information in the financing statement becomes incorrect. See section 9-507(b). (Note that if the information required by subsection (b)(5) is incorrect when the financing statement is filed, section 9-338 applies.)

Subpart 2

DUTIES AND OPERATION OF FILING OFFICE

9-522 Maintenance and destruction of records.

(a) The filing office shall maintain a record of the information provided in a filed financing statement for at least one year after the effectiveness of the financing statement has lapsed under section 9-515 with respect to all secured parties of record. The record must be retrievable by using the name of the

debtor and by using the file number assigned to the initial financing statement to which the record relates.

(b) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (a).

(c) Notwithstanding the provisions of this section, a record of a financing statement or amendment statement for which the place of filing was changed by Laws 1998, LB 1321, and which financing statement or amendment statement could have been continued or was continued by filing a new continuation statement pursuant to Laws 1998, LB 1321, section 110, does not have to be retained by the original filing office and may be disposed of or destroyed.

Source: Laws 1999, LB 550, § 166; Laws 2005, LB 451, § 2.

COMMENT

1. Source. Former section 9-403(3), revised substantially.

2. Maintenance of Records. Section 9-523 requires the filing office to provide information concerning certain lapsed financing statements. Accordingly, subsection (a) requires the filing office to maintain a record of the information in a financing statement for at least one year after lapse. During that time, the filing office may not delete any information with respect to a filed financing statement; it may only add information. This approach relieves the filing office from any duty to determine whether to substitute or delete information upon receipt of an

amendment. It also assures searchers that they will receive all information with respect to financing statements filed against a debtor and thereby be able themselves to determine the state of the public record.

The filing office may maintain this information in any medium. Subsection (b) permits the filing office immediately to destroy written records evidencing a financing statement, provided that the filing office maintains another record of the information contained in the financing statement as required by subsection (a).

9-525 Fees.

(a) The fee for filing and indexing a record under this part is:

(1) Except as provided in subdivision (a)(4) of this section, ten dollars if the record is communicated in writing and consists of one page;

(2) Except as provided in subdivision (a)(4) of this section, ten dollars plus fifty cents per page for the second page and for each additional page if the record is communicated in writing and consists of more than one page;

(3) Except as provided in subdivision (a)(4) of this section, eight dollars if the record is communicated by another medium authorized by filing-office rule; and

(4) Seventy-five dollars, plus fifty cents per page for the second and each subsequent page of the filing, if the debtor is a transmitting utility and the filing so indicates.

(b) The number of names required to be indexed does not affect the amount of the fee in subsection (a).

(c) There is no fee for the filing of a termination statement.

(d)(1) The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is four dollars and fifty cents.

(2) Of the fees received pursuant to this subsection by the Secretary of State, one dollar of each fee shall be remitted to the State Treasurer for credit to the Records Management Cash Fund.

Source: Laws 1999, LB 550, § 169; Laws 2004, LB 1099, § 3.

COMMENT

1. **Source.** Various sections of former part 4.

2. **Fees.** This section contains all fee requirements for filing, indexing, and responding to requests for information. Uniformity in the fee structure (but not necessarily in the amount of fees) makes this article easier for secured parties to use and reduces the likelihood that a filed record will be rejected for failure to pay at least the correct amount of the fee. See section 9-516(b)(2).

The costs of processing electronic records are less than those with respect to written records. Accordingly, this section mandates a lower fee as an incentive to file electronically and imposes the additional charge (if any) for multiple debtors only

with respect to written records. When written records are used, this article encourages the use of the uniform forms in section 9-521. The fee for filing these forms should be no greater than the fee for other written records.

To make the relevant information included in a filed record more accessible once the record is found, this section mandates a higher fee for longer written records than for shorter ones. Finally, recognizing that financing statements naming more than one debtor are most often filed against a husband and wife, any additional charge for multiple debtors applies to records filed with respect to more than two debtors, rather than with respect to more than one.

9-529 Secretary of State; implementation of centralized computer system.

(a) The Secretary of State shall implement and maintain a centralized computer system for the accumulation and dissemination of information relative to financing statements for any type of collateral except collateral described in section 9-501(a)(1). Such a system shall include the entry of information into the computer system by the Secretary of State pursuant to section 9-530 and the dissemination of such information by a computer system or systems, telephone, mail, and such other means of communication as may be deemed appropriate. Such system shall be an interactive system.

(b) Computer access to information regarding obligations of debtors shall be made available twenty-four hours a day on every day of the year. The Secretary of State shall provide information from the system by telephone during normal business hours.

(c) The centralized computer system implemented and maintained pursuant to this section shall include information relative to effective financing statements as provided in sections 52-1301 to 52-1322, Reissue Revised Statutes of Nebraska, and statutory liens as provided in sections 52-1601 to 52-1605, Reissue Revised Statutes of Nebraska.

Source: Laws 1999, LB 550, § 173; Laws 2003, LB 4, § 8; Laws 2007, LB124, § 72.

9-531 Uniform Commercial Code Cash Fund; created; use; Secretary of State; duties; fees.

(a) There is created the Uniform Commercial Code Cash Fund. Except as otherwise specifically provided, all funds received pursuant to this part and sections 52-1312, 52-1313, 52-1316, and 52-1602, Reissue Revised Statutes of Nebraska, shall be placed in the fund and used by the Secretary of State to carry out this part, sections 52-1301 to 52-1322, Reissue Revised Statutes of Nebraska, and sections 52-1601 to 52-1605, Reissue Revised Statutes of Nebraska, except that transfers from the Uniform Commercial Code Cash Fund to the General Fund and the Records Management Cash Fund may be made at the direction of the Legislature.

(b)(1) The Secretary of State shall furnish each county clerk with computer terminal hardware, including a printer, compatible with the centralized computer system implemented and maintained pursuant to section 9-529, for inquiries and searches of information in such centralized computer system. The terminals shall be readily and reasonably available and accessible to members of the public for such inquiries and searches.

(2) The fees charged by county clerks for inquiries and other services regarding information in the centralized computer system shall be the same as set forth for filing offices in this part.

Source: Laws 1999, LB 550, § 175; Laws 2001, LB 541, § 10; Laws 2003, LB 4, § 9; Laws 2007, LB124, § 73.

Part 6

DEFAULT

Subpart 1

DEFAULT AND ENFORCEMENT OF SECURITY INTEREST

9-601 Rights after default; judicial enforcement; consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.

(a) After default, a secured party has the rights provided in this part and, except as otherwise provided in section 9-602, those provided by agreement of the parties. A secured party:

(1) may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) if the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) A secured party in possession of collateral or control of collateral under section 7-106, 9-104, 9-105, 9-106, or 9-107 has the rights and duties provided in section 9-207.

(c) The rights under subsections (a) and (b) are cumulative and may be exercised simultaneously.

(d) Except as otherwise provided in subsection (g) and section 9-605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) the date of perfection of the security interest or agricultural lien in the collateral;

(2) the date of filing a financing statement covering the collateral; or

(3) any date specified in a statute under which the agricultural lien was created.

(f) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(g) Except as otherwise provided in section 9-607(c), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

Source: Laws 1999, LB 550, § 176; Laws 2005, LB 570, § 112.

COMMENT

- 1. Source.** Former section 9-501(1), (2), and (5).
- 2. Enforcement: In General.** The rights of a secured party to enforce its security interest in collateral after the debtor's default are an important feature of a secured transaction. (Note that the term "rights", as defined in section 1-201, includes "remedies".) This part provides those rights as well as certain limitations on their exercise for the protection of the defaulting debtor, other creditors, and other affected persons. However, subsections (a) and (d) make clear that the rights provided in this part do not exclude other rights provided by agreement.
- 3. When Remedies Arise.** Under subsection (a) the secured party's rights arise "(a)fter default". As did former section 9-501, this article leaves to the agreement of the parties the circumstances giving rise to a default. This article does not determine whether a secured party's post-default conduct can constitute a waiver of default in the face of an agreement stating that such conduct shall not constitute a waiver. Rather, it continues to leave to the parties' agreement, as supplemented by law other than this article, the determination whether a default has occurred or has been waived. See section 1-103.
- 4. Possession of Collateral; Section 9-207.** After a secured party takes possession of collateral following a default, there is no longer any distinction between a security interest that before default was nonpossessory and a security interest that was possessory before default, as under a common-law pledge. This part generally does not distinguish between the rights of a secured party with a nonpossessory security interest and those of a secured party with a possessory security interest. However, section 9-207 addresses rights and duties with respect to collateral in a secured party's possession. Under subsection (b) of this section, section 9-207 applies not only to possession before default but also to possession after default. Subsection (b) also has been conformed to section 9-207, which, unlike former section 9-207, applies to secured parties having control of collateral.
- 5. Cumulative Remedies.** Former section 9-501(1) provided that the secured party's remedies were cumulative, but it did not explicitly provide whether the remedies could be exercised simultaneously. Subsection (c) permits the simultaneous exercise of remedies if the secured party acts in good faith. The liability scheme of subpart 2 affords redress to an aggrieved debtor or obligor. Moreover, permitting the simultaneous exercise of remedies under subsection (c) does not override any non-UCC law, including the law of tort and statutes regulating collection of debts, under which the simultaneous exercise of remedies in a particular case constitutes abusive behavior or harassment giving rise to liability.
- 6. Judicial Enforcement.** Under subsection (a) a secured party may reduce its claim to judgment or foreclose its interest by any available procedure outside this article under applicable law. Subsection (e) generally follows former section 9-501(5). It makes clear that any judicial lien that the secured party may acquire against the collateral effectively is a continuation of the original security interest (if perfected) and not the acquisition of a new interest or a transfer of property on account of a preexisting obligation. Under former section 9-501(5), the judicial lien was stated to relate back to the date of perfection of the security interest. Subsection (e), however, provides that the lien relates back to the earlier of the date of filing or the date of perfection. This provides a secured party who enforces a security interest by judicial process with the benefit of the "first-to-file-or-perfect" priority rule of section 9-322(a)(1).
- 7. Agricultural Liens.** Part 6 provides parallel treatment for the enforcement of agricultural liens and security interests. Because agricultural liens are statutory rather than consensual, this article does draw a few distinctions between these liens and security interests. Under subsection (e), the statute creating an agricultural lien would govern whether and the date to which an execution lien relates back. Section 9-606 explains when a "default" occurs in the agricultural lien context.
- 8. Execution Sales.** Subsection (f) also follows former section 9-501(5). It makes clear that an execution sale is an appropriate method of foreclosure contemplated by this part. However, the sale is governed by other law and not by this article, and the limitations under section 9-610 on the right of a secured party to purchase collateral do not apply.
- 9. Sales of Receivables; Consignments.** Subsection (g) provides that, except as provided in section 9-607(c), the duties imposed on secured parties do not apply to buyers of accounts, chattel paper, payment intangibles, or promissory notes. Although denominated "secured parties", these buyers own the entire interest in the property sold and so may enforce their rights without regard to the seller ("debtor") or the seller's creditors. Likewise, a true consignor may enforce its ownership interest under other law without regard to the duties that this part imposes on secured parties. Note, however, that section 9-615 governs cases in which a consignee's secured party (other than a consignor) is enforcing a security interest that is senior to the security interest (i.e., ownership interest) of a true consignor.

Part 7

TRANSITION

9-705 Effectiveness of action taken before July 1, 2001.

(a) If action, other than the filing of a financing statement, is taken before July 1, 2001, and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before July 1, 2001, the action is effective to perfect a security interest that attaches under this article within one year after July 1, 2001. An attached security interest becomes unperfected one year after July 1, 2001, unless the security interest becomes a perfected security interest under this article before the expiration of that period.

(b) The filing of a financing statement before July 1, 2001, is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this article.

(c) This article does not render ineffective an effective financing statement that, before July 1, 2001, is filed and satisfies the applicable requirements for

perfection under the law of the jurisdiction governing perfection as provided in section 9-103, as such section existed immediately before July 1, 2001. However, except as otherwise provided in subsections (d), (e), and (f) and section 9-706, the financing statement ceases to be effective at the earlier of:

(1) the time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(2) June 30, 2006.

(d) The filing of a continuation statement on or after July 1, 2001, does not continue the effectiveness of the financing statement filed before July 1, 2001. However, upon the timely filing of a continuation statement on or after July 1, 2001, and in accordance with the law of the jurisdiction governing perfection as provided in part 3, the effectiveness of a financing statement filed in the same office in that jurisdiction before July 1, 2001, continues for the period provided by the law of that jurisdiction.

(e) Subdivision (c)(2) applies to a financing statement that, before July 1, 2001, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in section 9-103, as such section existed immediately before July 1, 2001, only to the extent that part 3 provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) Subdivision (c)(2) does not apply to a financing statement that was filed in the proper place in the state before July 1, 2001, pursuant to section 9-401, as such section existed immediately before July 1, 2001, and for which the proper place of filing in the state was not changed pursuant to section 9-501, as such section existed on July 1, 2001.

(g) A financing statement that includes a financing statement filed before July 1, 2001, and a continuation statement filed on or after July 1, 2001, is effective only to the extent that it satisfies the requirements of part 5 for an initial financing statement.

Source: Laws 1999, LB 550, § 208; Laws 2000, LB 929, § 46; Laws 2006, LB 876, § 56.

COMMENT

1. General. This section addresses primarily the situation in which the perfection step is taken under former article 9 or other applicable law before July 1, 2001, but the security interest does not attach until after that date.

2. Perfection Other Than by Filing. Subsection (a) applies when the perfection step is a step other than the filing of a financing statement. If the step that would be a valid perfection step under former article 9 or other law is taken before July 1, 2001, and if a security interest attaches within one year after July 1, 2001, then the security interest becomes a perfected security interest upon attachment. However, the security interest becomes unperfected one year after July 1, 2001, unless the requirements for attachment and perfection under this article are satisfied within that period.

3. Perfection by Filing: Ineffective Filings Made Effective. Subsection (b) deals with financing statements that were filed under former article 9 and which would not have perfected a security interest under the former article (because, e.g., they did not accurately describe the collateral or were filed in the wrong place), but which would perfect a security interest under this article. Under subsection (b), such a financing statement is effective to perfect a security interest to the extent it complies with this article. Subsection (b) applies regardless of the reason

for the filing. For example, a secured party need not wait until July 1, 2001, to respond to the change this article makes with respect to the jurisdiction whose law governs perfection of certain security interests. Rather, a secured party may wish to prepare for this change by filing a financing statement before July 1, 2001, in the jurisdiction whose law governs perfection under this article. On July 1, 2001, the filing becomes effective to perfect a security interest (assuming the filing satisfies the perfection requirements of this article). Note, however, that section 9-706 determines whether a financing statement filed before July 1, 2001, operates to continue the effectiveness of a financing statement filed in another office before July 1, 2001.

4. Perfection by Filing: Change in Applicable Law or Filing Office. Subsection (c) provides that a financing statement filed in the proper jurisdiction under former section 9-103 remains effective for all purposes, despite the fact that this article would require filing of a financing statement in a different jurisdiction or in a different office in the same jurisdiction. This means that, during the early years of this article's effectiveness, it may be necessary to search not only in the filing office of the jurisdiction whose law governs perfection under this article but also (if different) in the jurisdiction(s) and filing office(s) designated by former article 9. To limit this burden, subsection (c) provides

that a financing statement filed in the jurisdiction determined by former section 9-103 becomes ineffective at the earlier of the time it would become ineffective under the law of that jurisdiction or June 30, 2006. The June 30, 2006, limitation addresses some nonuniform versions of former article 9 that extended the effectiveness of a financing statement beyond five years. Note that a financing statement filed before July 1, 2001, may remain effective beyond June 30, 2006, if subsection (d) (concerning continuation statements) or (e) (concerning transmitting utilities) or section 9-706 (concerning initial financing statements that operate to continue pre-operative-date financing statements) so provides.

Subsection (c) is an exception to section 9-703(b). Under the general rule in section 9-703(b), a security interest that is enforceable and perfected on July 1, 2001, is a perfected security interest for one year after this article takes effect, even if the security interest is not enforceable under this article and the applicable requirements for perfection under this article have not been met. However, in some cases subsection (c) may shorten the one-year period of perfection; in others, if the security interest is enforceable under section 9-203, it may extend the period of perfection.

Example 1: On July 3, 1996, D, a State X corporation, creates a security interest in certain manufacturing equipment located in State Y. On July 6, 1996, SP perfects a security interest in the equipment under former article 9 by filing in the office of the State Y Secretary of State. See former section 9-103(1)(b). This article takes effect in States X and Y on July 1, 2001. Under section 9-705(c), the financing statement remains effective until it lapses in July, 2001. See former section 9-403. Had SP continued the effectiveness of the financing statement by filing a continuation statement in State Y under former article 9 before July 1, 2001, the financing statement would have remained effective to perfect the security interest through June 30, 2006. See subsection (c)(2). Alternatively, SP could have filed an initial financing statement in State X under subsection (b) or section 9-706 before the State Y financing statement lapsed. Had SP done so, the security interest would have remained perfected without interruption until the State X financing statement lapsed.

5. Continuing Effectiveness of Filed Financing Statement. A financing statement filed before July 1, 2001, may be continued only by filing in the state and office designated by this article. This result is accomplished in the following manner: Subsection (d) indicates that, as a general matter, a continuation statement filed on or after July 1, 2001, does not continue the effectiveness of a financing statement filed under the law designated by former section 9-103. Instead, an initial financing statement must be filed under section 9-706. The second sentence of subsection (d) contains an exception to the general rule. It provides that a continuation statement is effective to continue the effectiveness of a financing statement filed before July 1, 2001, if this article prescribes not only the same jurisdiction but also the same filing office.

Example 2: On November 8, 2000, D, a State X corporation, creates a security interest in certain manufacturing equipment located in State Y. On November 15, 2000, SP perfects a security interest in the equipment under former article 9 by filing in the office of the State Y Secretary of State. See former section 9-103(1)(b). This article takes effect in States X and Y on July 1, 2001. Under section 9-705(c), the financing statement ceases to be effective in November, 2005, when it lapses. See section 9-515. Under this article, the law of D's location (State X, see section 9-307) governs perfection. See section 9-301. Thus, the filing of a continuation statement in State Y on or after July 1, 2001, would not continue the effectiveness of the financing statement. See subsection (d). However, the effectiveness of the financing statement could be continued under section 9-706.

Example 3: The facts are as in example 2, except that D is a State Y corporation. Assume State Y adopted former section 9-401(1) (second alternative). State Y law governs perfection under part 3 of this article. (See sections 9-301 and 9-307.) Under the second sentence of subsection (d), the timely filing of a continuation statement in accordance with the law of State Y continues the effectiveness of the financing statement.

Example 4: The facts are as in example 3, except that the collateral is equipment used in farming operations and, in accordance with former section 9-401(1) (second alternative) as enacted in State Y, the financing statement was filed in State Y, in the office of the Shelby County Recorder of Deeds. Under this article, a continuation statement must be filed in the office of the State Y Secretary of State. See section 9-501(a)(2). Under the second sentence of subsection (d), the timely filing of a continuation statement in accordance with the law of State Y operates to continue a pre-July 1, 2001, financing statement only if the continuation statement is filed in the same office as the financing statement. Accordingly, the continuation statement is not effective in this case, but the financing statement may be continued under section 9-706.

Example 5: The facts are as in example 3, except that State Y enacted former section 9-401(1) (third alternative). As required by former section 9-401(1), SP filed financing statements in both the office of the State Y Secretary of State and the office of the Shelby County Recorder of Deeds. Under this article, a continuation statement must be filed in the office of the State Y Secretary of State. See section 9-501(a)(2). The timely filing of a continuation statement in that office on or after July 1, 2001, would be effective to continue the effectiveness of the financing statement (and thus continue the perfection of the security interest), even if the financing statement filed with the county recorder lapses.

6. Continuation Statements. In some cases, this article reclassifies collateral covered by a financing statement filed under former article 9. For example, collateral consisting of the right to payment for real property sold would be a "general intangible" under the former article but an "account" under this article. To continue perfection under those circumstances, a continuation statement must comply with the normal requirements for a continuation statement. See section 9-515. In addition, the pre-July 1, 2001, financing statement and continuation statement, taken together, must satisfy the requirements of this article concerning the sufficiency of the debtor's name, secured party's name, and indication of collateral. See subsection (f).

Example 6: A pre-July 1, 2001, financing statement covers "all general intangibles" of a debtor. As defined under former article 9, a "general intangible", would include rights to payment for lottery winnings. These rights to payment are "accounts" under this article, however. An on or after July 1, 2001, continuation statement will not continue the effectiveness of the pre-July 1, 2001, financing statement with respect to lottery winnings unless it amends the indication of collateral covered to include lottery winnings (e.g., by adding "accounts", "rights to payment for lottery winnings", or the like). If the continuation statement does not amend the indication of collateral, the continuation statement will be effective to continue the effectiveness of the financing statement only with respect to "general intangibles" as defined in this article.

Example 7: The facts are as in example 6, except that the pre-July 1, 2001, financing statement covers "all accounts and general intangibles". Even though rights to payment for lottery winnings are "general intangibles" under former article 9 and "accounts" under this article, an on or after July 1, 2001, continuation statement would continue the effectiveness of the pre-July 1, 2001, financing statement with respect to lottery winnings. There would be no need to amend the indication of collateral covered, inasmuch as the indication ("accounts") satisfies the requirements of this article.

9-707 Amendment of pre-operative-date financing statement.

(a) In this section, "pre-operative-date financing statement" means a financing statement filed before July 1, 2001.

(b) On or after July 1, 2001, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-operative-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in part 3. However, the effectiveness of a pre-operative-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d), if the law of this state governs perfection of a security interest, the information in a pre-operative-date financing statement may be amended on or after July 1, 2001, only if:

(1) the pre-operative-date financing statement and an amendment are filed in the office specified in section 9-501;

(2) an amendment is filed in the office specified in section 9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies section 9-706(c); or

(3) an initial financing statement that provides the information as amended and satisfies section 9-706(c) is filed in the office specified in section 9-501.

(d) If the law of this state governs perfection of a security interest, the effectiveness of a pre-operative-date financing statement may be continued only under section 9-705(d) and (g) or 9-706.

(e) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-operative-date financing statement filed in this state may be terminated on or after July 1, 2001, by filing a termination statement in the office in which the pre-operative-date financing statement is filed, unless an initial financing statement that satisfies section 9-706(c) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in part 3 as the office in which to file a financing statement.

Source: Laws 2000, LB 929, § 47; Laws 2006, LB 876, § 57.

COMMENT

1. Scope of This Section. This section addresses post-operative-date amendments to pre-operative-date financing statements.

2. Applicable Law. Determining how to amend a pre-operative-date financing statement requires one first to determine the jurisdiction whose law applies. Subsection (b) provides that, as a general matter, post-operative-date amendments to pre-operative-date financing statements are effective only if they are accomplished in accordance with the substantive (or local) law of the jurisdiction governing perfection under part 3 of this article. However, under certain circumstances, the effectiveness of a financing statement may be terminated in accordance with the substantive law of the jurisdiction in which the financing statement is filed. See comment 5, below.

Example 1: D is a corporation organized under the law of State Y. It owns equipment located in State X. Under former article 9, SP properly perfected a security interest in the equipment by filing a financing statement in State X. Under this article, the law of State Y governs perfection of the security interest. See sections 9-301 and 9-307. After this article becomes operative, SP wishes to amend the financing statement to reflect a change in D's name. Under subsection (b), the financing statement may be amended in accordance with the law of State Y, i.e., in accordance with subsection (c) as enacted in State Y.

Example 2: The facts are as in example 1, except that SP wishes to terminate the effectiveness of the State X filing. The first sentence of subsection (b) provides that the financing

statement may be terminated after the operative date of this article in accordance with the law of State Y, i.e., in accordance with subsection (c) as enacted in State Y. However, the second sentence provides that the financing statement also may be terminated in accordance with the law of jurisdiction in which it is filed, i.e., in accordance with subsection (e) as enacted in State X. If the pre-operative-date financing statement is filed in the jurisdiction whose law governs perfection (here, State Y), then both sentences would designate the law of State Y as applicable to the termination of the financing statement. That is, the financing statement could be terminated in accordance with subsection (c) or (e) as enacted in State Y.

3. Method of Amending. Subsection (c) provides three methods of effectuating a post-operative-date amendment to a pre-operative-date financing statement. Under subsection (c)(1), if the financing statement is filed in the jurisdiction and office determined by this article, then an effective amendment may be filed in the same office.

Example 3: D is a corporation organized under the law of State Z. It owns equipment located in State Z. Before the operative date of this article, SP perfected a security interest in the equipment by filing in two offices in State Z, a local filing office and the office of the Secretary of State. See former section 9-401(1) (third alternative). State Z enacts this article and specifies in section 9-501 that a financing statement covering equipment is to be filed in the office of the Secretary of State. SP wishes to assign its power as secured party of record. Under subsection (b), the substantive law of State Z applies. Because

the pre-operative-date financing statement is filed in the office specified in subsection (c)(1) as enacted by State Z, SP may effectuate the assignment by filing an amendment under section 9-514 with the office of the Secretary of State. SP need not amend the local filing, and the priority of the security interest perfected by the filing of the financing statement would not be affected by the failure to amend the local filing.

If a pre-operative-date financing statement is filed in an office other than the one specified by section 9-501 of the relevant jurisdiction, then ordinarily an amendment filed in that office is ineffective. (Subsection (e) provides an exception for termination statements.) Rather, the amendment must be effectuated by a filing in the jurisdiction and office determined by this article. That filing may consist of an initial financing statement followed by an amendment, an initial financing statement together with an amendment, or an initial financing statement that indicates the information provided in the financing statement, as amended. Subsection (c)(2) encompasses the first two options; subsection (c)(3) contemplates the last. In each instance, the initial financing statement must satisfy section 9-706(c).

4. Continuation. Subsection (d) refers to the two methods by which a secured party may continue the effectiveness of a pre-operative-date financing statement under this part. The comments to sections 9-705 and 9-706 explain these methods.

5. Termination. The effectiveness of a pre-operative-date financing statement may be terminated pursuant to subsection (c). This section also provides an alternative method for accomplishing this result: Filing a termination statement in the office in which the financing statement is filed. The alternative method becomes unavailable once an initial financing statement that relates to the pre-operative-date financing statement and satisfies section 9-706(c) is filed in the jurisdiction and office determined by this article.

Example 4: The facts are as in example 1, except that SP wishes to terminate a financing statement filed in State X. As explained in example 1, the financing statement may be amended in accordance with the law of the jurisdiction governing perfection under this article, i.e., in accordance with the substantive law of State Y. As enacted in State Y, subsection (c)(1) is inapplicable because the financing statement was not filed in the State Y filing office specified in section 9-501. Under subsection (c)(2), the financing statement may be amended by filing in the State Y filing office an initial financing statement followed by a termination statement. The filing of an initial financing statement together with a termination statement also would be legally sufficient under subsection (c)(2), but section 9-512(a)(1) may render this method impractical. The financing statement also may be amended under subsection (c)(3), but the resulting initial financing statement is likely to be very confusing. In each instance, the initial financing statement must satisfy section 9-706(c). Applying the law of State Y, subsection (e) is inapplicable, because the financing statement was not filed in “this state”, i.e., State Y.

This section affords another option to SP. Subsection (b) provides that the effectiveness of a financing statement may be terminated either in accordance with the law of the jurisdiction governing perfection (here, State Y) or in accordance with the substantive law of the jurisdiction in which the financing statement is filed (here, State X). Applying the law of State X, the financing statement is filed in “this state”, i.e., State X, and subsection (e) applies. Accordingly, the effectiveness of the financing statement can be terminated by filing a termination statement in the State X office in which the financing statement is filed, unless an initial financing statement that relates to the financing statement and satisfies section 9-706(c) as enacted in State X has been filed in the jurisdiction and office determined by this article (here, the State Y filing office).

ARTICLE 10

EFFECTIVE DATE AND REPEALER

Section

10-104. Repealed. Laws 2005, LB 570, § 116.

10-104 Repealed. Laws 2005, LB 570, § 116.



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CLASSIFICATION OF PENALTIES

CLASS I FELONY

Death

28-303 Murder in the first degree

CLASS IA FELONY

Life imprisonment without parole

28-202 Criminal conspiracy to commit a Class IA felony
28-303 Murder in the first degree
28-313 Kidnapping
28-391 Murder of an unborn child in the first degree
28-1223 Using explosives to damage or destroy property resulting in death
28-1224 Using explosives to kill or injure any person resulting in death

CLASS IB FELONY

Maximum–life imprisonment

Minimum–twenty years imprisonment

28-111 Sexual assault of a child in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111 Sexual assault of a child in the second or third degree, with prior sexual assault convictions, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115 Sexual assault of a child in the second or third degree with prior sexual assault conviction committed against a pregnant woman
28-115 Sexual assault of a child in the first degree committed against a pregnant woman
28-202 Criminal conspiracy to commit a Class IB felony
28-304 Murder in the second degree
*28-319.01 Sexual assault of a child in the first degree
*28-319.01 Sexual assault of a child in the first degree with prior sexual assault conviction
28-392 Murder of an unborn child in the second degree
*28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of 140 grams or more
*28-416 Offenses relating to amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities
*28-416 Offenses relating to amphetamine or methamphetamine in a quantity of 28 grams or more involving minors or near youth facilities
*28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of amphetamine or methamphetamine in a quantity of at least 28 grams
*28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine

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- (crack) or any mixture containing base cocaine, in a quantity of 140 grams or more
- *28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of 140 grams or more
- *28-416 Offenses relating to cocaine or base cocaine (crack) in a quantity of 28 grams or more involving minors or near youth facilities
- *28-416 Offenses relating to cocaine or base cocaine (crack) in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities
- *28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of 28 grams or more
- *28-416 Offenses relating to heroin in a quantity of 28 grams or more involving minors or near youth facilities
- *28-416 Offenses relating to heroin in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities
- *28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of heroin or any mixture containing heroin in a quantity of at least 28 grams
- 28-457 Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine resulting in death
- 28-707 Child abuse committed knowingly and intentionally and resulting in death
- 28-1206 Possession of a firearm by a prohibited person, second or subsequent offense
- *28-1356 Obtaining a real property interest or establishing or operating an enterprise by means of racketeering activity punishable as a Class I, IA, or IB felony

CLASS IC FELONY

Maximum—fifty years imprisonment

Mandatory minimum—five years imprisonment

- 28-202 Criminal conspiracy to commit a Class IC felony
- *28-320.01 Sexual assault of a child in the second degree with prior sexual assault conviction
- 28-320.01 Sexual assault of a child in the third degree with prior sexual assault conviction
- 28-320.02 Sexual assault of minor or person believed to be a minor lured by electronic communication device, second offense or with previous conviction of sexual assault
- *28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 28 grams but less than 140 grams
- *28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of at least 28 grams but less than 140 grams

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*28-416	Offenses relating to cocaine or base cocaine (crack) in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
*28-416	Offenses relating to heroin in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
*28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 10 grams but less than 28 grams
*28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of heroin or any mixture containing heroin in a quantity of at least 10 grams but less than 28 grams
*28-416	Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405, second or subsequent offense involving minors or near youth facilities
*28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of at least 28 grams but less than 140 grams
*28-416	Offenses relating to amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
*28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams
28-813.01	Possession of visual depiction of sexually explicit conduct containing a child by a person with previous conviction
28-1205	Use of firearm to commit a felony
28-1212.04	Discharge of firearm within certain cities or counties from vehicle or proximity of vehicle at a person, structure, vehicle, or aircraft
28-1463.04	Child pornography by person with previous conviction
28-1463.05	Possession of child pornography with intent to distribute by person with previous conviction

CLASS ID FELONY

Maximum—fifty years imprisonment

Mandatory minimum—three years imprisonment

28-111	Kidnapping (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault of a child in the second degree, first offense, committed against a person because of his or her race, color, religion, ancestry,

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	national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Sexual assault in the first degree committed against a pregnant woman
28-115	Sexual assault of a child in the second degree, first offense, committed against a pregnant woman
28-115	Domestic assault in the first degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-115	Assault on an officer in the first degree committed against a pregnant woman
28-115	Certain acts of assault, terroristic threats, kidnapping, or false imprisonment committed by legally confined person against a pregnant woman
28-202	Criminal conspiracy to commit a Class ID felony
28-320.02	Sexual assault of minor or person believed to be a minor lured by electronic communication device, first offense
*28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 10 grams but less than 28 grams
*28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of at least 10 grams but less than 28 grams
*28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams
*28-416	Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405, first offense involving minors or near youth facilities
*28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of an exceptionally hazardous drug in Schedule I, II, or III of section 28-405
*28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405, second or subsequent offense involving minors or near youth facilities
28-929	Assault on an officer in the first degree
28-1206	Possession of a firearm by a prohibited person, first offense
28-1212.02	Unlawful discharge of firearm at an occupied building, vehicle, or aircraft
28-1463.04	Child pornography by person 19 years of age or older

CLASS II FELONY

Maximum—fifty years imprisonment

Minimum—one year imprisonment

28-111	Manslaughter committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Assault in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person

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28-111	Sexual assault in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the first degree committed against a pregnant woman
28-115	Sexual assault in the second degree committed against a pregnant woman
28-115	Sexual abuse of an inmate or parolee in the first degree committed against a pregnant woman
28-115	Sexual abuse of a protected individual, first degree, committed against a pregnant woman
28-115	Domestic assault in the first degree, first offense, committed against a pregnant woman
28-115	Domestic assault in the second degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-115	Assault on an officer in the second degree committed against a pregnant woman
28-201	Criminal attempt to commit a Class I, IA, IB, IC, or ID felony
28-202	Criminal conspiracy to commit a Class I or II felony
*28-306	Motor vehicle homicide by person driving under the influence of alcohol or drugs with prior conviction of driving under the influence of alcohol or drugs
28-308	Assault in the first degree
28-313	Kidnapping (certain situations)
*28-319	Sexual assault in the first degree
28-320.01	Sexual assault of a child in the second degree, first offense
28-323	Domestic assault in the first degree, second or subsequent offense
28-324	Robbery
*28-416	Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405
*28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405, first offense involving minors or near youth facilities
*28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405, second or subsequent offense involving minors or near youth facilities
*28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of certain controlled substances in Schedule I, II, or III of section 28-405
28-502	Arson in the first degree
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more, second or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, third or subsequent offense

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28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more, second or subsequent offense
28-707	Child abuse committed knowingly and intentionally and resulting in serious bodily injury
28-831	Commercial sexual activity, sexually-explicit performance, or pornography involving a minor by use of force or threat of force or when minor is under 15 years of age
28-930	Assault on an officer in the second degree
28-932	Assault with a deadly or dangerous weapon by a legally confined person committed against a pregnant woman
28-933	Certain acts of assault, terroristic threats, kidnapping, or false imprisonment committed by legally confined person
28-1205	Possession of firearm during commission of a felony
28-1205	Use of deadly weapon other than a firearm to commit a felony
28-1222	Using explosives to commit a felony, second or subsequent offense
28-1223	Using explosives to damage or destroy property resulting in personal injury
28-1224	Using explosives to kill or injure any person resulting in personal injury
30-3432	Sign or alter without authority or alter, forge, conceal, or destroy a power of attorney for health care or conceal or destroy a revocation with the intent and effect of withholding or withdrawing life-sustaining procedures or nutrition or hydration
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fifth or subsequent offense committed with .15 gram alcohol concentration
70-2105	Destroy, damage, or cause loss to nuclear electrical generating facility or steal or render nuclear fuel unusable or unsafe

CLASS III FELONY

**Maximum—twenty years imprisonment, or
twenty-five thousand dollars fine, or both
Minimum—one year imprisonment**

8-138	Officer, agent, or employee receiving deposits on behalf of insolvent bank
8-139	Acting or assisting another to act as active executive officer of a bank when not licensed
8-175	Banks, false entry or statements, offenses relating to records
8-224.01	Substitution or investment of estate or trust assets for or in securities of the trust company controlling the estate or trust; loans of trust company assets to trust company officials or employees
9-814	Altering lottery tickets to defraud under the State Lottery Act
24-216	Clerk of the Supreme Court intentionally making a false report under oath, perjury
25-2310	Fraudulently invoking privilege of proceeding in forma pauperis
28-107	Felony defined outside of criminal code
28-111	Assault in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	False imprisonment in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin,

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	gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault of a child in the third degree, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the second degree committed against a pregnant woman
28-115	Sexual assault of a child in the third degree, first offense, committed against a pregnant woman
28-115	Domestic assault in the second degree, first offense, committed against a pregnant woman
28-115	Assault on an officer in the third degree committed against a pregnant woman
28-115	Assault on an officer using a motor vehicle committed against a pregnant woman
*28-115	Causing serious bodily injury to pregnant woman while driving while intoxicated
28-201	Criminal attempt to commit a Class II felony
28-202	Criminal conspiracy to commit a Class III felony
28-204	Harboring, concealing, or aiding a felon who committed a Class I, IA, IB, IC, or ID felony
28-305	Manslaughter
*28-306	Motor vehicle homicide by person driving under the influence of alcohol or drugs with no prior conviction
28-309	Assault in the second degree
28-310.01	Strangulation using dangerous instrument, resulting in serious bodily injury, or after previous conviction for strangulation
28-311	Criminal child enticement with previous conviction of certain crimes
28-320	Sexual assault in the second degree
28-322.02	Sexual abuse of an inmate or parolee in the first degree
28-322.04	Sexual abuse of a protected individual in the first degree
28-323	Domestic assault in the first degree, first offense
28-323	Domestic assault in the second degree, second or subsequent offense
28-328	Performance of partial-birth abortion
28-342	Sale, transfer, distribution, or giving away of live or viable aborted child or consenting to, aiding, or abetting the same
28-393	Manslaughter of an unborn child
*28-394	Motor vehicle homicide of an unborn child by person driving under the influence of alcohol or drugs with prior conviction of driving under the influence of alcohol or drugs
28-397	Assault of an unborn child in the first degree
*28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405
*28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405, first offense involving minors or near youth facilities
*28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of controlled substances in Schedule IV or V of section 28-405
28-503	Arson in the second degree
28-507	Burglary
28-518	Theft when value is over \$1,500

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28-602	Forgery in the first degree
28-603	Forgery in the second degree when face value is \$1,000 or more
28-611	Issuing a bad check or other order in an amount of \$1,500 or more
28-611.01	Issuing a no-account check in an amount of \$1,500 or more, first offense
28-611.01	Issuing a no-account check in an amount of \$500 or more, second or subsequent offense
28-620	Unauthorized use of a financial transaction device when total value is \$1,500 or more within a six-month period
28-621	Criminal possession of four or more financial transaction devices
28-622	Unlawful circulation of a financial transaction device in the first degree
28-625	Criminal sale of two or more blank financial transaction devices
28-627	Unlawful manufacture of a financial transaction device
28-631	Committing a fraudulent insurance act when the amount involved is \$1,500 or more
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, second or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, second offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, second or subsequent offense
28-703	Incest
28-813.01	Possession by a person 19 years of age or older of visual depiction of sexually explicit conduct containing a child
28-831	Forced labor or services resulting from inflicting or threatening serious personal injury or restraining or threatening restraint of another
28-831	Commercial sexual activity, sexually explicit performance, or pornography involving a minor without use of force or threat of force when minor is 15 years of age or older
28-912	Escape when detained or under arrest on a felony charge
28-912	Escape using force, threat, deadly weapon, or dangerous instrument
28-912	Escape, public servant concerned in detention permits another to escape
28-915	Perjury and subornation of perjury
28-932	Assault with a deadly or dangerous weapon by a legally confined person
28-932	Assault by legally confined person without a deadly weapon committed against a pregnant woman
28-1102	Promoting gambling in the first degree, third or subsequent offense
28-1105.01	Gambling debt collection
28-1204.01	Unlawful transfer of a firearm to a juvenile

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28-1205	Possession of deadly weapon other than a firearm during commission of a felony
28-1206	Possession of deadly weapon other than a firearm by a prohibited person
28-1207	Possession of a defaced firearm
28-1208	Defacing a firearm
28-1212.03	Possession, receipt, retention, or disposal of a stolen firearm knowing or believing it to be stolen
28-1222	Using explosives to commit a felony, first offense
28-1223	Using explosives to damage or destroy property unless personal injury or death occurs
28-1224	Using explosives to kill or injure any person unless personal injury or death occurs
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of \$1,000 or more
28-1345	Unauthorized access to a computer which causes damages of \$1,000 or more
*28-1356	Obtaining a real property interest or establishing or operating an enterprise by means of racketeering activity or unlawful debt collection
28-1423	Swearing falsely regarding sales of tobacco
28-1463.04	Child pornography by person under 19 years of age
28-1463.05	Possession of child pornography with intent to distribute by person 19 years of age or older
*29-4011	Failure by felony sex offender to register under the Sex Offender Registration Act, second or subsequent offense
30-2219	Falsifying representation under the Uniform Probate Code
30-24,125	False statement regarding personal property of decedent
30-24,129	False statement regarding real property of decedent
32-1514	Forging candidate filing form for election nomination
32-1516	Forging initials or signatures on official ballots or falsifying, destroying, or suppressing candidate filing forms
32-1517	Employer penalizing employee for serving as election official
32-1522	Unlawful distribution of ballots or other election supplies by election official, printer, or custodian of supplies
38-140	Violation of cease and desist order prohibiting the unauthorized practice of a credentialed profession or unauthorized operation of a credentialed business under the Uniform Credentialing Act
38-1,124	Violation of cease and desist order prohibiting the unauthorized practice of a credentialed profession or unauthorized operation of a credentialed business under the Uniform Credentialing Act
44-10,108	Fraudulent statement in report or statement for benefits from a fraternal benefit society
54-1,123	Selling livestock without evidence of ownership
54-1,124	Branding another's livestock, defacing marks
54-1,125	Forging or altering livestock ownership document when value is \$1,000 or more
57-1211	Intentionally making false oath to uranium severance tax return or report
60-169	False statement on affidavit of affixture for mobile home or manufactured home
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road

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*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fourth offense committed with .15 gram alcohol concentration
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fifth or subsequent offense committed with less than .15 gram alcohol concentration
*60-6,197.06	Operating a motor vehicle when operator's license has been revoked for driving under the influence, second or subsequent offense
66-727	Violation of motor fuel tax laws when the amount involved is \$5,000 or more, provisions relating to evasion of tax, keeping books and records, making false statements
71-7462	Wholesale drug distribution in violation of the Wholesale Drug Distributor Licensing Act
71-8929	Veterinary drug distribution in violation of the Veterinary Drug Distribution Licensing Act
75-151	Violation by officer or agent of common carriers in consolidation or increase in stock, issuance of securities
77-5016.01	Falsifying a representation before the Tax Equalization and Review Commission
79-541	School district meeting or election, false oath
83-174.05	Failure to comply with community supervision, second or subsequent offense
83-184	Escape from custody (certain situations)

CLASS IIIA FELONY

Maximum—five years imprisonment, or ten thousand dollars fine, or both
Minimum—none

28-111	Terroristic threats committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Stalking, certain situations or subsequent conviction within 7 years, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the third degree, damages of \$100 or more, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss in excess of \$300 or substantial disruption of public communication or utility, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Unauthorized application of graffiti, second or subsequent offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Sexual abuse of an inmate or parolee in the second degree committed against a pregnant woman
28-115	Sexual abuse of a protected individual, second degree, committed against a pregnant woman

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28-115	Domestic assault in the third degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-201	Criminal attempt to commit sexual assault in the second degree, possession or distribution of certain controlled substances, incest, child abuse, or assault by a confined person with a deadly or dangerous weapon
28-202	Criminal conspiracy to commit a Class IIIA felony
28-204	Harboring, concealing, or aiding a felon who committed a Class II felony
28-306	Motor vehicle homicide by person driving in a reckless manner
28-311	Criminal child enticement
28-314	False imprisonment in the first degree
28-320.01	Sexual assault of a child in the third degree, first offense
28-322.05	Unlawful use of Internet by prohibited sex offender, second or subsequent conviction
28-323	Domestic assault in the second degree, first offense
28-386	Knowing and intentional abuse of a vulnerable adult
28-398	Assault of an unborn child in the second degree
*28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405
28-457	Permitting a child or vulnerable adult to ingest methamphetamine, second or subsequent offense
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine causing serious bodily injury
28-634	Unlawful use of an electronic payment card scanning device or reencoder, second or subsequent offense
28-707	Child abuse committed knowingly and intentionally and not resulting in serious bodily injury or death
28-904	Resisting arrest, second or subsequent offense
28-904	Resisting arrest using deadly or dangerous weapon
28-931	Assault on an officer in the third degree
28-931.01	Assault on an officer using a motor vehicle
28-932	Assault by legally confined person without a deadly weapon
28-1463.05	Possession of child pornography with intent to distribute by person under 19 years of age
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
60-698	Motor vehicle accident resulting in personal injury or death, violation of duty to stop
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, third offense committed with .15 gram alcohol concentration
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fourth offense committed with less than .15 gram alcohol concentration
*60-6,198	Causing serious bodily injury to person or unborn child while driving while intoxicated
71-4839	Knowingly purchase or sell a body part for transplantation, therapy, research, or education if removal is to occur after death
71-4840	Intentionally falsifying, forging, concealing, defacing, or obliterating a document related to anatomical gifts for financial gain

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CLASS IV FELONY

**Maximum—five years imprisonment, or
ten thousand dollars fine, or both
Minimum—none**

2-1825	Forge, counterfeit, or use without authorization an inspection legend or certificate of Director of Agriculture on potatoes
8-103	Department of Banking and Finance personnel borrowing money from financial institutions
8-133	Inducing person to make or retain deposit in bank or accepting such inducement
8-142	Bank officer, employee, director, or agent violating loan limits resulting in insolvency of bank
8-143.01	Illegal bank loans to executive officers, directors, or shareholders
8-147	Banks, illegal transfer of assets, limitation on amounts of loans and investments
8-1,139	Financial institutions, misappropriation of funds or assets
8-225	Trust companies, false statement or book entry, destruction or secretion of records
8-333	Building and loan association, false statement or book entry
8-1117	Violation of Securities Act of Nebraska
*8-1729	Willful violation of Commodity Code or rule, regulation, or order under the code
*9-262	Second or subsequent violation of Nebraska Bingo Act when not otherwise specified
9-262	Specified violations of Nebraska Bingo Act
*9-352	Second or subsequent violation of Nebraska Pickle Card Lottery Act when not otherwise specified
9-352	Specified violations of Nebraska Pickle Card Lottery Act
*9-434	Second or subsequent violation of Nebraska Lottery and Raffle Act when not otherwise specified
9-434	Specified violations of Nebraska Lottery and Raffle Act
*9-652	Second or subsequent violation of Nebraska County and City Lottery Act when not otherwise specified
9-652	Specified violations of Nebraska County and City Lottery Act
9-814	Providing false information pursuant to the State Lottery Act
10-509	Funding bonds of counties, fraudulent issue or use
11-101.02	False statement in oath of office
23-135.01	False claim against county when value is \$1,000 or more
23-3113	County purchasing agent or staff member violating County Purchasing Act
25-1630	Tampering with jury list
25-1635	Illegal disclosure of juror names
28-111	Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Stalking, first offense or certain situations, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	False imprisonment in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin,

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	gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault in the third degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the third degree, damages less than \$100, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss of \$500 or more but less than \$1,500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the third degree (certain situations) committed against a pregnant woman
28-115	Sexual assault in the third degree committed against a pregnant woman
28-115	Domestic assault in the third degree, first offense, committed against a pregnant woman
28-201	Criminal attempt to commit certain Class III felonies
28-202	Criminal conspiracy to commit a Class IV felony
28-204	Harboring, concealing, or aiding a felon who committed a Class III or IIIA felony
28-204	Obstructing the apprehension of a felon who committed a felony other than a Class IV felony
28-205	Aiding consummation of felony
28-307	Assisting suicide
28-310.01	Strangulation generally
28-311.01	Terroristic threats
28-311.04	Stalking (certain situations)
28-316	Violation of custody with intent to deprive custodian of custody of child
28-322.03	Sexual abuse of an inmate or parolee in the second degree
28-322.04	Sexual abuse of a protected individual in the second degree
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an intimate partner with imminent bodily injury, second or subsequent offense
28-332	Abortion violations
28-335	Abortion by other than licensed physician
28-336	Abortion by other than accepted medical procedures
28-346	Use of premature infant aborted alive for experimentation
*28-394	Motor vehicle homicide of an unborn child by person driving under the influence of alcohol or drugs with no prior conviction
28-394	Motor vehicle homicide of an unborn child by person driving in a reckless manner
28-3,108	Intentional or reckless performance of or attempt to perform abortion in violation of the Pain-Capable Unborn Child Protection Act

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28-412	Unlawful prescription of narcotic drugs for detoxification or maintenance treatment
*28-416	Knowingly or intentionally unlawfully possessing controlled substance other than marijuana
*28-416	Knowingly or intentionally possessing more than one pound of marijuana
*28-416	Possession of money used or intended to be used to violate provisions relating to controlled substances
28-418	Knowing or intentional violation of Uniform Controlled Substances Act
28-451	Possession of anhydrous ammonia with intent to manufacture methamphetamine
28-452	Possession of ephedrine, pseudoephedrine, or phenylpropanolamine with intent to manufacture methamphetamine
28-457	Permitting a child or vulnerable adult to inhale or have contact with methamphetamine, second or subsequent offense
28-504	Arson in the third degree, damages of \$100 or more
28-505	Burning to defraud insurer
28-508	Possession of burglar's tools
28-514	Theft of lost, mislaid, or misdelivered property when value is over \$1,500
28-516	Unauthorized use of a propelled vehicle, third or subsequent offense
28-518	Theft when value is \$500 or more but not more than \$1,500
28-518	Theft when value is more than \$200 but less than \$500, second or subsequent offense
28-518	Theft when value is \$200 or less, third or subsequent offense
28-519	Criminal mischief, pecuniary loss of \$1,500 or more or substantial disruption of public communication or utility service
*28-524	Unauthorized application of graffiti, second or subsequent offense
28-603	Forgery in the second degree when face value is over \$300 but less than \$1,000
28-604	Criminal possession of a forged instrument prohibited by section 28-602
28-604	Criminal possession of a forged instrument prohibited by section 28-603, amount or value is \$1,000 or more
28-605	Criminal possession of forgery devices
28-611	Issuing a bad check or other order in an amount of \$500 or more but less than \$1,500
28-611	Issuing a bad check or other order in an amount under \$500, second or subsequent offense
28-611.01	Issuing a no-account check in an amount of \$500 or more but less than \$1,500, first offense
28-611.01	Issuing a no-account check in an amount under \$500, second or subsequent offense
28-612	False statement or book entry in or destruction or secretion of records of financial institution or organization
28-619	Issuing two or more false financial statements to obtain two or more financial transaction devices
28-620	Unauthorized use of a financial transaction device when total value is \$500 or more but less than \$1,500 within a six-month period
28-621	Criminal possession of two or three financial transaction devices
28-623	Unlawful circulation of a financial transaction device in the second degree

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28-624	Criminal possession of two or more blank financial transaction devices
28-625	Criminal sale of one blank financial transaction device
28-626	Criminal possession of a forgery device
28-628	Laundering of sales forms
28-629	Unlawful acquisition of sales form processing services
28-630	Unlawful factoring of a financial transaction device
28-631	Committing a fraudulent insurance act when the amount involved is \$500 or more but less than \$1,500
28-631	Committing a fraudulent insurance act when the amount involved is \$200 or more but less than \$500, second or subsequent offense
28-631	Committing a fraudulent insurance act with intent to defraud or deceive
28-634	Unlawful use of an electronic payment card scanning device or reencoder, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$200 or more but less than \$500, second or subsequent offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, third or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$200 or more but less than \$500, second or subsequent offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, third or subsequent offense
28-640	Identity fraud, second or subsequent offense
28-706	Criminal nonsupport in violation of a court order
*28-801.01	Solicitation of prostitution, second or subsequent offense
28-802	Pandering
28-813.01	Possession by a minor of visual depiction of sexually explicit conduct containing a child
28-831	Forced labor or services resulting from destroying or holding another's identification or immigration documents
28-831	Recruiting or transporting adults for forced labor or services
28-831	Benefiting from forced labor or services
28-833	Enticement by electronic communication device

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*28-905	Operating a motor vehicle to avoid arrest which is a second or subsequent offense, results in death or injury, or involves willful reckless driving
*28-905	Operating a boat to avoid arrest for felony
28-912	Escape (certain situations excepted)
28-912	Knowingly causing or facilitating an escape
28-912.01	Accessory to escape of juvenile from custody of Office of Juvenile Services
28-917	Bribery
28-918	Bribery of a witness
28-918	Witness accepting bribe or benefit
28-919	Tampering with witness, informant, or juror
28-920	Bribery of a juror
28-920	Juror accepting bribe or benefit
28-922	Tampering with physical evidence
28-1005	Dogfighting, cockfighting, bearbaiting, etc., promoter, owner, employee, or spectator
28-1009	Abandonment or cruel neglect of animal resulting in serious injury, illness, or death
28-1009	Harassment of police animal resulting in death of animal
28-1009	Cruel mistreatment of animal involving torture or mutilation
28-1009	Cruel mistreatment of animal not involving torture or mutilation, second or subsequent offense
28-1102	Promoting gambling in the first degree, second offense
28-1202	Carrying a concealed weapon, second or subsequent offense
28-1203	Transporting or possessing a machine gun, short rifle, or short shotgun
*28-1204.04	Unlawful possession of a firearm at a school
28-1215	Unlawful possession of explosive materials in the first degree
28-1217	Unlawful sale of explosives
28-1219	Explosives, obtaining a permit through false representations
28-1220	Possession of a destructive device
28-1221	Threatening the use of explosives or placing a false bomb
28-1301	Removing, abandoning, or concealing human skeletal remains or burial goods
28-1307	Sell or offer for sale diseased meat
28-1343.01	Unauthorized computer access creating grave risk of death
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value under \$1,000
28-1345	Unauthorized access to a computer causing damages under \$1,000
28-1351	Unlawful membership recruitment for an organization or association engaged in criminal acts
*28-1469	Operation of aircraft while under the influence of alcohol or drugs, third or subsequent offense
28-1482	Unlawful paramilitary activities
29-908	Failing to appear when on bail for felony offense
29-4011	Failure by felony sex offender to register under the Sex Offender Registration Act, first offense
29-4011	Failure by misdemeanor sex offender to register under the Sex Offender Registration Act, second or subsequent offense
32-312	Election falsification on voter registration
32-330	Election falsification for unlawful use of list of registered voters

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32-915	Election falsification on provisional ballot
32-939	Election falsification on registering or voting outside the country
32-947	Election falsification on ballot to vote early
32-949	Election falsification on ballot to vote early
32-1502	Election falsification
32-1503	Elections, unlawful registration acts
32-1504	Elections, neglect of duty, corruption, or fraud by deputy registrar
32-1508	Election registration, perjury by voter
32-1526	Fraudulent voting by election official
32-1529	Resident of another state voting in this state
32-1530	Voting by ineligible person
32-1531	Voting outside county of residence
32-1532	Aiding unlawful voting
32-1533	Procuring another to vote in county other than that of residence
32-1534	Voting more than once in same election
32-1537	Employer coercing political action of employees
32-1538	Deceiving illiterate elector
32-1539	Violations relating to ballots for early voting
32-1540	Fraudulent voting
32-1541	Making fraudulent entry in list of voters book
32-1542	Unlawful possession of list of voters book, official summary, or election returns
32-1543	Obtaining or attempting to obtain or destroy ballot boxes or ballots by improper means
32-1544	Destruction or falsification of election materials
32-1545	Disclosing election returns before polls have closed or without authorization from election officials
32-1546	Offering or receiving money for signing petitions or falsely swearing to circulator's affidavit on petition
32-1551	Special elections by mail, specified violations
32-1607	Filing a false campaign spending estimate by a candidate intending to exceed spending limitations
37-554	Prohibited use of explosives or poisons in waters of state
37-1288	Forgery of motorboat title or certificate or use of false name in bill of sale or sworn statement of ownership
37-1298	Knowingly transfer motorboat without salvage certificate of title
38-1,117	False or forged document or fraud in procuring license, certificate, or registration to practice a health profession, aiding or abetting person practicing without a credential, or impersonating a credentialed person
38-2052	Person purporting to be a physician's assistant when not licensed
38-3130	Psychologist filing false diploma, license of another, or forged affidavit of identification
42-924	Knowingly violating a protection order issued pursuant to domestic abuse or harassment case with a prior conviction for violating the same protection order or a protection order granted to the same petitioner
44-165	Financial conglomerate or its directors, officers, employees, or agents violating supervision requirements
44-3,121	Borrowing or rental of securities of insurance company by member, director, or attorney
44-2146	Willful violation of Insurance Holding Company System Act
44-2147	Willful filing of false report under Insurance Holding Company System Act

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45-191.03	Loan broker collecting advance fee in excess of \$300 and other violations of loan broker provisions
45-926	Operating delayed deposit services business without license
*46-155	Irrigation districts, officers interested in contracts, accepting bribes or gratuities
48-654.01	Engaging in business practices to avoid higher combined tax rates under the Employment Security Law
49-1476.01	Campaign contributions or expenditures by state lottery contractor
49-14,134	Filing false statement, report, or verification under Nebraska Political Accountability and Disclosure Act
49-14,135	Perjury before Nebraska Accountability and Disclosure Commission
53-122	Bribery involving signatures on petitions for elections regarding sale of liquor
54-1,125	Using false document of livestock ownership
54-1,125	Forging or altering livestock ownership document when value is over \$300 but less than \$1,000
*54-903	Intentionally, knowingly, or recklessly abandon or cruelly neglect livestock animal resulting in serious injury or illness or death of the livestock animal
*54-903	Cruelly mistreat a livestock animal, second or subsequent offense
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, second or subsequent offense
54-753.05	Importation of livestock in violation of an embargo issued by State Veterinarian
54-1509	Importation of swine with hog cholera, interference with destruction
54-1521	Violation of laws pertaining to hog cholera control and eradication
54-1808	Violation of Nebraska Livestock Sellers Protective Act
54-1913	Violation of Nebraska Meat and Poultry Inspection Law with intent to defraud or by distributing adulterated article
57-719	Preparation or presentation of false or fraudulent oil and gas severance tax document
59-801	Unlawful restraint of trade or commerce
59-802	Unlawful monopolizing of trade or commerce
59-805	Unlawful restraint of trade; underselling
59-815	Corporation or other association engaged in unlawful restraint of trade
59-825	Refusal to attend and testify in restraint of trade proceedings
59-1522	Unlawful sale and distribution of cigarettes
59-1757	Violations in sales or leases of seller-assisted marketing plans
60-176	Knowing transfer of wrecked, damaged, or destroyed motor vehicle, all-terrain vehicle, or minibike without appropriate certificate of title
60-179	Fraud or forgery in obtaining certificate of title to motor vehicle, all-terrain vehicle, or minibike
60-196	Violating laws relating to odometers
60-492	Impersonating an officer under Motor Vehicle Operator's License Act
60-4,111.01	Trade, sell, or share machine-readable information encoded on driver's license or state identification card
60-4,111.01	Compile, store, or preserve machine-readable information encoded on driver's license or state identification card without authorization
60-4,111.01	Intentional or grossly negligent programming by the programmer which allows for the storage of more than the age and identification number from machine-readable information encoded on driver's license or state identification card or wrongfully certifying the software

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60-4,111.01	Retailer knowingly storing more information than the age and identification number from the machine-readable information encoded on driver's license or state identification card
60-4,111.01	Unauthorized trading, selling, sharing, use for marketing or sales, or reporting of scanned, compiled, stored, or preserved machine-readable information encoded on driver's license or state identification card
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
*60-6,197.06	Operating a motor vehicle when operator's license has been revoked for driving under the influence, first offense
60-1416	Acting as motor vehicle, motorcycle, or trailer dealer, salesperson, or manufacturer, etc., without license
60-2912	Misrepresenting identity or making false statement on application submitted under the Uniform Motor Vehicle Records Disclosure Act
66-727	Violations of motor fuel tax laws when the amount involved is less than \$5,000, provisions relating to evasion of tax, keeping books and records, making false statements
66-727	Violations of motor fuel tax laws, including making returns and reports, assignment of licenses and permits, payment of tax
66-1226	Selling automotive spark ignition engine fuels not within specifications, second or subsequent offense
66-1822	False or fraudulent entries in books of a jurisdictional utility
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is \$500 or more
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is \$500 or more
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is \$500 or more
68-1017.01	Unlawful possession of blank supplemental nutrition assistance program authorizations
69-109	Sale or transfer of personal property with security interest without consent
69-2408	Providing false information on an application for a certificate to purchase a handgun
69-2420	Unlawful acts relating to purchase of a handgun
69-2421	Unlawful sale or delivery of a handgun
69-2422	Knowingly and intentionally obtaining a handgun for purposes of unlawful transfer of the handgun
69-2430	Falsified concealed handgun permit application
70-508	False statement on sale, lease, or transfer of public electric plant
70-511	Excessive promotion expenses on sale of public electric plant
70-514	Failure to file statement of expenditures related to transfer of electric plant facilities or filing false statement
70-2104	Damage, injure, destroy, or attempt to damage, injure, or destroy equipment or structures owned and used by public power suppliers to generate, transmit, or distribute electricity or otherwise interrupt the generation, transmission, or distribution of electricity by a public power supplier
71-649	Vital statistics, unlawful acts
71-2228	Illegal receipt of food supplement benefits when value is \$500 or more
71-2229	Unlawful use, alteration, or transfer of food instruments or food supplements when value is \$500 or more

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71-2229	Unlawful possession or redemption of food supplement benefits when value is \$500 or more
71-2229	Unlawful possession of blank authorization to participate in the WIC program or CSF program
71-6312	Unlawfully engaging in an asbestos project without a valid license or using unlicensed employees subsequent to the levy of a civil penalty, second or subsequent offense
71-6329	Engaging in a lead abatement project or lead-based paint profession without a valid license or using unlicensed employees after assessment of a civil penalty, second or subsequent offense
71-6329	Conducting a lead abatement project or lead-based paint profession training program without departmental accreditation after assessment of a civil penalty, second or subsequent offense
71-6329	Issuing fraudulent licenses under the Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, second or subsequent offense
75-909	Violation of Grain Dealer Act
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of \$1,500 or more or substantial disruption of service
76-2728	Violation of Nebraska Foreclosure Protection Act
77-1726	Failure of a corporation, company, or officer or agent to pay taxes
77-2310	Unlawful removal of state funds or illegal profits by State Treasurer
77-2323	Violation of provisions on deposit of county funds
77-2325	Unlawful removal of county funds or illegal profits by county treasurers
77-2381	Violation of provisions on deposit of local hospital district funds
77-2383	Unlawful removal of funds or illegal profits by secretary-treasurer of local hospital district
77-2614	Altered, forged, or counterfeited stamp, license, permit, or cigarette tax meter impression for sale of cigarettes
77-2615	Violation of cigarette tax provisions when not otherwise specified
77-2713	Failure to collect or false returns on sales and use tax
77-27,113	Evasion of income tax
77-27,114	Failure to collect or account for income taxes
77-27,116	False return on income tax
*77-27,119	Unauthorized disclosure of confidential tax information by Auditor of Public Accounts or Legislative Performance Audit Section
77-4024	Violation of Tobacco Products Tax Act or evasion of act
77-4309	Dealer distributing or possessing marijuana or a controlled substance without affixing the official stamp, label, or other indicium
77-5544	Unlawful disclosure of confidential information by qualified independent accounting firm under Invest Nebraska Act
*81-161.05	Material division personnel having financial or beneficial personal interest or receiving gifts or rebates
*81-1108.56	State building division personnel having financial or beneficial personal interest or receiving gifts or rebates
81-1508.01	Specific violations of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act
81-15,111	Violation of Low-Level Radioactive Waste Disposal Act
81-3442	Violation of Engineers and Architects Regulation Act, second or subsequent offense
83-174.05	Failure to comply with community supervision, first offense

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83-184	Escape from custody (certain situations)
83-198	Threatening or attempting to influence a member of the Board of Parole
83-1,127.02	Operation of vehicle with disabled, bypassed, or altered ignition interlock device or without an ignition interlock device or permit in violation of board order
83-1,133	Threatening or attempting to influence a member of the Board of Pardons
83-417	Allowing a committed offender to escape or be visited without approval
83-443	Financial interest in convict labor
*83-912	Director or employee of Department of Correctional Services receiving prohibited gift or gratuity
86-290	Intercepting or interfering with wire, electronic, or oral communication
86-295	Unlawful tampering with communications equipment or transmissions
86-296	Shipping or manufacturing devices capable of intercepting certain communications
86-2,102	Interference with satellite transmissions or operation
86-2,104	Unauthorized access to electronic communication services
87-303.09	Violation of court order or written assurance of voluntary compliance under Uniform Deceptive Trade Practices Act
88-543	Issuing a receipt for grain not received, improperly recording grain as received or loaded, or creating a post-direct delivery storage position without proper documentation or grain in storage
88-545	Violation of Grain Warehouse Act when not otherwise specified

UNCLASSIFIED FELONIES, see section 28-107

69-110	Removal from county of personal property subject to a security interest with intent to deprive of security interest –fine of not more than one thousand dollars –imprisonment of not more than ten years
77-27,119	Unauthorized disclosure of confidential tax information by Tax Commissioner, officer, employee, or third-party auditor –fine of not less than one hundred dollars nor more than five hundred dollars –imprisonment of not more than five years –both
77-3210	Receipt of profit from rental, management, or disposition of Land Reutilization Authority lands –imprisonment of not less than two years nor more than five years
83-1,124	Parolee leaving state without permission –imprisonment of not more than five years

OTHER MANDATORY MINIMUMS:

29-2221	Habitual criminal
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**CLASS I MISDEMEANOR Maximum—not more than one year imprisonment, or one thousand dollars fine, or both
Minimum—none**

2-1215	Conducting horseracing or betting on horseraces without license or violating horseracing provisions
2-1218	Drugging horses or permitting drugged horses to run in a horserace
2-2647	Violation of Pesticide Act, second or subsequent offense

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8-119	Officers of corporation filing false statement for banking purposes
8-142	Bank officer, employee, director, or agent violating loan limits by \$40,000 or more or resulting in monetary loss of over \$20,000 to bank
8-145	Improper solicitation or receipt of benefits, unlawful inducement for bank loan
8-189	Attempting to prevent Department of Banking and Finance from taking possession of insolvent or unlawfully operated bank
8-1,138	Violation of a final order issued by Director of Banking and Finance
8-224.01	Division of fees for legal services by a trust company attorney
9-230	Unlawfully conducting or awarding a prize at a bingo game, second or subsequent offense
9-262	Violation of Nebraska Bingo Act when not otherwise specified, first offense
9-266	Disclosure by Tax Commissioner or employee of reports or records of a licensed distributor or manufacturer under Nebraska Bingo Act
9-351	Unlawfully possessing pickle cards or conducting a pickle card lottery
9-352	Violation of Nebraska Pickle Card Lottery Act when not otherwise specified, first offense
9-356	Disclosure by Tax Commissioner or employee of returns or reports of licensed distributor or manufacturer under Nebraska Pickle Card Lottery Act
9-434	Violation of Nebraska Lottery and Raffle Act when not otherwise specified, first offense
9-652	Violation of Nebraska County and City Lottery Act when not otherwise specified, first offense
9-653	Disclosure by Tax Commissioner or employee of reports or records of a licensed manufacturer-distributor under Nebraska County and City Lottery Act
9-814	Sale of lottery tickets under the State Lottery Act without authorization or at other than the established price
9-814	Release of information obtained from background investigation under the State Lottery Act
10-807	Misrepresentations for aid from county aid bonds
*18-2532	Initiative and referendum, making false affidavit or taking false oath
*18-2533	Initiative and referendum, destruction, falsification, or suppression of a petition
*18-2534	Initiative and referendum petition, signing by person not registered to vote or paying for or deceiving another to sign a petition
*18-2535	Initiative and referendum, failure by city clerk to comply or unreasonable delay in complying with statutes
20-334	Willful failure to obey a subpoena or order or intentionally mislead another in proceedings under the Nebraska Fair Housing Act
20-344	Coerce, intimidate, threaten, or interfere with the exercise or enjoyment of rights under the Nebraska Fair Housing Act
20-411	Physician or health care provider failing to transfer care of patient under declaration or living will
20-411	Physician failing to record a living will or a determination of a terminal condition or persistent vegetative state
20-411	Concealing, canceling, defacing, obliterating, falsifying, or forging a living will
20-411	Concealing, falsifying, or forging a revocation of a living will

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20-411	Requiring or prohibiting a living will for health care services or insurance
20-411	Coercing or fraudulently inducing an individual to make a living will
21-1912	Signing a false document under the Nebraska Nonprofit Corporation Act with intent to file with the Secretary of State
21-2012	Signing a false document under the Business Corporation Act with intent to file with the Secretary of State
28-107	Misdemeanor defined outside of criminal code
28-111	Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss of \$200 or more but less than \$500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the third degree (certain situations) committed against a pregnant woman
28-201	Criminal attempt to commit a Class IIIA or IV felony
28-204	Harboring, concealing, or aiding a felon who committed a Class IV felony
28-204	Obstructing the apprehension of a felon who committed a Class IV felony
28-301	Compounding a felony
28-306	Motor vehicle homicide by person not under the influence of alcohol or drugs or not driving in a reckless manner
28-310	Assault in the third degree (certain situations)
28-311.04	Stalking (certain situations)
28-315	False imprisonment in the second degree
28-320	Sexual assault in the third degree
28-322.05	Unlawful use of Internet by prohibited sex offender, first offense
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an intimate partner with imminent bodily injury, first offense
28-323	Domestic assault in the third degree by threatening an intimate partner in a menacing manner
28-394	Motor vehicle homicide of an unborn child by person not under the influence of alcohol or drugs or not driving in a reckless manner
28-399	Assault of an unborn child in the third degree
28-443	Delivering drug paraphernalia to a minor
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine, first offense
28-504	Arson in the third degree, damages less than \$100
28-514	Theft of lost, mislaid, or misdelivered property when value is \$500 or more but not more than \$1,500
28-514	Theft of lost, mislaid, or misdelivered property when value is more than \$200 but less than \$500, second or subsequent offense

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28-514	Theft of lost, mislaid, or misdelivered property when value is \$200 or less, third or subsequent offense
28-516	Unauthorized use of a propelled vehicle, second offense
28-518	Theft when value is more than \$200 but less than \$500
28-518	Theft when value is \$200 or less, second offense
28-519	Criminal mischief, pecuniary loss of \$500 or more but less than \$1,500
28-520	Criminal trespass in the first degree
28-523	Littering, third or subsequent offense
28-603	Forgery in the second degree when face value is \$300 or less
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is more than \$300 but less than \$1,000
28-607	Making, using, or uttering of slugs of value of \$100 or more
28-610	Impersonating a peace officer
28-611	Issuing a bad check or other order in an amount of \$200 or more but less than \$500, first offense
28-611.01	Issuing a no-account check in an amount of \$200 or more but less than \$500, first offense
28-613	Commercial bribery or breach of duty to act disinterestedly
28-616	Altering an identification number
28-617	Receiving an altered article
28-619	Issuing a false financial statement to obtain a financial transaction device
28-620	Unauthorized use of a financial transaction device when total value is \$200 or more but less than \$500 within a six-month period
28-624	Criminal possession of a blank financial transaction device
28-631	Possessing fake or counterfeit insurance policies, certificates, identification cards, or binders with intent to defraud or deceive
28-631	Committing a fraudulent insurance act when the amount involved is \$200 or more but less than \$500, first offense
28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, second or subsequent offense
28-635	Install object or material not designed for motor vehicle air bag system
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$200 or more but less than \$500, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, second offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, second or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$200 or more but less than \$500, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money,

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	goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, second offense
28-640	Identity fraud, first offense
28-701	Bigamy
28-705	Abandonment of spouse, child, or dependent stepchild
28-707	Child abuse committed negligently
28-709	Contributing to the delinquency of a child
*28-801	Prostitution, third or subsequent offense
*28-801.01	Solicitation of prostitution, first offense
28-804	Keeping a place of prostitution
28-805	Debauching a minor
28-808	Obscene literature and material, sell or possess with intent to sell to minor
28-809	Obscene motion picture, show, or presentation, admission of minor
28-813	Prepare, distribute, order, produce, exhibit, or promote obscene literature or material
28-831	Forced labor or services resulting from causing or threatening financial harm
28-901	Obstructing government operations
28-904	Resisting arrest, first offense
*28-905	Operating a motor vehicle to avoid arrest which is a first offense, does not result in death or injury, or does not involve willful reckless driving
*28-905	Operating a boat to avoid arrest for misdemeanor or ordinance violation
28-906	Obstructing a peace officer, judge, or police animal
28-907	False reporting (certain situations)
28-908	Interference with firefighter on official duty
28-909	Falsifying records of a public utility
28-913	Introducing escape implements
28-915.01	False statement under oath or affirmation in an official proceeding or to mislead a public servant
*28-1005.01	Knowing or intentional ownership or possession of animal fighting paraphernalia for dogfighting, cockfighting, bearbaiting, or pitting an animal against another
28-1009	Abandonment or cruel neglect of animal not resulting in serious injury, illness, or death
28-1009	Cruel mistreatment of animal not involving torture or mutilation, first offense
28-1019	Violation of court order related to felony animal abuse conviction
28-1102	Promoting gambling in the first degree, first offense
28-1202	Carrying a concealed weapon, first offense
28-1204	Unlawful possession of a handgun
28-1216	Unlawful possession of explosive materials in the second degree
28-1218	Use of explosives without a permit if not eligible for a permit
28-1302	Concealment of death to prevent determination of cause or circumstances of death
28-1312	Interfering with the police radio system
28-1343.01	Unauthorized computer access creating risk to public health and safety
28-1346	Unauthorized access to or use of a computer to obtain confidential information, second or subsequent offense
29-1926	Improper release or use of a videotape of a child victim or child witness
30-3432	Altering, forging, concealing, or destroying a power of attorney for health care or a revocation of a power of attorney for health care

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30-3432	Physician or health care provider willfully preventing transfer of care of principal under durable power of attorney for health care
*32-1518	Election officials, violation of duties imposed by election laws
32-1522	Unlawful printing, possession, or use of ballots
32-1546	Signing petition without being registered to vote
37-618	Possession of suspended or revoked permit to hunt, fish, or harvest fur
37-809	Unlawful acts relating to endangered or threatened species of wildlife or wild plants
38-1,106	Disclosure of confidential complaints, investigational records, or reports regarding violation of Uniform Credentialing Act
39-310	Depositing materials on roads or ditches, third or subsequent offense
39-311	Placing burning materials or items likely to cause injury on highways, third or subsequent offense
42-113	Failing to file and record or filing false marriage certificate or illegally joining others in marriage
42-924	Knowingly violating a protection order issued pursuant to domestic abuse or harassment case with a prior conviction for violating a protection order
44-10,108	Making a fraudulent statement to a fraternal benefit society
44-2007	Violation of Unauthorized Insurers Act
44-4806	Failing to cooperate with, obstructing, interfering with, or violating any order issued by the Director of Insurance under the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act
45-191.03	Loan broker collecting advance fee of \$300 or less or failing to make required filings
45-747	Engaging in mortgage banking or mortgage loan originating if convicted of certain misdemeanors or a felony
45-1015	Acting without license under the Nebraska Installment Loan Act
46-1141	Unlawful tampering with or damaging chemigation equipment
48-125.01	Attempted avoidance of payment of workers' compensation benefits
48-145.01	Failure to comply with workers' compensation insurance required of employers
48-211	Failure or refusal to supply laborer's service letter
48-821	Interfere with or coerce others to strike or otherwise hinder governmental service
48-1908	Drug or alcohol tests, altering results
48-1909	Drug or alcohol tests, tampering with body fluids
48-2615	Athlete agent violating Nebraska Uniform Athlete Agents Act
48-2711	Violations relating to professional employer organizations
53-122	Violations involving signatures on petitions for elections regarding sale of liquor
53-180.05	Creation or alteration of identification for sale or delivery to a person under twenty-one years of age
53-180.05	Dispensing alcohol in any manner to minors or incompetents
54-1,125	Forging or altering livestock ownership document when value is \$300 or less
*54-903	Intentionally, knowingly, or recklessly abandon or cruelly neglect livestock animal not resulting in serious injury or illness or death of the livestock animal
*54-903	Cruelly mistreat a livestock animal, first offense
54-909	Violating court order not to own or possess a livestock animal for at least five years after the date of conviction for second or subsequent

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	offense of cruel mistreatment of an animal or for intentionally, knowingly, or recklessly abandoning or cruelly neglecting livestock animal resulting in serious injury or illness or death of the livestock animal
54-911	Intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest
54-912	Intentionally trip, cause to fall, or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, first offense
54-634	Violation of Commercial Dog and Cat Operator Inspection Act
54-750	Harboring or prohibited sale of diseased animals, second or subsequent offense
54-751	Violation of rules and regulations relating to diseased animals and disposal of carcasses, second or subsequent offense
54-752	Violation of laws relating to diseased animals and disposal of carcasses, second or subsequent offense
54-771	Failure by herd owner or custodian to develop or follow a herd plan relating to livestock anthrax
*54-778	Failure to comply with the Anthrax Control Act
54-781	Violation of the Anthrax Control Act when not otherwise specified
59-505	Unlawful discrimination in sales or purchases of products, commodities, or property
60-484.02	Disclosure of digital image or signature by Department of Motor Vehicles or law enforcement
*60-4,118.06	Operation of motor vehicle in violation of ignition interlock permit
60-559	Forging or filing a forged document for proof of financial responsibility for a motor vehicle
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
60-696	Second or subsequent conviction in 12 years for failure of driver to stop and report a motor vehicle accident
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, second offense committed with .15 gram alcohol concentration
*60-6,218	Reckless driving or willful reckless driving, third or subsequent offense
*60-2912	Disclosure of sensitive personal information by Department of Motor Vehicles
66-1226	Selling automotive spark ignition engine fuels not within specifications, first offense
*69-2408	Intentional violation of provisions on acquisition of handguns
69-2419	Unlawful request for criminal history record check or dissemination of such information
*69-2443	Refusal to allow peace officer or emergency services personnel to secure concealed handgun
*69-2443	Carrying concealed handgun at prohibited site or while under the influence, second or subsequent offense
*69-2443	Failure to report discharge of concealed handgun, second or subsequent offense
*69-2443	Failure to carry or display concealed handgun permit, second or subsequent offense

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*69-2443	Failure to inform peace officer of concealed handgun, second or subsequent offense
71-458	Violation of Health Care Facility Licensure Act
71-649	Vital statistics, unlawful acts
71-4608	Illegal manufacture or sale of manufactured homes or recreational vehicles
71-4608	Violation of manufactured home or recreational vehicle standards endangering the safety of a purchaser
71-6312	Unlawfully engaging in an asbestos project without a valid license or using unlicensed employees subsequent to the levy of a civil penalty, first offense
71-6329	Engaging in a lead abatement project or lead-based paint profession without a valid license or using unlicensed employees after assessment of a civil penalty, first offense
71-6329	Conducting a lead abatement project or lead-based paint profession training program without departmental accreditation after assessment of a civil penalty, first offense
71-6329	Issuing fraudulent licenses under the Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, first offense
74-921	Operating a locomotive or acting as the conductor while intoxicated
75-127	Unjust discrimination or prohibited practice in rates by common carrier, shipper, or consignee
76-1315	Violation of laws on retirement communities and subdivisions
76-1722	Unlawful time-share interval disposition or violating time-share laws
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of \$500 or more but less than \$1,500 (certain situations)
77-1816	Fraudulent sales of real property for delinquent real estate taxes
77-2115	Disclosure of confidential information on estate or generation-skipping transfer tax records
77-2326	Failure to act regarding deposit of county funds by county treasurers
77-2384	Secretary-treasurer of local hospital district, failure to comply with provisions on deposit of public funds
77-2704.33	Failure of a contractor or taxpayer to pay certain sales taxes of \$300 or more
77-2711	Wrongful disclosure of records and reports relating to sales and use tax
77-2711	Disclosure of taxpayer information by employees of Legislative Performance Audit Section or Auditor of Public Accounts or former employees
77-3522	Oath or affirmation regarding false or fraudulent application for homestead exemption
77-5016	False statement to Tax Equalization and Review Commission
81-829.73	Fraudulently or willfully making a misstatement of fact in connection with an application for financial assistance under the Emergency Management Act
81-1508.01	Violations of solid waste and livestock waste laws and regulations
81-1717	Unlawful soliciting of professional services under Nebraska Consultants' Competitive Negotiation Act
81-1718	Professional making unlawful solicitation under Nebraska Consultants' Competitive Negotiation Act
81-1719	Agency official making unlawful solicitation under Nebraska Consultants' Competitive Negotiation Act

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81-1830	False claim under Nebraska Crime Victim's Reparations Act
81-2143	Violation of State Electrical Act
81-3442	Violation of Engineers and Architects Regulation Act, first offense
81-3535	Unauthorized practice of geology, second or subsequent offense
86-234	Violation of Telemarketing and Prize Promotions Act
86-290	Intercepting or interfering with certain wire, electronic, or oral communication
86-298	Unlawful use of pen register or trap-and-trace device
*86-2,104	Unlawful access to electronic communication service
88-548	Illegal use of grain probes
89-1,101	Violation of Weights and Measures Act or order of Department of Agriculture, second or subsequent offense

**CLASS II MISDEMEANOR Maximum—six months imprisonment, or
one thousand dollars fine, or both
Minimum—none**

1-166	Accountants, persons using titles, initials, trade names when not qualified or authorized to do so
2-10,115	Specified violations of Plant Protection and Plant Pest Act, second or subsequent offense
2-1221	Receipt or delivery of certain off-track wagers
2-1240	Improper placement or acceptance of wagers by telephone deposit center
2-1811	Violation of Nebraska Potato Development Act
3-152	Violation of State Aeronautics Department Act
*8-109	Bank examiner failing to report bank insolvency or unsafe condition
8-118	Promoting the organization of a corporation to conduct the business of banking or selling stock prior to issuance of charter
8-142	Bank officer, employee, director, or agent violating loan limits by \$20,000 or more but less than \$40,000 or resulting in monetary loss of \$10,000 or more but less than \$20,000
8-702	Banking institution failing to give notice if deposits are not insured
9-345.03	Unlawfully placing a pickle card dispensing device in operation
9-513	Violation of Nebraska Small Lottery and Raffle Act, second or subsequent offense
9-701	Violation of provisions relating to gift enterprises
9-814	Failure by lottery game retailer to maintain and make available records of separate accounts under State Lottery Act
9-814	Knowingly sell lottery tickets to person less than 19 years of age
12-1118	False or fraudulent reporting or any violation under Burial Pre-Need Sale Act
*22-303	Relocation of county seats, refusal by officers to move offices and records
23-135.01	False claim against county when value is more than \$100 but less than \$1,000
23-2325	False or fraudulent acts to defraud the Retirement System for Nebraska Counties
23-2544	Violation of county personnel provisions for counties with population under 150,000
*23-3596	Board of trustees of hospital authority, pecuniary interest in contracts
24-711	False or fraudulent acts to defraud the Nebraska Judges Retirement System

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28-111	Criminal mischief, pecuniary loss is less than \$200, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Unauthorized application of graffiti, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-201	Criminal attempt to commit a Class I misdemeanor
28-310	Assault in the third degree (certain situations)
28-311.06	Hazing
28-311.08	Knowingly intrude upon any other person without his or her consent or knowledge in a place of solitude or seclusion when the victim is less than eighteen years of age
28-311.09	Violation of harassment protection order
28-316	Violation of custody without intent to deprive custodian of custody of child
28-339	Discrimination against person refusing to participate in an abortion
28-344	Violation of provisions relating to abortion reporting forms
28-442	Unlawful possession or manufacture of drug paraphernalia
28-445	Manufacture or delivery of an imitation controlled substance, second or subsequent offense
28-511.03	Possession in store of security device countermeasure
28-514	Theft of lost, mislaid, or misdelivered property when value is more than \$200 but less than \$500
28-514	Theft of lost, mislaid, or misdelivered property when value is \$200 or less, second offense
28-515.01	Fraudulently obtaining telecommunications service
28-518	Theft when value is \$200 or less
28-519	Criminal mischief, pecuniary loss of \$200 or more but less than \$500
28-521	Criminal trespass in the second degree (certain situations)
28-523	Littering, second offense
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is \$300 or less
28-607	Making, using, or uttering of slugs of value less than \$100
28-611	Issuing a bad check or other order in an amount of less than \$200, first offense
28-611	Issuing bad check or other order with insufficient funds
28-611.01	Issuing a no-account check in an amount of less than \$200, first offense
28-614	Tampering with a publicly exhibited contest
28-620	Unauthorized use of a financial transaction device when total value is less than \$200 within a six-month period
28-631	Committing a fraudulent insurance act when the amount involved is less than \$200
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of

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	value that was gained or was attempted to be gained was less than \$200, first offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, first offense
28-706	Criminal nonsupport not in violation of court order
*28-801	Prostitution, first or second offense
28-806	Public indecency
28-811	Obscene literature, material, etc., false representation of age by minor, parent, or guardian, unlawful employment of minor
28-903	Refusing to aid a peace officer
28-910	Filing false reports with regulatory bodies
28-911	Abuse of public records
28-915.01	False statement under oath or affirmation if statement is required by law to be sworn or affirmed
28-924	Official misconduct
28-926	Oppression under color of office
*28-927	Neglecting to serve warrant if offense for warrant is a felony
28-1103	Promoting gambling in the second degree
28-1105	Possession of gambling records in the first degree
28-1107	Possession of a gambling device
28-1218	Use of explosives without a permit if eligible for a permit
28-1233	Failure to notify fire protection district of use or storage of explosive material over one pound
28-1240	Unlawful transportation of anhydrous ammonia
28-1304.01	Unlawful use of liquified remains of dead animals
28-1311	Interference with public service companies
28-1326	Unlawful transfer of recorded sound
28-1326	Sell, distribute, circulate, offer for sale, or possess for sale recorded sounds without proper label
28-1343.01	Unauthorized computer access compromising security of data
28-1346	Unauthorized access to or use of a computer to obtain confidential information, first offense
28-1347	Unauthorized access to or use of a computer, second or subsequent offense
29-739	Extradition and detainer, unlawful delivery of accused persons
29-908	Failing to appear when on bail for misdemeanor or ordinance violation
32-1536	Bribery or threats used to procure vote of another
32-1604	Failure to file affidavit to report spending 40 percent or more of limitation on campaign expenditures
32-1607	Knowingly and willfully exceeding campaign spending limitations
*37-401	Violation of hunting, fishing, and fur-harvesting permits
*37-410	Obtaining or aiding another to obtain a permit to hunt, fish, or harvest fur unlawfully or by false pretenses or misuse of permit
*37-411	Hunting, fishing, or fur-harvesting without permit
*37-447	Violation of rules and regulations under the Game Law regarding hunting, transportation, and possession of deer
*37-449	Violation of rules and regulations under the Game Law regarding hunting antelope

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*37-479	Luring or enticing wildlife into a domesticated cervine animal facility
*37-4,108	Violating commercial put-and-take fishery licensure requirements
*37-504	Unlawfully hunt, trap, or possess mountain sheep
37-509	Violations relating to hunting or harassing birds, fish, or other animals from aircraft
37-524.01	Release, kill, wound, or attempt to kill or wound a pig for amusement or profit
37-554	Use of explosives in water to remove obstructions without permission
37-555	Polluting waters of state
37-556	Polluting waters of state with carcasses
*37-573	Hunt or enable another to hunt through the Internet or host hunting through the Internet
37-809	Violation of restrictions on endangered or threatened species
*37-1254.01	Operating a motorboat while under the influence of alcohol or controlled substance
*37-1254.02	Refusing to submit to a chemical test for operating a motorboat while under the influence of alcohol or controlled substance
37-1272	Reckless or negligent operation of motorboat, water skis, surfboard, etc.
37-12,110	Violation of provisions relating to abandonment of motorboats
38-1,118	Violation of Uniform Credentialing Act when not otherwise specified, second or subsequent offense
38-1,133	Failure of insurer to report violations of Uniform Credentialing Act, second or subsequent offense
38-1424	Willful malpractice, solicitation of business, and other unprofessional conduct in the practice of funeral directing and embalming
38-28,103	Violations of Pharmacy Practice Act except as otherwise specifically provided
38-3130	Representing oneself as a psychologist or practicing psychology without a license
39-310	Depositing materials on roads or ditches, second offense
39-311	Placing burning materials or items likely to cause injury on highways, second offense
39-2612	Illegal location of junkyard
42-357	Knowingly violating a restraining order relating to dissolution of marriage
42-924	Knowingly violating a protection order issued pursuant to domestic abuse or harassment case, first offense
42-1204	False or incorrect information on application to restrict disclosure of applicant's address
43-2,107	Violation of restraining or other court order under Nebraska Juvenile Code
44-3,156	Violations of provisions permitting purchase of workers' compensation insurance by associations
44-1209	Reciprocal insurance, violations by attorney in fact
45-208	Violation of maximum rate of time-price differential, revolving charge agreements
45-343	Installment sales, failure to obtain license
45-343	Violation of Nebraska Installment Sales Act
45-747	Engaging in mortgage banking or mortgage loan originating without a license or registration
45-814	Violation of Credit Services Organization Act
45-1037	Violations regarding installment loans

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46-254	Interfering with closed waterworks, taking water without authority
46-263.01	Molesting or damaging water flow measuring devices
46-807	Unlawful diversion or drainage of natural lakes
46-1119	Violation of emergency permit provisions of Nebraska Chemigation Act
46-1139	Unlawfully engaging in chemigation without a chemigation permit
46-1140	Unlawfully engaging in chemigation with a suspended or revoked chemigation permit
46-1239	Violating the licensure requirements of the Water Well Standards and Contractors' Practice Act
48-144.04	Failing, neglecting, or refusing to file reports required by Nebraska Workers' Compensation Court
48-146.03	Unlawfully requiring employee to pay deductible amount under workers' compensation policy or requiring or attempting to require employee to give up right of selection of physician
48-147	Deducting from employee's pay for workers' compensation benefits
48-311	Violation of child labor laws
48-414	Using a machine or device or working at a location which Commissioner of Labor has labeled unsafe
48-424	Violations involving health and safety regulations
48-434	Violations of safety requirements in construction of buildings
48-645	Unlawful waiver of or deductions for unemployment compensation or discrimination in hire or tenure
48-910	Violation of laws relating to secondary boycotts
48-1714	Violation by farm labor contractor or applicant for farm labor contractor license
48-1714	Violations related to farm labor contractor licenses
48-1816	Violation of Nebraska Amusement Ride Act
48-2533	Install a conveyance in violation of the Conveyance Safety Act
50-1215	Obstruct, hinder, or mislead a legislative performance audit or preaudit inquiry
52-124	Failure to discharge construction liens, failure to apply payments for lawful claims
53-111	Nebraska Liquor Control Commission, gifts or gratuities forbidden
53-164.02	Evasion of liquor tax
53-186.01	Permitting consumption of liquor in unlicensed public places, second or subsequent offense
53-187	Nonbeverage liquor licensee giving or selling liquor fit for beverage purposes, second or subsequent offense
53-1,100	Violation of Nebraska Liquor Control Act, second or subsequent offense
54-1,125	Using false evidence of ownership of livestock
54-1,126	Violation of Livestock Brand Act when not otherwise specified
54-415	Estrays, illegal sale, disposition of proceeds
54-706.05	Interfere with or obstruct inspections or tests under the Bovine Tuberculosis Act
54-706.08	Prevent testing of or remove animal quarantined under the Bovine Tuberculosis Act
54-706.10	Interfere with or obstruct confining of affected herds or examinations or tests under the Bovine Tuberculosis Act
54-706.17	Other violations of the Bovine Tuberculosis Act or rules and regulations
54-750	Harboring or prohibited sale of diseased animals, first offense

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54-751	Violation of rules and regulations relating to diseased animals and disposal of carcasses, first offense
54-752	Violation of laws relating to diseased animals and disposal of carcasses, first offense
54-796	Violation of Animal Importation Act, second or subsequent offense
54-861	Violation of Commercial Feed Act, second or subsequent offense
54-1171	Violation of Livestock Auction Market Act
54-1181.01	Person engaging in livestock commerce violating veterinarian inspection provisions
54-1811	Illegal purchase of slaughter livestock
54-1913	Interference with inspection of meat and poultry, attempting to bribe inspector or employee of Department of Agriculture
54-1913	Violation of Nebraska Meat and Poultry Inspection Law when not otherwise specified unless intent was to defraud
54-2288	Violation of quarantine requirements under Pseudorabies Control and Eradication Act, second or subsequent offense
54-22,100	Violation of Pseudorabies Control and Eradication Act, second or subsequent offense
54-2323	Violation of Domesticated Cervine Animal Act, second or subsequent offense
54-2761	Violation of Scrapie Control and Eradication Act, second or subsequent offense
55-142	Trespassing on place of military duty, obstructing person in military duty, disrupting orderly discharge of military duty, disturbing or preventing passage of military troops
55-175	Refusal by restaurant, hotel, or public facility to serve person wearing prescribed National Guard uniform
55-428	Code of military justice, witness failure to appear
57-915	Violation of oil and gas conservation laws
*60-3,167	Operating or allowing the operation of motor vehicle or trailer without proof of financial responsibility
*60-4,108	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded
*60-4,109	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded for violation of city or village ordinance
*60-4,141.01	Operating commercial motor vehicle while operator's license is suspended, revoked, or canceled or while subject to disqualification or an out-of-service order
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
60-696	Failure of driver to stop and report a motor vehicle accident, first offense in 12 years
*60-6,130	Unlawful removal or possession of sign or traffic control or surveillance device
*60-6,130	Willfully or maliciously injuring, defacing, altering, or knocking down any sign, traffic control device, or traffic surveillance device
60-6,195	Speed competition or drag racing on highways
60-6,211.05	Tampering with or circumventing ignition interlock device or driving a vehicle without an ignition interlock device in violation of court order
*60-6,217	Reckless driving or willful reckless driving, second offense
60-6,336	Snowmobile contest on highway without permission, second or subsequent offense within one year

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60-6,343	Violation of provisions relating to snowmobiles, second or subsequent offense within one year
60-6,362	Violation of all-terrain vehicle requirements, second or subsequent offense within one year
60-1911	Violating laws relating to abandoned vehicles
69-408	Violation of secondary metals recycling requirements
69-1215	Willfully or knowingly engaging in business of debt management without license
69-1324	Willful failure to deliver abandoned property to the State Treasurer
69-2409.01	Intentionally causing the Nebraska State Patrol to request mental health history information without reasonable belief that the named individual has submitted a written application or completed a consent form for a handgun
71-962	Filing petition with false allegations or depriving a subject of rights under Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act
71-962	Willful violation involving records under Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act
71-15,141	Approve, sign, or file a local housing agency annual report which is materially false or misleading
71-1805	Sale and distribution of pathogenic microorganisms
71-2416	Violation of Emergency Box Drug Act
71-2512	Violation of provisions on poisons and adulterated or misbranded drugs when not otherwise specified, second offense
71-3213	Violation of laws pertaining to private detectives
72-245	Waste, trespass, or destruction of trees on school lands
*72-313	Violation of mineral or water rights on state lands
72-802	Violation of plans, specifications, bids, or appropriations on public buildings
75-127	Unjust discrimination or prohibited practices in rates by officers, agents, or employees of a common carrier
75-428	Failure of railroad to provide transfer facilities at intersections upon order of the Public Service Commission
75-723	Violation of laws on transmission lines
76-1722	Acting as a sales agent for real property in a time-share interval arrangement without a license
76-2114	Acting as membership camping contract salesperson without registration
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of at least \$200 but less than \$500 (certain situations)
77-1232	Failure to list or filing false list of personal property for tax purposes for 1993 and thereafter
77-2311	Failure or refusal to perform duties regarding deposit of state funds by State Treasurer
77-2790	Claiming excessive exemptions or overstating withholding to evade income taxes
77-27,115	Taxpayer, failure to pay, account, or keep records on income tax
77-3009	Violation of Mechanical Amusement Device Tax Act
77-3522	False or fraudulent claim for homestead exemption
79-949	False or fraudulent acts to defraud the school retirement system

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79-9,107	Illegal interest in investment of school employees retirement system funds
80-405	Obtaining veterans relief by fraud
81-2,162.17	Violation of Nebraska Commercial Fertilizer and Soil Conditioner Act
81-885.45	Acting as real estate broker, salesperson, or subdivider without license or certificate or under suspended license or certificate
81-8,254	Obstruct, hinder, or mislead Public Counsel in inquiries
81-1023	Use of improperly marked or equipped state-owned motor vehicle
81-1117.03	Prohibited release of state computer file data
81-1933	Truth and deception examination, unlawful use by employer
81-1935	Violation of provisions on truth and deception examinations
81-2038	False or fraudulent acts to defraud the Nebraska State Patrol Retirement System
81-3535	Unauthorized practice of geology, first offense
84-1327	False or fraudulent acts to defraud the State Employees Retirement System
85-1650	Violating private postsecondary career school provisions
86-607	Discrimination in rates by telegraph companies
86-608	Failure by telegraph companies to provide newspapers equal facilities
87-303.08	Violation of Uniform Deceptive Trade Practices Act when not otherwise specified

**CLASS III MISDEMEANOR Maximum—three months imprisonment, or five hundred dollars fine, or both
Minimum—none**

2-1825	Violation of Nebraska Potato Inspection Act
2-2319	Violation of Nebraska Wheat Resources Act
2-2647	Violation of Pesticide Act, first offense
2-3008	Violation of Nebraska Poultry Disease Control Act
2-3416	Violation of Nebraska Poultry and Egg Resources Act
2-3635	Violation of Nebraska Corn Resources Act
2-3765	Violation of Dry Bean Resources Act
2-3963	Violation of Dairy Industry Development Act
2-4020	Violation of Grain Sorghum Resources Act
2-5605	Violations relating to excise taxes on grapes
3-330	Violation of Airport Zoning Act
3-408	Violation of provisions regulating aircraft obstructions or structures
3-504	Violation of city airport authority regulations
3-613	Violation of county airport authority regulations
4-106	Alien elected to office in labor or educational organization
7-101	Unauthorized practice of law
8-127	Violation of inspection provisions for list of bank stockholders
8-142	Bank officer, employee, director, or agent violating loan limits by \$10,000 or more but less than \$20,000 or resulting in monetary loss of less than \$10,000 to bank or no monetary loss
8-1,119	Violation of the Nebraska Banking Act when not otherwise specified
8-1014	Violation of Nebraska Sale of Checks and Funds Transmission Act, acting without license
9-230	Unlawfully conducting or awarding a prize at a bingo game, first offense
9-422	Unlawfully conducting a lottery or raffle

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12-1205	Failing to report the presence and location of human skeletal remains or burial goods associated with an unmarked human burial
13-1617	Violation of confidentiality requirements of Political Subdivisions Self-Funding Benefits Act
14-224	City council, officers, and employees receiving or soliciting gifts
14-2149	Violations relating to gas and water utilities in cities of the metropolitan class
18-305	Telephone company providing special rates to city or village officer or such officer accepting special rates
18-306	Electric company providing special rates to city or village officer
18-307	City or village officer accepting electric service at special rates
18-308	Water company providing special rates to city or village officer or such officer accepting special rates
18-1741.05	Failure to appear or comply with handicapped parking citation
18-2715	Unauthorized disclosure of confidential business information under city ordinance pursuant to Local Option Municipal Economic Development Act
19-2906	Disclosures by accountant of results of examination of municipal accounts
20-129	Interfering with rights of blind, deaf, or physically disabled persons and with admittance to or enjoyment of public facilities
20-129	Interfering with rights of a service animal trainer and with admittance to or enjoyment of public facilities
21-622	Illegal use of society emblems
23-114.05	Violation of county zoning regulations
23-135.01	False claim against county when value is less than \$100
*23-350	Failing to file or filing false or incorrect inventory statement by county officers or members of county board
28-201	Criminal attempt to commit a Class II misdemeanor
28-311.08	Knowingly intrude upon any other person without his or her consent or knowledge in a place of solitude or seclusion unless the victim is less than eighteen years of age
28-384	Failure to make report under Adult Protective Services Act
28-385	Wrongful release of information gathered under Adult Protective Services Act
28-403	Administering secret medicine
*28-416	Knowingly or intentionally possessing more than 1 ounce but not more than 1 pound of marijuana
28-417	Unlawful acts relating to packaging, possessing, or using narcotic drugs and other controlled substances
28-424	Inhaling or drinking certain intoxicating compounds
28-424	Selling or offering for sale certain intoxicating compounds
28-424	Selling or offering for sale certain intoxicating compounds without maintaining register for one year
28-424	Inducing or enticing another to sell, inhale, or drink certain intoxicating compounds or to fail to maintain register for one year
28-425	Use of arsenic or strychnine in embalming fluids, violations of labeling requirements
28-444	Drug paraphernalia advertisement prohibited
28-445	Manufacture or delivery of an imitation controlled substance, first offense

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28-450	Unlawful sale, distribution, or transfer of ephedrine, pseudoephedrine, or phenylpropanolamine for use as a precursor to a controlled substance or with reckless disregard as to its use
28-514	Theft of lost, mislaid, or misdelivered property when value is \$200 or less, first offense
28-515.02	Theft of utility service and interference with utility meter
28-516	Unauthorized use of a propelled vehicle, first offense
28-519	Criminal mischief, pecuniary loss of less than \$200
28-521	Criminal trespass in the second degree (certain situations)
28-523	Littering, first offense
*28-524	Unauthorized application of graffiti, first offense
28-606	Criminal simulation of antiquity, rarity, source, or composition
28-609	Impersonating a public servant
28-621	Criminal possession of one financial transaction device
28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, first offense
28-717	Willful failure to report abused or neglected children
28-730	Unlawful disclosures by a child abuse and neglect team member
28-902	Failure to report injury of violence
28-914	Loitering about a penal institution
28-923	Simulating legal process
28-925	Misuse of official information
*28-927	Neglecting to serve warrant if offense for warrant is a misdemeanor
28-928	Mutilation of a flag of the United States or the State of Nebraska
28-1009.01	Violence on or interference with a service animal
28-1010	Indecency with an animal
28-1209	Failure to register tranquilizer guns
28-1210	Failure to notify sheriff of sale of tranquilizer gun
28-1225	Storing explosives in violation of safety regulations
28-1226	Failure to report theft of explosives
28-1227	Violations of provisions relating to explosives
28-1240	Unlawful use of tank or container which contained anhydrous ammonia
28-1242	Unlawful throwing of fireworks
*28-1250	Violation of laws relating to fireworks
28-1251	Unlawful testing or inspection of fire alarms
*28-1303	Raising or producing stagnant water on river or stream
28-1309	Refusing to yield a telephone party line
28-1310	Intimidation by telephone call
28-1313	Unlawful use of a white cane or guide dog
28-1314	Failure to observe a blind person
28-1316	Unlawful use of locks and keys
28-1317	Unlawful picketing
28-1318	Mass picketing
28-1319	Interfering with picketing
28-1320	Intimidation of pickets
28-1320.03	Unlawful picketing of a funeral
*28-1321	Maintenance of nuisances
28-1322	Disturbing the peace
28-1331	Unauthorized use of receptacles
28-1332	Unauthorized possession of a receptacle
*28-1335	Discharging firearm or weapon using compressed gas from public highway, road, or bridge

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28-1419	Selling or furnishing tobacco to minors
28-1420	Sale or purchase for resale of tobacco without license
*28-1425	Licensee selling or furnishing tobacco to minors
*28-1429.02	Dispensing cigarettes or other tobacco products from vending machines or similar devices in certain locations
28-1438	Unlawful possession of legend drug substances
*28-1467	Operation of aircraft while under the influence of alcohol or drugs, first offense
*28-1468	Operation of aircraft while under the influence of alcohol or drugs, second offense
28-1478	Deceptive or misleading advertising
28-1479	Sale of certain beverage cans with removable tabs
*29-817	Disclosing of search warrant prior to its execution
29-835	Refusing to permit, interfering with, or preventing inspection pursuant to inspection warrant
29-4110	Unlawful possession of DNA samples or records
29-4111	Unlawful disclosure of DNA samples or records
32-1501	Interfering or refusing to comply with election requirements of Secretary of State
32-1505	Deputy registrar drinking liquor at or bringing liquor to place of voter registration
*32-1506	Theft, destruction, removal, or falsification of voter registration and election records
32-1510	Hindering voter registration
32-1511	Obstructing deputy registrars at voter registration
32-1513	Bribery involving candidate filing forms and nominating petitions
32-1515	Wrongfully or willfully suppressing election nomination papers
*32-1517	Service as election official, threat of discharge or coercion by employer
32-1519	Misconduct or neglect of duty by election official
32-1521	Printing or distribution of election ballots by other than election officials
32-1528	Voting outside of resident precinct, school district, or village
32-1549	Failing to appear or comply with citation issued under Election Act
35-520	False alarm or report of fire in rural fire protection district or area
35-801	Knowingly accepting, transferring, selling, or offering to sell or purchase firefighting clothing or equipment which does not meet standards
*37-248	Violation of Game Law when not otherwise specified
*37-314	Violation of rules and regulations under the Game Law regarding seasons and other restrictions on taking wildlife
37-336	Violation of provisions for state wildlife management areas
37-348	Violation of provisions for state park system
*37-406	Duplication of electronically issued license, permit, or stamp under the Game Law
*37-410	Obtaining permit to hunt, fish, or harvest fur by false pretenses or misuse of permit
*37-410	Receipt of fur-harvesting permit by nonresident less than 16 years of age without written parental permission
*37-450	Violation of rules and regulations under the Game Law regarding hunting elk
*37-451	Violation of rules and regulations under the Game Law regarding hunting mountain sheep

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*37-461	Violating permit to destroy muskrats
37-462	Performing taxidermy services without permit and failure to keep complete records
*37-501	Taking or possessing a greater number of game than allowed under the Game Law
*37-504	Hunting, trapping, or possessing animals or birds out of season
*37-504	Unlawfully taking or possessing game
*37-505	Unlawful purchase, sale, or barter of animals, birds, or fish or parts thereof
37-507	Abandonment, waste, or failure to dispose of fish, birds, or animals
37-508	Storing game or fish in cold storage after prescribed storage season or without proper tags
37-510	Violating game shipment requirements
*37-511	Violating importation restrictions on game shipments
37-512	Violating regulations relating to the shipment of raw fur
*37-513	Shooting at wildlife from highway
*37-514	Hunting wildlife with artificial light
*37-515	Hunting, driving, or stirring up game birds or animals with aircraft or boat
37-521	Use of aircraft, vessel, vehicle, or other equipment to harass certain game animals
*37-522	Carrying loaded shotgun in or on vehicle on highway
*37-523	Unlawful hunting with a rifle within 200 yards of inhabited dwelling or livestock feedlot
*37-523	Unlawful hunting without a rifle or trapping within 100 yards of inhabited dwelling or livestock feedlot
*37-523	Unlawful trapping within 200 yards of livestock passage
*37-525	Taking game birds or game animals during closed season while training or running dogs
*37-525	Running dogs on private property without permission
*37-526	Unlawful use or possession of ferrets
37-531	Unlawful use of explosive traps or poison gas on wild animals
37-532	Setting an unmarked trap
*37-533	Violating restrictions on hunting fur-bearing animals and disturbing their nests, dens, and holes
*37-535	Hunting game from propelled boat or watercraft
*37-536	Hunting game birds with certain weapons
*37-537	Baiting game birds
*37-538	Hunting game birds from vehicle
*37-539	Taking or destroying nests or eggs of game birds
*37-543	Unlawful taking of fish
*37-545	Unlawful removal of fish from privately owned pond and violations of commercial fishing permits
*37-546	Unlawful taking, use, or possession of baitfish
37-548	Release, importation, exportation, or commercial exploitation of wildlife
37-552	Failure to maintain fish screens in good repair
37-557	Disturbing hatching boxes and nursery ponds
37-570	Knowing and intentional interference or attempt to interfere with hunting, trapping, fishing, or associated activity
37-605	Failure to appear on an alleged violation of the Game Law

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*37-615	Taking wildlife or applying for permit with a suspended or revoked permit
37-703	Defacing a sign at a game reserve, bird refuge, or wild fowl sanctuary
37-705	Disturbing or otherwise violating provisions relating to reserves, sanctuaries, and closed waters
37-709	Hunting, carrying firearms, or operating a motorboat in state game refuges
*37-727	Violation of provisions for hunting, fishing, or trapping on privately owned land
37-1254.02	Refusing to submit to a preliminary breath test relating to operating a motorboat while under the influence of alcohol or controlled substance
37-1289	Operation or sale of motorboat without certificate of title, failure to surrender certificate upon cancellation, deface a certificate of title
38-1,118	Violation of Uniform Credentialing Act when not otherwise specified, first offense
38-1,133	Failure of insurer to report violations of Uniform Credentialing Act, first offense
38-10,165	Performing body art on minor without written consent of parent or guardian and keeping record 5 years
38-2867	Unlicensed person practicing pharmacy
39-103	Operation of motor vehicle in violation of published rules and regulations of the Department of Roads
39-310	Depositing materials on roads or ditches, first offense
39-311	Placing burning materials or items likely to cause injury on highways, first offense
39-806	Destroying bridge or landmark
39-1335	Illegal use of adjoining property for access to state highway
39-1362	Digging up or crossing state highway
39-1412	Loads exceeding posted capacity on county bridges
39-1806	Refusal of access to lands for placement of snow fences, willful or malicious damage thereto
39-1810	Livestock lanes, driving livestock on adjacent highways
39-1815	Leaving gates open on road over private property
43-257	Detaining or placing a juvenile in violation of certain Nebraska Juvenile Code provisions
43-709	Illegal placement of children
43-1310	Unauthorized disclosure of confidential information regarding foster children and their parents or relatives
43-1414	Violation of genetic paternity testing provisions, second or subsequent offense
43-3001	Public disclosure of confidential information received concerning a child who is or may be in state custody
43-3327	Unauthorized disclosure or release of confidential information regarding a child support order
43-3714	Violation of confidentiality provisions of Court Appointed Special Advocate Act
44-394	Violation of Chapter 44 when not otherwise specified
44-530	Violation of Standardized Health Claim Form Act
*44-1113	Violation of Viatical Settlements Act
44-3721	Violation of Motor Club Services Act
44-5508	Surplus lines licensee violations relating to financial condition of insurer

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45-601	Operating a collection agency business without a license or violation of Collection Agency Act
45-740	Residential mortgage loan violations by licensee
45-1023	Making a false statement to secure a loan
46-263	Neglecting or preventing delivery of irrigation water
46-1142	Failure to provide notice of a chemigation accident
46-1240	Engaging in business or employing another without complying with standards under Water Well Standards and Contractors' Practice Act
48-213	Employment regulations, violation of lunch hour requirements
48-216	Discrimination in employment by manufacturer or distributor of military supplies
*48-511	Employment agencies splitting fees with employers
*48-513	Violation of private employment agency provisions when not otherwise specified
48-612	Commissioner of Labor employees violating provisions relating to administration of Employment Security Law
48-612.01	Unauthorized disclosure of information received for administration of Employment Security Law
48-614	Contumacy or disobedience to subpoenas in unemployment compensation proceedings
48-663	False statements or failure to disclose information by employees to obtain unemployment compensation benefits
48-664	False statements by employers to obtain unemployment compensation benefits
48-666	Violation of Employment Security Law when not otherwise specified
48-736	Violation of Boiler Inspection Act
*48-1005	Age discrimination in employment or interfering with enforcement of statutes relating to age discrimination in employment
48-1118	Unlawful disclosure of information under Nebraska Fair Employment Practice Act
48-1123	Interference with Equal Opportunity Commission in performance of duty under Nebraska Fair Employment Practice Act
48-1227	Discrimination on the basis of sex
49-231	Failure of state, county, or political subdivision officer to furnish information required by constitutional convention
49-1447	Campaign practices, violation by committee treasurer or candidate in statements or reports
49-1461.01	Ballot question committee violating surety bond requirements
49-1469.08	Violation of campaign practices by businesses and organizations in contributions, expenditures, and volunteer services
49-1471	Campaign contribution or expenditure in excess of \$50 made in cash
49-1472	Campaign practices, acceptance of anonymous contribution
49-1473	Campaign practices, legal name of contributor required
49-1474	Campaign practices, political newsletter or mass mailing sent at public expense
49-1475	Campaign practices, failing to disclose name and address of contributor
49-1476.02	Accepting or receiving a campaign contribution from a state lottery contractor
49-1477	Campaign practices, required information on contributions from persons other than committees
49-1478	Campaign practices, violation of required reports on expenditures

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49-1479	Campaign practices, unlawful contributions or expenditures made for transfer to candidate committee
49-1479.01	Violations related to earmarked campaign contributions
49-1490	Prohibited acts relating to gifts by principals or lobbyists
49-1492	Prohibited practices of a lobbyist
49-1492.01	Violation of gift reporting requirements by certain entities
49-14,101	Conflicts of interest, prohibited acts of public official, employee, candidate, and other individuals
49-14,101.01	Public official or employee using office, confidential information, personnel, property, or funds for financial gain or improperly using public communication system or public official or immediate family member accepting gift of travel or lodging if made for immediate family member to accompany the public official
49-14,103.04	Knowing violation of conflict of interest prohibitions
49-14,104	Official or full-time employee of executive branch representing a person or acting as an expert witness
49-14,115	Unlawful disclosure of confidential information by member or employee of Nebraska Accountability and Disclosure Commission
49-14,135	Violation of confidentiality of proceedings of Nebraska Accountability and Disclosure Commission
50-1213	Divulging confidential information or records relating to a legislative performance audit or preaudit inquiry
53-167.02	Violations relating to beer keg identification numbers
53-167.03	Tamper with, alter, or remove beer keg identification number or possess beer container with altered or removed keg identification number
53-180.05	Misrepresentation of age by minor to obtain or attempt to obtain alcoholic liquor
53-180.05	Minor over 18 years old and under 21 years old in possession of alcoholic liquor
53-180.05	Parent or guardian knowingly permitting minor to violate alcoholic liquor laws
*53-181	Minor 18 years old or younger in possession of alcoholic liquor
53-186.01	Consumption of liquor in unlicensed public places
54-796	Violation of Animal Importation Act, first offense
*54-904	Indecency with a livestock animal
54-1408	Violations when sheep are infected with scabies
54-1711	Livestock dealer violating provisions of Nebraska Livestock Dealer Licensing Act
*54-1913	Meat and poultry inspector, officer, or employee accepting bribes
54-2288	Violation of quarantine requirements under Pseudorabies Control and Eradication Act, first offense
57-507	Unlawful use of liquefied petroleum gas cylinders
57-1106	Willfully and maliciously breaking, injuring, damaging, or interfering with oil or gas pipeline, plant, or equipment
60-180	Prohibited acts relating to certificates of title for motor vehicles, all-terrain vehicles, or minibikes
60-3,170	Violation of Motor Vehicle Registration Act when not otherwise specified
60-3,171	Fraud in registration of motor vehicle or trailer
60-3,176	Disclosure of information regarding undercover license plates to unauthorized individual
60-3,206	Violation of International Registration Plan Act

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60-480.01	Disclosure of information regarding undercover drivers' licenses to unauthorized individual
*60-4,108	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure
*60-4,109	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure for violation of city or village ordinance
60-4,111	Violation of Motor Vehicle Operator's License Act when not otherwise specified
60-4,118	Failure to surrender operator's license or appear before examiner regarding determination of physical or mental competence
60-4,140	Commercial driver, multiple operators' licenses
60-4,141	Operation of commercial motor vehicle outside operator's license classification
*60-4,146.01	Violation of privileges conferred by commercial drivers' licenses
60-4,159	Commercial driver, failure to provide notifications relating to conviction or disqualification
60-4,161	Commercial driver, failure to provide information to prospective employer
60-4,162	Employer failing to require information or allowing commercial driver to violate highway-rail grade crossing or licensing provisions
60-4,170	Failure to surrender commercial driver's license
60-4,179	Violation of driver training instructor or school provisions
60-4,184	Failure to surrender operator's license for loss of license under point system
*60-4,186	Illegal operation of motor vehicle under period of license revocation for loss of license under point system
60-558	Failure to return motor vehicle license or registration to Department of Motor Vehicles for violation of financial responsibility provisions
60-560	Violation of Motor Vehicle Safety Responsibility Act when not otherwise specified
60-678	Operation of vehicles in certain public places where prohibited, where not permitted, without permission, or in a dangerous manner
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
60-6,110	Failing to obey lawful order of law enforcement officer given under Nebraska Rules of the Road to apprehend violator
60-6,130	Willful damage or destruction of road signs, monuments, traffic control or surveillance devices by shooting upon highway
60-6,215	Reckless driving, first offense
*60-6,216	Willful reckless driving, first offense
*60-6,222	Violations in connection with headlights and taillights
60-6,228	Vehicle proceeding forward on highway with backup lights on
*60-6,234	Violations involving rotating or flashing lights on motor vehicles
*60-6,235	Violation of vehicle clearance light requirements
*60-6,245	Violation of motor vehicle brake requirements
60-6,259	Application of an illegal sunscreening or glazing material on a motor vehicle
60-6,263	Operating or owning vehicle in violation of safety glass requirements
60-6,291	Exceeding limitations on width, length, height, or weight of motor vehicles when not otherwise specified
60-6,299	Violation of or failure to obtain permit to move building or other object on highway

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60-6,303	Refusal to weigh vehicle or lighten load
60-6,336	Snowmobile contest on highway without permission, first offense within one year
60-6,343	Violation of provisions relating to snowmobiles, first offense within one year
60-6,352	Illegal operation of minibikes on state highway
60-6,353	Operating a minibike in a place, at a time, or in a manner not permitted by regulatory authority
60-6,362	Violation of all-terrain vehicle requirements, first offense within one year
60-1307	Failing to appear at hearing for violations discovered at weigh stations
60-1308	Failure to comply with weigh station requirements
60-1309	Resisting arrest or disobeying order of carrier enforcement officer at weigh station
60-1418	Violating conditions of a motor vehicle sale
62-304	Limitation upon negotiation of tuition notes or contracts of business colleges
64-105.03	Unauthorized practice of law by notary public
66-107	Illegal use of containers for gasoline or kerosene
66-1345.03	Failure to administer and keep records of excise tax on corn and grain sorghum under Ethanol Development Act
68-314	Unlawful use and disclosure of books and records of Department of Health and Human Services
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is less than \$500
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is less than \$500
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is less than \$500
69-2012	Violation of Degradable Products Act
*69-2443	Carrying concealed handgun at prohibited site or while under the influence, first offense
*69-2443	Failure to report discharge of concealed handgun, first offense
*69-2443	Failure to carry or display concealed handgun permit, first offense
*69-2443	Failure to inform peace officer of concealed handgun, first offense
69-2709	Selling, possessing, or distributing cigarettes in violation of stamping requirements
71-220	Violation of barbering provisions
71-506	Willful or malicious disclosure of confidential reports, notifications, and investigations relating to communicable diseases
71-542	Unauthorized disclosure of confidential immunization information
71-613	Violation of provisions on vital statistics
71-1371	Violation of the Cremation of Human Remains Act
71-1631.01	Violating regulation for protecting public health and preventing communicable diseases
71-1905	Violations regarding children in foster care
71-2228	Illegal receipt of food supplement benefits when value is less than \$500
71-2229	Using, altering, or transferring food instruments or food supplements when value is less than \$500
71-2229	Illegal possession or redemption of food supplement benefits when value is less than \$500

APPENDIX

71-2512	Violation involving poisons and adulterated or misbranded drugs when not otherwise specified, first offense
71-4632	Mobile home parks established, conducted, operated, or maintained without license, nuisance
71-6741	Violation of the Medication Aide Act
71-6907	Knowingly and intentionally performing an abortion in violation of parental notification provisions
74-609.01	Hunting on railroad right-of-way without permission
74-1331	Failure to construct, maintain, and repair railroad bridges in compliance with law
75-114	Refusal to allow access to the Public Service Commission to records of a motor or common carrier
75-367	Violation of motor carrier safety regulations or hazardous materials regulations
76-505	Judges and other county officers engaging in business of abstracting
76-558	Unlawful practice in business of abstracting
76-2246	Unlawful practice as a real property appraiser
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of less than \$200 (certain situations)
77-1719.02	Violations by county board members regarding collection of personal taxes and false returns
77-2619	Fail, neglect, or refuse to report or make false statement regarding cigarette taxation
77-3407	Unlawful signature on budget limitation petition
79-210	Violation of compulsory school attendance provisions
79-603	School vehicles, violation of safety requirements and operating school vehicles which violate safety requirements when not otherwise specified
79-727	Violation of character education requirements
79-897	Illegal inquiries concerning religious affiliation of teacher applicants
79-8,101	Illegal solicitation of business from classroom teachers
79-1607	Violation of laws on private, denominational, and parochial schools
81-2,157	Unlawful sale or marking of hybrid seed corn
81-2,179	Violation of Nebraska Apiary Act
81-513	Violation of order of State Fire Marshal directing the closing of a building pending repair
81-8,127	Unlawful practice of land surveying or use of title
81-8,142	Violation of provisions relating to the State Athletic Commissioner
81-8,205	Unlawful practice as a professional landscape architect
81-1508.01	Knowing and willful violation of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act when not otherwise specified
81-2008	Failure to obey rules or orders of or resisting arrest by Nebraska State Patrol
82-111	Destroy, deface, remove, or injure monuments marking Oregon Trail
82-507	Knowingly and willfully appropriate, excavate, injure, or destroy any archaeological resource on public land without written permission from the State Archaeology Office
82-508	Enter or attempt to enter upon the lands of another without permission and intentionally appropriate, excavate, injure, or destroy any archaeological resource or any archaeological site

APPENDIX

84-311	Disclosure of restricted information by the Auditor of Public Accounts or an employee of the auditor
84-712.09	Violation of provisions for access to public records
84-1213	Mutilation, transfer, removal, damage, or destruction of or refusal to return government records
84-1414	Unlawful action by members of public bodies in public meetings, second or subsequent offense
85-1104	Violation of provisions relating to out-of-state institutions of higher education
85-1110.01	Violation of requirements for obtaining approval to establish a private college
86-290	Intercepting or interfering with certain wire, electronic, or oral communication
86-606	Unlawful delay or disclosure of telegraph dispatches
89-1,101	Violation of Weights and Measures Act or order of Department of Agriculture, first offense
90-104	Use of state banner as advertisement or trademark

**CLASS IIIA MISDEMEANOR Maximum—seven days imprisonment,
five hundred dollars fine, or both
Minimum—none**

*28-416	Knowingly or intentionally possessing one ounce or less of marijuana, third or subsequent offense
*54-623	Owning a dangerous dog within 10 years after conviction of violating dangerous dog laws
*54-623	Dangerous dog attacking or biting a person when owner of dog has a prior conviction for violating dangerous dog laws
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
60-6,275	Operating or possessing radar transmission device while operating motor vehicle
60-6,378	Failure to move over, proceed with due care and caution, or follow officer's directions when passing a stopped emergency or road assistance vehicle, second or subsequent offense
77-2704.33	Failure of a contractor or taxpayer to pay certain sales taxes of less than \$300
79-1602	Transmitting or providing for transmission of false school information when electing not to meet school accreditation or approval requirements
89-1,107	Use of a grain moisture measuring device which has not been tested
89-1,108	Violation of laws on grain moisture measuring devices

**CLASS IV MISDEMEANOR Maximum—no imprisonment,
five hundred dollars fine
Minimum—one hundred dollars fine**

2-220.03	Failure to file specified security or certificates by carnival companies, booking agencies, or shows for state and county fairs
2-957	Unlawful movement of article through which noxious weeds may be disseminated
2-963	Violation of provisions relating to weed control
2-10,115	Specified violations of Plant Protection and Plant Pest Act, first offense
2-1207	Knowingly aiding or abetting a minor to make a parimutuel wager

APPENDIX

2-1806	Engaging in business as a potato shipper without a license
2-1807	Failure by potato shipper to file statement or pay tax
2-3109	Violation of Nebraska Soil and Plant Analysis Laboratory Act when not otherwise specified
2-3223.01	Failure to file audit of natural resources district
2-3524	Violation of Nebraska Graded Egg Act
2-4327	Violation of Agricultural Liming Materials Act, second or subsequent offense
9-513	Violation of Nebraska Small Lottery and Raffle Act, first offense
9-814	Purchase of state lottery ticket by person less than 19 years of age
12-512.07	Violations in administering perpetual care trust funds for cemeteries
12-617	Violation relating to perpetual care trust funds for public mausoleums and other burial structures
12-1115	Failure to surrender a license under the Burial Pre-Need Sale Act
19-1847	Violation of Civil Service Act
20-149	Failure of consumer reporting agency to provide reports to consumers
23-387	Violation of provisions relating to community antenna television service
*23-919	Violation of County Budget Act of 1937
23-1507	Failure of register of deeds to perform duties
23-1821	Failure to notify coroner of a death during apprehension or while in custody
25-1563	Attachment or garnishment procedure used to avoid exemption laws
25-1640	Penalizing employee due to jury service
28-410	Failure to comply with inventory requirements by manufacturer, distributor, or dispenser of controlled substances
*28-416	Knowingly or intentionally possessing one ounce or less of marijuana, second offense
28-1009	Harassment of police animal not resulting in death of animal
28-1019	Violation of court order related to misdemeanor animal abuse conviction
28-1104	Promoting gambling in the third degree
28-1253	Distribution, sale, or use of refrigerants containing liquefied petroleum gas
28-1304	Putting carcass or filthy substance in well or running water
28-1405	Failure to acquire locksmith registration certificate
29-3527	Unlawful access to or dissemination of criminal history record information
32-1507	Elections, false representation of political party affiliation
32-1517	Refusing to serve as election official
32-1520	Printing or distribution of illegal ballots
32-1547	Elections, filing for more than one elective office
36-213.01	Unlawful assignment or notice of assignment of wages of head of family
37-403	Violation of farm or ranch land hunting permit exemption
*37-463	Dealing in raw furs without fur buyer's permit, failure to keep complete records of furs bought or sold
37-471	Violation relating to aquatic organisms raised under an aquaculture permit
37-482	Keeping wild birds or animals in captivity without permit
*37-4,103	Unlawfully taking, maintaining, or selling raptors
37-524	Importation, possession, or release of certain wild or nonnative animals

APPENDIX

37-528	Administering a drug to wildlife
37-558	Placing harmful matter into waters stocked by Game and Parks Commission
37-1238.02	Failure of vessel to comply with order of officer to stop
37-1271	Violation of certain provisions of State Boat Act
39-302	Failure to properly equip certain sprinkler irrigation systems with endgun
43-1414	Violation of genetic paternity testing provisions, first offense
44-3,142	Unauthorized release of relevant insurance information relating to motor vehicle theft or insurance fraud
44-10,108	Soliciting membership for a fraternal benefit society not licensed in this state
44-2615	Acting as insurance consultant without license
45-101.07	Lender imposing certain conditions on mortgage loan escrow accounts
46-613.02	Violations of registration and spacing requirements for water wells; illegal transfer of ground water
46-687	Withdrawing or transferring ground water in violation of Industrial Ground Water Regulatory Act
46-1127	Placing chemical in irrigation distribution system without complying with law
46-1143	Violation of Nebraska Chemigation Act when not otherwise specified
46-1666	Willfully obstruct, hinder, or prevent Department of Natural Resources from performing duties under Safety of Dams and Reservoirs Act
48-219	Contracting to deny employment due to relationship with labor organization
48-230	Violation of provisions allowing preference to veterans seeking employment
48-433	Failure of architect to comply with law in preparing building plans
48-1206	Minimum wage rate violations
48-1505	Violations relating to sheltered workshops
48-2211	Violating recruiting restrictions related to non-English-speaking persons
49-1445	Violation of requirement to form candidate committee upon raising, receiving, or expending more than five thousand dollars in a calendar year
49-1446	Violations relating to campaign committee funds
49-1467	Failure to report campaign expenditure in excess of \$250
49-1474.01	Violation of distribution requirements for political material
53-149	Providing false information regarding alcohol retailer's accounts with alcoholic liquor wholesale licensee in connection with sale of retailer's business
53-186.01	Permitting consumption of liquor in unlicensed public places, first offense
53-187	Nonbeverage liquor licensee giving or selling liquor fit for beverage purposes, first offense
53-194.03	Importation of alcohol for personal use in certain quantities
53-1,100	Violation of Nebraska Liquor Control Act, first offense
54-315	Leaving well or pitfall uncovered, failure to decommission inactive well
54-613	Allowing dogs to run at large, damage property, injure persons, or kill animals
54-622	Violation of restrictions on dangerous dogs
*54-726.04	Importing diseased swine without permit
54-753.04	Unlawful feeding of garbage to animals

APPENDIX

54-861	Violation of Commercial Feed Act, first offense
54-861	Improper use of trade secrets in violation of Commercial Feed Act
54-909	Violating court order not to own or possess a livestock animal after the date of conviction for indecency with a livestock animal, first offense
	cruel mistreatment of an animal, or intentionally, knowingly, or recklessly abandoning or cruelly neglecting livestock animal not resulting in serious injury or illness or death of the livestock animal
54-1371	Failure by owner to carry out brucellosis testing responsibilities
54-1377	Diversion of livestock from particular destination without permission or removing or altering livestock identification for such purposes
54-1384	Violation of Nebraska Bovine Brucellosis Act when not otherwise specified
54-1411	Violation of provisions relating to animals with scabies when not otherwise specified
54-1605	Violation of accreditation provisions for specific pathogen-free swine
54-22,100	Violation of Pseudorabies Control and Eradication Act, first offense
54-2323	Violation of Domesticated Cervine Animal Act, first offense
*54-2612	Unlawful sale of swine by packer
54-2615	False reporting of swine by packer
*54-2622	Unlawful sale of cattle by packer
54-2625	False reporting of cattle by packer
54-2761	Violation of Scrapie Control and Eradication Act, first offense
*55-165	Discriminating against an employee who is a member of the reserve military forces
*55-166	Discharging employee who is a member of the National Guard or armed forces of the United States for military service
57-516	Violation of provisions relating to sale of liquefied petroleum gas
57-719	Violating or aiding and abetting violations of oil and gas severance tax laws
57-1213	Failure or refusal to make uranium severance tax return or report
60-3,168	Failure to have and keep liability insurance or other proof of financial responsibility on motor vehicle
*60-3,169	Unauthorized use of vehicle registered as farm truck
60-3,172	Registration of motor vehicle or trailer in location other than that authorized by law
60-3,173	Improper increase of gross weight or failure to pay registration fee on commercial trucks and truck-tractors
*60-3,174	Improper use of a vehicle with a special equipment license plate
60-4,129	Violation involving use of an employment driving permit
60-4,130	Failure to surrender an employment driving permit
60-4,130.01	Violation involving use of a medical hardship driving permit
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
60-6,175	Improperly passing a school bus with warning signals flashing or stop signal arm extended
60-6,197.01	Failure to report unauthorized use of immobilized vehicle
60-6,292	Violation of requirements for extra-long vehicle combinations
60-6,302	Unlawful repositioning fifth-wheel connection device of truck-tractor and semitrailer combination
60-6,304	Operation of vehicle improperly constructed or loaded or with cargo or contents not properly secured
60-1407.02	Unauthorized use of sales tax permit relating to sale of vehicle or trailer
*63-103	Printing copies of a publication in excess of the authorized quantity

APPENDIX

66-495.01	Unlawfully using or selling diesel fuel or refusing an inspection
66-6,115	Fueling a motor vehicle with untaxed compressed fuel
66-727	Failure to obtain license as required under motor fuel tax laws
66-727	Failure to produce motor fuel license or permit for inspection
66-1521	Sell, distribute, deliver, or use petroleum as a producer, refiner, importer, distributor, wholesaler, or supplier without a license
69-1808	Violation of American Indian Arts and Crafts Sales Act
71-1563	Modular housing unit sold or leased without official seal
71-1613	Violation of provisions relating to district health boards
71-1914.03	Providing unlicensed child care when a license is required
71-2096	Interfere with enforcement of provisions relating to health care facility receivership proceedings
71-3517	Violation of Radiation Control Act
71-4632	Mobile home parks established, conducted, operated, or maintained without license
71-5312	Violation of Nebraska Safe Drinking Water Act
71-5407	Violation of Nebraska Drug Product Selection Act or rules and regulations under the act
*71-5733	Smoking in place of employment or public place, second or subsequent offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, second or subsequent offense
*71-5870	Engaging in activity prohibited by the Nebraska Health Care Certificate of Need Act
71-8711	Disclose actions, decisions, proceedings, discussions, or deliberations of patient safety organization meeting
73-105	Violation of laws on public lettings
*74-1323	Failure to comply with order by Public Service Commission to store or park railroad cars safe distance from crossing
75-117	Refusal to comply with an order of the Public Service Commission by a motor or common carrier
75-155	Knowing and willful violation of Chapter 75 or 86 when not otherwise specified
75-371	Operating motor vehicle in violation of insurance and bond requirements for motor carriers
75-398	Operation of vehicle in violation of provisions relating to the unified carrier registration plan and agreement
75-426	Failure to file report of railroad accident
77-1232	Failure to list or filing false list of personal property for tax purposes prior to 1993
77-1324	False statement of assessment of public improvements
77-2026	Receipt by inheritance tax appraiser of extra fee or reward
77-2350.02	Failure to perform duties relating to deposit of public funds by school district or township treasurer
77-2713	Violation of laws relating to sales and use taxes when not otherwise specified
77-3709	Violation of reporting and permit requirements for mobile homes
81-2,147.09	Violation of Nebraska Seed Law
81-2,154	Violation of state-certified seed laws
81-2,290	Violation of Nebraska Pure Food Act
81-520.02	Violation of open burning ban or range-management burning permit
81-5,131	Violation of provisions relating to arson information

APPENDIX

81-674	Wrongful disclosure of confidential data from medical record and health information registries or deceitful use of such information
81-1525	Failure or refusal to remove accumulation of junk
81-1559	Failure of manufacturer or wholesaler to obtain litter fee license
81-1560.01	Failure of retailer to obtain litter fee license
81-1577	Failure to register hazardous substances storage tanks
81-1626	Lighting and thermal efficiency violations
84-1414	Unlawful action by members of public bodies in public meetings, first offense
86-162	Failure to provide telephone services

**CLASS V MISDEMEANOR Maximum—no imprisonment,
one hundred dollars fine
Minimum—none**

2-219	Conducting indecent shows or exhibits or gambling at state, district, or county fairs
2-220	State, district, and county fairs, refusal or failure to remove illegal devices
2-3292	Conducting recreational activities outside of designated areas in a natural resources district recreation area
2-3293	Smoking and use of fire or fireworks in a natural resources district recreation area
2-3294	Pets or other animals in a natural resources district recreation area
2-3295	Hunting, fishing, trapping, or using weapons in a natural resources district recreation area
2-3296	Conducting prohibited water-related activities in a natural resources district recreation area
2-3297	Destruction or removal of property, constructing a structure, or trespassing in a natural resources district recreation area
2-3298	Abandoning vehicle in a natural resources district recreation area
2-3299	Unauthorized sale or trading of goods in a natural resources district recreation area
2-32,100	Violation of traffic rules in a natural resources district recreation area
2-3974	Violation of Nebraska Milk Act or impeding or attempting to impede enforcement of the act
2-4327	Violation of Agricultural Liming Materials Act, first offense
7-111	Practice of law by certain judges, clerks, sheriffs, or other officials
8-113	Unauthorized use of the word "bank"
8-114	Unauthorized conduct of banking business
8-226	Unauthorized use of the words "trust", "trust company", "trust association", or "trust fund"
8-305	Unauthorized use of "building and loan" or "savings and loan" or any combination of such words in corporate name
8-829	Collecting certain charges on personal loans by banks and trust companies
13-510	Illegal obligation of funds in county budget during emergency
16-230	Violation of ordinances regulating drainage, litter, and growth of grass, weeds, and worthless vegetation
17-563	Violation of ordinances regulating drainage, litter, and growth of grass, weeds, and worthless vegetation
18-312	Cities, villages, and their officers entering into compensation contracts contingent upon elections

APPENDIX

21-1306	Unauthorized use of the word cooperative
21-1728	Unlawful use of the words "credit union" or representing oneself or conducting business as a credit union
23-808	Operating pool or billiard hall or bowling alley outside of municipality without a county license
23-813	Operating roadhouse, dance hall, carnival, show, amusement park, or other place of public amusement outside of municipality without a county license
23-817	Violation of law regulating places of amusement
23-1612	Audit of county offices, refusal to exhibit records
24-216	Clerk of Supreme Court, fees, neglect or fraud in report
28-3,107	Intentional or reckless falsification of report required under the Pain-Capable Unborn Child Protection Act
28-725	Unauthorized release of child abuse or neglect information
28-1018	Selling puppy or kitten under 8 weeks old without its mother
28-1305	Putting carcass or putrid animal substance in a public place
28-1306	Railroads bringing unclean stock cars into state
28-1308	Watering livestock at private tank without permission
28-1347	Unauthorized access to or use of a computer, first offense
*28-1418	Smoking or other use of tobacco by minors
28-1427	Minor misrepresenting age to obtain tobacco
28-1472	Failure to submit to preliminary breath test for operation of aircraft while under influence of alcohol or drugs
28-1483	Sale of certain donated food
31-435	Neglect of duty by officers of drainage districts
32-228	Failure to serve as an election official in counties having an election commissioner
32-236	Failure to serve as an election official in counties that do not have an election commissioner
32-241	Taking personnel actions against employee serving as an election official
32-1523	Obstructing entrance to polling place
32-1524	Electioneering by election official
32-1524	Electioneering or soliciting at or near polling place
32-1525	Exit interviews with voters near polling place on election day
32-1527	Voter voting ballot, unlawful acts
32-1535	Unlawful removal of ballot from polling place
33-132	Failure or neglect to charge, keep current account of, report, or pay over fees by any officer
37-305	Violation of rules and regulations for camping areas
37-306	Violation of rules and regulations for fire safety
37-307	Violation of rules and regulations for animals on state property
37-308	Violation of rules and regulations for hunting, fishing, trapping, and use of weapons on state property
37-309	Violation of rules and regulations for water-related recreational activities on state property
37-310	Violation of rules and regulations for real and personal property on state property
37-311	Violation of rules and regulations for vendors on state property
37-313	Violation of rules and regulations for traffic on state property under Game and Parks Commission jurisdiction
37-321	Fishing violation in emergency created by drying up of waters

APPENDIX

37-349	Use of state park name for commercial purposes
*37-428	Obtaining habitat stamps, aquatic habitat stamps, or migratory waterfowl stamps by false pretenses or misuse of stamps
*37-433	Violation of provisions on habitat stamps or aquatic habitat stamps
*37-443	Entry by a motor vehicle to a park permit area without a valid park permit
37-464	Falsifying certificate for permit to hold fur after close of season
37-476	Violation of aquaculture provisions
37-504	Unlawfully taking, possessing, or destroying certain birds, eggs, or nests
37-527	Failure to display required amount of hunter orange material when hunting
37-541	Kill, injure, or detain carrier pigeons or removing identification therefrom
37-553	Violation by owner of dam to maintain water flow for fish
37-609	Resisting officer or employee of the Game and Parks Commission
37-610	Falsely representing oneself as officer or employee of the Game and Parks Commission
37-728	False statements about fishing on privately owned land
37-1270	Violation of State Boat Act when not otherwise specified
37-12,107	Destroy, deface, or remove any part of unattended or abandoned motorboat
39-221	Illegal advertising outside right-of-way on state highways
*39-301	Injuring or obstructing public roads
*39-303	Injuring or obstructing sidewalks or bridges
39-304	Injuring roads, bridges, gates, milestones, or other fixtures
39-305	Plowing up public highway
39-306	Willful neglect of duty by road overseer or other such officer
39-307	Building barbed wire fence which obstructs highway without guards
39-308	Failure of property owner to remove plant which obstructs view of roadway within 10 days after notice
*39-312	Illegal camping on highways, roadside areas, or parks unless designated as campsites or violating camping regulations
39-313	Hunting on freeway or private land without permission
39-808	Unlawful signs or advertising on bridges or culverts
39-1012	Illegal location of rural mail boxes
39-1801	Removing or interfering with barricades on county and township roads
39-1816	Illegal parking of vehicles on county road right-of-way
42-918	Unlawful disclosure of confidential information under Protection from Domestic Abuse Act
44-361.02	Insurance agent obtaining license or renewal to circumvent rebates
46-266	Owner allowing irrigation ditches to overflow on roads
46-282	Wasting artesian water
46-1666	Violation of Safety of Dams and Reservoirs Act or any application approval, approval to operate, order, rule, regulation, or requirement of the department under the act
47-206	Neglect of duty by municipal jailer
48-222	Unlawful cost to applicant for medical examination as condition of employment
48-237	Prohibited uses of social security numbers by employers
48-442	Violation involving high voltage lines

APPENDIX

48-1227	Discriminatory wage practices based on sex, failing to keep or falsifying records, interfering with enforcement
48-2533	Knowing violation of the Conveyance Safety Act
49-211	Failure of election officers to make returns on adoption of constitutional amendment
49-14,103.04	Negligent violation of conflict of interest prohibitions
51-109	Illegal removal of books from State Library
53-197	Neglect of sheriffs or police officers to make complaints against violators of liquor laws
54-302	Driving off livestock belonging to another
*54-306	Driving cattle, horses, or sheep across private lands causing injury
54-7,104	Failure to take care of livestock during transport
54-1523	Misrepresentation of hogs as having had double inoculation against cholera
59-1503	Unlawful acts by retailers or wholesalers in sales of cigarettes
60-196	Failure to retain a true copy of an odometer statement for five years
*60-3,166	Dealer, prospective buyer, or finance company operating motor vehicle or trailer without registration, transporter plate, or manufacturer plates and failing to keep records
60-3,175	Violation of registration and use provisions relating to historical vehicles
60-4,164	Refusal of commercial driver to submit to preliminary breath test for driving under the influence of alcohol
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
60-699	Failure to report vehicle accident or give correct information
60-6,197.04	Refusal to submit to preliminary breath test for driving under the influence of alcohol
60-6,224	Failure to dim motor vehicle headlights
60-6,239	Failure to equip or display motor vehicles required to have clearance lights, flares, reflectors, or red flags
60-6,240	Willful removal of red flags or flares before driver of vehicle is ready to proceed
60-6,247	Operation of buses or trucks without power brakes, auxiliary brakes, or standard booster brake equipment
60-6,248	Selling hydraulic brake fluid that does not meet requirements
60-6,256	Objects placed or hung to obstruct or interfere with view of motor vehicle operator
60-6,258	Owning or operating a motor vehicle with illegal sunscreening or glazing material on windshield or windows
60-6,266	Sale of motor vehicle which does not comply with occupant protection system (seat belt) requirements
60-6,287	Operating a motor vehicle which is equipped to enable the driver to watch television while driving
60-6,319	Commercial dealer selling bicycle which fails to comply with requirements
60-6,373	Operation of diesel-powered motor vehicle in violation of controls on smoke emission and noise
60-1411.04	Unlawful advertising of motor vehicles
60-1808	Violation of laws relating to motor vehicle camper units
60-1908	Destroying, defacing, or removing parts of abandoned motor vehicles
61-211	Managers or operators of interstate ditches failing to install measuring devices and furnish daily gauge height reports

APPENDIX

69-208	Violation of laws relating to pawnbrokers and dealers in secondhand goods
69-1005	Violation of requirements for sale at auction of commercial chicks and poultry
69-1007	Failure to keep records on sale of poultry
69-1008	False representation in sale of poultry
69-1102	Failing to comply with labeling requirements on binder twine
70-409	Violation of rate regulations by electric companies
70-624	Failure of chief executive officer to publish salaries of public power district officers
71-503	Physician failing to report existence of contagious disease, illness, or poisoning
71-506	Violation of prevention and testing provisions for contagious and infectious diseases
71-1006	Violation of laws relating to disposal of dead bodies
71-1571	Installation of 4 or more showers or bathtubs without scald prevention device
71-2511	Violation of restrictions on sale of poisons
71-3107	Violation of laws relating to recreation camps
71-4410	Violation of rabies control provisions
*71-5733	Smoking in place of employment or public place, first offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, first offense
74-593	Using track motor cars on rail lines without headlights or rear lights
74-605	Failure of railroad to report or care for injured animals
74-1308	Failure of Railroad Transportation Safety District treasurer to file report or neglect of duties or refusal by district officials to allow inspection of records
*74-1340	Failure, neglect, or refusal to comply with order of Department of Roads regarding railroad crossings
75-429	Failure of railroad to maintain or operate switch stand lights and signals
76-247	Register of deeds giving certified copy of power of attorney which has been revoked without stating fact of revocation in certificate
76-2,122	Acting as real estate closing agent without license or without complying with law
77-2105	Failure to furnish information or reports for estate or generation-skipping transfer taxes
77-5016.08	Prohibited acts relating to subpoenas, testimony, and depositions in Tax Equalization and Review Commission proceedings
79-223	Violation of student immunization requirements
79-253	Violation regarding physical examinations of students
79-571	Disorderly conduct at school district meetings
79-581	Failure by secretary of Class I, II, III, or VI school district to publish claims and summary of proceedings
*79-606	Failure to remove equipment from and repaint school transportation vehicles sold for other purposes
79-607	Violation of traffic regulations or failure to include obligation to comply with traffic regulation in school district employment contract
79-608	Violations by a school bus driver involving licensing or hours of service
*79-899	Failure of school board to suspend or dismiss teacher for wearing religious garb on duty
79-949	Failure or refusal to furnish information to retirement board for school employees retirement

APPENDIX

79-1084	Secretary of Class III school board failing or neglecting to publish budget documents
79-1086	Secretary of Class V school board failing or neglecting to publish budget documents
81-520	Failure to comply with order of State Fire Marshal to remove or abate fire hazards
81-522	Failure of city or county authorities to investigate and report fires
81-538	Violation of State Fire Marshal or fire abatement provisions when not otherwise specified
81-5,146	Violation of smoke detector provisions
81-5,163	Water-based fire protection system contractor failing to comply with requirements
81-649.02	Failure by hospital to make reports to cancer registry
81-6,120	Provision of transportation services by certain persons or failing to submit to background check prior to providing such services to vulnerable adults or minors on behalf of Department of Health and Human Services
81-1024	Personal use of state-owned motor vehicle
81-1551	Failure to place litter receptacles on premises in sufficient number
81-1552	Damaging or misusing litter receptacle
*82-124	Damage to property of Nebraska State Historical Society
82-126	Violating restrictions on visitation to state sites and monuments
83-356	Mistreatment of mentally ill persons
86-161	Failure of telecommunications company to file territorial maps
86-609	Unlawful telegraph dispatch activities
87-220	Engaging in business under a trade name without registering
88-549	Failure of warehouse licensee to send written notice to person storing grain of amount, location, and fees

CLASS W MISDEMEANOR

First Conviction:	Maximum—sixty days imprisonment and five hundred dollars fine Mandatory minimum—seven days imprisonment and four hundred dollars fine
Second Conviction:	Maximum—six months imprisonment and five hundred dollars fine Mandatory minimum—thirty days imprisonment and five hundred dollars fine
Third Conviction:	Maximum—one year imprisonment and six hundred dollars fine Mandatory minimum—ninety days imprisonment and six hundred dollars fine
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug committed with less than .15 gram alcohol concentration
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug committed with .15 alcohol concentration, first offense only
*60-6,197.03	Refusal to submit to chemical blood, breath, or urine test

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UNCLASSIFIED MISDEMEANORS, see section 28-107

- 14-227 Failure to remit fines, penalties, and forfeitures to city treasurer
–fine of not more than one thousand dollars
–imprisonment of not more than six months
- 14-229 City officer or employee exerting influence regarding political views
–fine of not more than one hundred dollars
–imprisonment of not more than thirty days
- 14-415 Violation of building regulations
–fine of not less than ten dollars nor more than one hundred dollars
- 15-215 Using unsafe building for the assembly of more than 12 persons
–fine of not more than two hundred dollars
- 16-233 Using unsafe building for the assembly of more than 12 persons
–fine of not more than two hundred dollars
- 16-706 Unauthorized use of city funds by city council member or city officer
–fine of twenty-five dollars plus costs of prosecution
- 18-1914 Violation of plumbing ordinances or plumbing license requirements
–fine of not more than fifty dollars and not less than five dollars per violation
- 18-1918 Installing or repairing sanitary plumbing without permit
–fine of not less than fifty dollars nor more than five hundred dollars
- 18-2205 Violation involving community antenna television service or franchise ordinance
–fine of not more than five hundred dollars
- 18-2315 Violation involving heating, ventilating, and air conditioning services
–fine of not more than five hundred dollars
–imprisonment of not more than six months
–both
- 19-905 Remove, alter, or destroy posted notice prior to building zone and regulation hearing
- 19-913 Violation of zoning laws and ordinances and building regulations
–fine of not more than one hundred dollars
–imprisonment of not more than thirty days
- 19-1104 Failure of city or village clerk or treasurer to publish council proceedings or fiscal statement
–fine of not more than twenty-five dollars and removal from office
- 20-124 Interference with freedom of speech and access to public accommodation
–fine of not more than one hundred dollars
–imprisonment of not more than six months
–both
- 20-140 Equal Opportunity Commission officer or employee revealing unlawful discrimination complaint or investigation
–fine of not more than one hundred dollars
–imprisonment of not more than thirty days
- 23-2533 Willful violation of County Civil Service Act
–fine of not more than five hundred dollars
–imprisonment of not more than six months
–both
- 25-2231 Constable acting outside of jurisdiction
–fine of not less than ten nor more than one hundred dollars
–imprisonment of not more than ten days

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29-426	Failure to appear or comply with citation for traffic or other offense –fine of not more than five hundred dollars –imprisonment of not more than three months –both
31-134	Obstructing drainage ditch –fine of not less than ten dollars nor more than fifty dollars
31-221	Injuring or obstructing watercourse, drain, or ditch –fine of not less than twenty-five dollars nor more than one hundred dollars –imprisonment of not more than thirty days
31-226	Failure to clear watercourse, drain, or ditch after notice –fine of not more than ten dollars
31-366	Willfully obstruct, injure, or destroy ditch, drain, watercourse, or dike of drainage district –fine of not more than one hundred dollars
31-445	Obstruct ditch, drain, or watercourse or injure dike, levee, or other work of drainage district –fine of not more than one hundred dollars –imprisonment of not more than six months
31-507.01	Connection to sanitary sewer without permit –fine of not less than twenty-five dollars nor more than one hundred dollars
33-153	Failure to report and remit fees to county for taking acknowledgments, oaths, and affirmations –fine of not more than one hundred dollars
44-2504	Domestic insurer transacting unauthorized insurance business in reciprocal state –fine of not more than ten thousand dollars
54-1365	Violation of Nebraska Swine Brucellosis Act when not otherwise specified –fine not less than one hundred dollars nor more than five hundred dollars –imprisonment of not more than thirty days –both
55-112	Failure to return or illegal use of military property –fine of not more than fifty dollars
60-684	Refusal to sign traffic citation –fine of not more than five hundred dollars –imprisonment of not more than three months –both
69-111	Security interest in personal property, failure to account or produce for inspection –fine of not less than five dollars nor more than one hundred dollars –imprisonment of not more than thirty days
74-918	Failure by railroad to supply drinking water and toilet facilities –fine of not less than one hundred dollars nor more than five hundred dollars
75-130	Failure by witness to testify or comply with subpoena of Public Service Commission –fine of not more than five thousand dollars
76-215	Failure to furnish real estate transfer tax statement –fine of not less than ten dollars nor more than five hundred dollars

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76-218	Violations involving acknowledging and recording instruments of conveyance –fine of not more than five hundred dollars –imprisonment of not more than one year
76-239.05	Failure to apply construction financing for labor and materials –fine of not less than one hundred dollars nor more than one thousand dollars –imprisonment of not more than six months –both
76-2,108	Defrauding another by making a dual contract for purchase of real property or inducing the extension of credit –fine of not less than one hundred dollars nor more than five hundred dollars –imprisonment of not less than five days nor more than thirty days –both
77-1250.02	Owner, lessee, or manager of aircraft hangar or land upon which is parked or located any aircraft report aircraft to the county assessor –fine of not more than fifty dollars
77-1313	Failure of county officer to assist county assessor in assessment of property –fine of not less than fifty dollars nor more than five hundred dollars
77-1613.02	County assessor willfully reducing or increasing valuation of property without approval of county board of equalization –fine of not less than twenty dollars nor more than one hundred dollars
77-1918	County officers failing to perform duties related to foreclosure –removal from office
77-2703	Seller fails or refuses to furnish certified statement regarding motor vehicle or motorboat transaction –fine of not less than twenty-five dollars nor more than one hundred dollars
77-2706	Giving a resale certificate to avoid sales tax
79-2,103	Soliciting membership in fraternity, society, or other association on school grounds –fine of not less than two dollars nor more than ten dollars
79-898	Teacher wearing any dress or garb indicating religious affiliation –fine of not more than one hundred dollars –imprisonment of not more than thirty days –both
81-171	Using state mailing room or postage metering machine for private mail –fine of not less than twenty dollars nor more than one hundred dollars
*83-114	Officer or employee interfering in an official Department of Health and Human Services investigation –fine of not less than ten dollars nor more than one hundred dollars
84-732	Governor or Attorney General knowingly failing or refusing to implement laws –fine of one hundred dollars –impeachment

*Sections noted with an asterisk have additional specified penalty provisions.

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ACTS, CODES, AND OTHER NAMED LAWS

NAME OF ACT	WHERE CITED
Abstracters Act	76-535
Access College Early Scholarship Program Act	85-2101
Address Confidentiality Act	42-1201
Administrative Procedure Act	84-920
Adult Protective Services Act	28-348
Advanced Practice Registered Nurse Practice Act	38-201
Age Discrimination in Employment Act	48-1001
Agricultural Liming Materials Act	2-4301
Agricultural Opportunities and Value-Added Partnerships Act	2-5413
Agricultural Suppliers Lease Protection Act	2-5501
Air and Water Pollution Control Tax Refund Act	77-27,155
Airport Zoning Act	3-333
Alcohol and Drug Counseling Practice Act	38-301
Alternative Fuel Tax Act	66-684
Alzheimer's Special Care Disclosure Act	71-516.01
American Indian Arts and Crafts Sales Act	69-1801
Animal Importation Act	54-784.01
Anthrax Control Act	54-764
Arson Reporting Immunity Act	81-5,115
Asbestos Control Act	71-6317
Assault of an Unborn Child Act	28-395
Assisted-Living Facility Act	71-5901
Assistive Technology Regulation Act	69-2601
Assumption Reinsurance Act	44-6201
Athletic Training Practice Act	38-401
Audiology and Speech-Language Pathology Practice Act	38-501
Autism Treatment Program Act	68-962
Automated Medication Systems Act	71-2444
Automatic Dialing-Announcing Devices Act	86-236
Barber Act	71-224
Behavioral Health Workforce Act	71-828
Beginning Farmer Tax Credit Act	77-5201
Boiler Inspection Act	48-719
Bovine Tuberculosis Act	54-706.01
Brain Injury Registry Act	81-653
Buffer Strip Act	2-5101
Building Construction Act	71-6401
Building Entrepreneurial Communities Act	81-12,125
Burial Pre-Need Sale Act	12-1101
Business Corporation Act	21-2001
Business Development Partnership Act	81-1272
Business Improvement District Act	19-4015
Campaign Finance Limitation Act	32-1601
Cancer Drug Repository Program Act	71-2422
Captive Insurers Act	44-8201

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Center for Student Leadership and Extended Learning Act	79-772
Certified Industrial Hygienist Title Protection Act	71-8001
Certified Nurse Midwifery Practice Act	38-601
Certified Registered Nurse Anesthetist Act	71-1728
Certified Registered Nurse Anesthetist Practice Act	38-701
Charitable Gift Annuity Act	59-1801
Child Care Licensing Act	71-1908
Child Pornography Prevention Act	28-1463.01
Child Protection Act	28-710
Childhood Lead Poisoning Prevention Act	71-2513
Childhood Vaccine Act	71-526
Children and Family Behavioral Health Support Act	71-821
Chiropractic Practice Act	38-801
Cities Airport Authorities Act	3-514
Civil Service Act	19-1825
Class V School Employees Retirement Act	79-978.01
Clinical Nurse Specialist Practice Act	38-901
Collection Agency Act	45-601
Combined Improvement Act	19-2415
Commercial Dog and Cat Operator Inspection Act	54-625
Commercial Feed Act	54-847
Commission for the Blind and Visually Impaired Act	71-8601
Commodity Code	8-1701
Community College Foundation and Equalization Aid Act	85-2201
Community Corrections Act	47-619
Community Development Assistance Act	13-201
Community Development Law	18-2101
Competitive Livestock Markets Act	54-2601
Comprehensive Health Insurance Pool Act	44-4201
Compressed Fuel Tax Act	66-697
Computer Crimes Act	28-1341
Concealed Handgun Permit Act	69-2427
Conciliation Court Law	42-802
Condominium Property Act	76-801
Conservation and Preservation Easements Act	76-2,118
Conservation Corporation Act	2-4201
Consumer Protection Act	59-1623
Consumer Rental Purchase Agreement Act	69-2101
Contractor Registration Act	48-2101
Controlled Substances Animal Welfare Act	54-2501
Convention Center Facility Financing Assistance Act	13-2601
Conveyance Safety Act	48-2501
Convicted Sex Offender Act	29-2922
Coordinating Commission for Postsecondary Education Act	85-1401
Correctional System Overcrowding Emergency Act	83-960
Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act	38-1001
County Agricultural Society Act	2-250
County Budget Act of 1937	23-901
County Civil Service Act	23-2517
County Drainage Act	31-933
County Employees Retirement Act	23-2331
County Highway and City Street Superintendents Act	39-2301

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County Horseracing Facility Bond Act	23-392
County Industrial Sewer Construction Act	23-3601
County Purchasing Act	23-3101
County Revenue Assistance Act	29-3919
Court Appointed Special Advocate Act	43-3701
Credit Report Protection Act	8-2601
Credit Services Organization Act	45-801
Credit Union Act	21-1701
Cremation of Human Remains Act	71-1355
Critical Incident Stress Management Act	71-7101
Dairy Industry Development Act	2-3948
Deferred Building Renewal Act	81-190
Degradable Products Act	69-2001
Delayed Birth Registration Act	71-617.01
Delayed Deposit Services Licensing Act	45-901
Dentistry Practice Act	38-1101
Developmental Disabilities Court-Ordered Custody Act	71-1101
Developmental Disabilities Services Act	83-1201
Disabled Persons and Family Support Act	68-1501
Disclosure of Material Insurance Transactions Act	44-6301
Discount Medical Plan Organization Act	44-8301
Disposition of Personal Property Landlord and Tenant Act	69-2301
Dispute Resolution Act	25-2901
DNA Identification Information Act	29-4101
DNA Testing Act	29-4116
Dog and Cat Purchase Protection Act	54-644
Domesticated Cervine Animal Act	54-2302
Drinking Water State Revolving Fund Act	71-5314
Dry Bean Resources Act	2-3735
Early Intervention Act	43-2501
Educational Service Units Act	79-1201
Election Act	32-101
Electric Cooperative Corporation Act	70-701
Emergency Box Drug Act	71-2410
Emergency Management Act	81-829.36
Emergency Medical Services Practice Act	38-1201
Emergency Telephone Communications Systems Act	86-420
Employee Classification Act	48-2901
Employment and Investment Growth Act	77-4101
Employment Security Law	48-601
Engineers and Architects Regulation Act	81-3401
Enhanced Wireless 911 Services Act	86-442
Enterprise Zone Act	13-2101.01
Environmental Health Specialists Practice Act	38-1301
Environmental Protection Act	81-1532
Equipment Business Regulation Act	87-701
Erosion and Sediment Control Act	2-4601
Ethanol Development Act	66-1330
Excellence in Teaching Act	79-8,132
Exploited Children's Civil Remedy Act	25-21,290
Extraterritorial Airports Act	3-244
False Medicaid Claims Act	68-934
Family Military Leave Act	55-501

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Farm Homestead Protection Act	76-1901
Farm Labor Contractors Act	48-1701
Farm Mediation Act	2-4801
Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006	87-801
Food Supply Animal Veterinary Incentive Program Act	54-501
Foster Care Review Act	43-1318
Franchise Practices Act	87-410
Free Flow of Information Act	20-147
Funeral Directing and Embalming Practice Act	38-1401
Game Law	37-201
Genetically Handicapped Persons Act	68-1401
Geologists Regulation Act	81-3501
Grain Dealer Act	75-901
Grain Sorghum Resources Act	2-4001
Grain Warehouse Act	88-525
Guaranteed Asset Protection Waiver Act	45-1101
Health and Human Services, Office of Juvenile Services Act	43-401
Health and Human Services Act	81-3110
Health Care Facility Licensure Act	71-401
Health Care Facility-Provider Cooperation Act	71-7701
Health Care Professional Credentialing Verification Act	44-7001
Health Care Prompt Payment Act	44-8001
Health Care Purchasing Pool Act	44-6701
Health Carrier Grievance Procedure Act	44-7301
Health Insurance Access Act	44-5301
Health Maintenance Organization Act	44-3292
Hearing Instrument Specialists Practice Act	38-1501
high-rise building fire code	81-541.01
Hog Cholera Control and Eradication Act	54-1513
Homeless Shelter Assistance Trust Fund Act	68-1601
Homicide of the Unborn Child Act	28-388
Hospital Authorities Act	23-3579
Hospital Sinking Fund Act	15-235.05
ICF/MR Reimbursement Protection Act	68-1801
Immunosuppressant Drug Repository Program Act	71-2436
In the Line of Duty Dependent Education Act	85-2301
Income Withholding for Child Support Act	43-1701
Industrial Ground Water Regulatory Act	46-690
Industrial Relations Act	48-801.01
Infant Hearing Act	71-4734
Information Technology Infrastructure Act	86-501
Insurance Company Plan of Exchange Act	44-248
Insurance Fraud Act	44-6601
Insurance Holding Company System Act	44-2120
Insurance Producers Licensing Act	44-4047
Insurers and Health Organizations Risk-Based Capital Act	44-6001
Insurers Demutualization Act	44-6101
Insurers Examination Act	44-5901
Insurers Investment Act	44-5101
Integrated Solid Waste Management Act	13-2001
Intergovernmental Data Services Program Act	86-550
Intergovernmental Risk Management Act	44-4301

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Interlocal Cooperation Act	13-801
International Fuel Tax Agreement Act	66-1401
International Registration Plan Act	60-3,192
Interstate Branching By Merger Act of 1997	8-2101
Interstate Bridge Act of 1959, The	39-8,122
Interstate Trust Company Office Act	8-2301
Intrastate Pay-Per-Call Regulation Act	86-258
Invention Development Services Disclosure Act	87-601
Invest Nebraska Act	77-5501
Joint Airport Authorities Act	3-716
Joint Public Agency Act	13-2501
Joint Public Power Authority Act	70-1401
Judges Retirement Act	24-701.01
Juvenile Services Act	43-2401
Kelsey Smith Act	86-801
Land Reutilization Act	77-3213
Law Enforcement Officers Retirement Survey Act	50-417.02
Learning Community Reorganization Act	79-4,117
Legal Education for Public Service Loan Repayment Act	7-201
Legislative Performance Audit Act	50-1201
License Suspension Act	43-3301
Licensed Practical Nurse-Certified Practice Act	38-1601
Licensing of Truth and Deception Examiners Act	81-1901
Light-Density Rail Line Assistance Act	74-1429
Limited Liability Company Act	21-2601
Lindsay Ann Burke Act	79-2,138
Livestock Animal Welfare Act	54-901
Livestock Auction Market Act	54-1156
Livestock Brand Act	54-170
Livestock Waste Management Act	54-2416
Local Civic, Cultural, and Convention Center Financing Act	13-2701
Local Government Miscellaneous Expenditure Act	13-2201
Local Option Municipal Economic Development Act	18-2701
Local Option Revenue Act	77-27,148
Local Option Tax Control Act	77-3401
Long-Term Care Insurance Act	44-4501
Long-Term Care Ombudsman Act	81-2237
Long-Term Care Savings Plan Act	77-6101
Low-Income Home Energy Conservation Act	66-1012
Low-Level Radioactive Waste Disposal Act	81-1578
Mail Order Contact Lens Act	69-301
Mail Service Pharmacy Licensure Act	71-2406
Managed Care Emergency Services Act	44-6825
Managed Care Plan Network Adequacy Act	44-7101
Managing General Agents Act	44-4901
Massage Therapy Practice Act	38-1701
Master Teacher Program Act	79-8,124
Mechanical Amusement Device Tax Act	77-3011
Medicaid Prescription Drug Act	68-950
Medical Assistance Act	68-901
Medical Home Pilot Program Act	68-957
Medical Nutrition Therapy Practice Act	38-1801

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Medicare Supplement Insurance Minimum Standards Act	44-3601
Medication Aide Act	71-6718
Medicine and Surgery Practice Act	38-2001
Membership Campground Act	76-2101
Mental Health Practice Act	38-2101
Microenterprise Development Act	81-1295
Military Code	55-101
Minor Alcoholic Liquor Liability Act	53-401
Missing Children Identification Act	43-2001
Mobile Home Landlord and Tenant Act	76-1450
Model Act Regarding Use of Credit Information in Personal Insurance	44-7701
Model Uniform Choice of Forum Act	25-417
Motor Club Services Act	44-3701
Motor Vehicle Certificate of Title Act	60-101
Motor Vehicle Industry Regulation Act	60-1401
Motor Vehicle Operator's License Act	60-462
Motor Vehicle Registration Act	60-301
Motor Vehicle Safety Responsibility Act	60-569
Motor Vehicle Service Contract Reimbursement Insurance Act	44-3520
Motorcycle Safety Education Act	60-2120
Multiple Employer Welfare Arrangement Act	44-7601
Municipal and Rural Domestic Ground Water Transfers Permit Act	46-650
Municipal Cooperative Financing Act	18-2401
Municipal Infrastructure Redevelopment Fund Act	18-2601
Municipal Natural Gas System Condemnation Act	19-4624
Municipal Proprietary Function Act	18-2801
Museum Property Act	51-701
Mutual Finance Assistance Act	35-1201
Mutual Insurance Holding Company Act	44-6122
Name Protection Act	21-2501
Native American Public Health Act	71-7615
Nebraska Administrative Code	84-906.03
Nebraska Advantage Act	77-5701
Nebraska Advantage Microenterprise Tax Credit Act	77-5901
Nebraska Advantage Research and Development Act	77-5801
Nebraska Advantage Rural Development Act	77-27,187
Nebraska Advantage Transformational Tourism and Redevelopment Act	77-1001
Nebraska Affordable Housing Act	58-701
Nebraska Agricultural Products Marketing Act	2-3801
Nebraska Amusement Ride Act	48-1801
Nebraska Apiary Act	81-2,165.01
Nebraska Archaeological Resources Preservation Act	82-501
Nebraska Art Collection Act	82-401
Nebraska Bank Holding Company Act of 1995	8-908
Nebraska Banking Act	8-101.01
Nebraska Behavioral Health Services Act	71-801
Nebraska Bingo Act	9-201
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Nebraska Capital Expansion Act	72-1269
Nebraska Center for Nursing Act	71-1796
Nebraska Chemigation Act	46-1101
Nebraska Claims for Wrongful Conviction and Imprisonment Act	29-4601
Nebraska Clean Indoor Air Act	71-5716
Nebraska Code of Military Justice	55-401
Nebraska Collegiate Athletic Association Procedures Act	85-1201
Nebraska Commercial Fertilizer and Soil Conditioner Act	81-2,162.22
Nebraska Community Aging Services Act	81-2201
Nebraska Condominium Act	76-825
Nebraska Construction Lien Act	52-125
Nebraska Construction Prompt Pay Act	45-1201
Nebraska Consultants' Competitive Negotiation Act	81-1702
Nebraska Corn Resources Act	2-3601
Nebraska Correctional Health Care Services Act	83-4,153
Nebraska County and City Lottery Act	9-601
Nebraska County Juvenile Services Plan Act	43-3501
Nebraska Crime Victim's Reparations Act	81-1841
Nebraska Criminal Code	28-101
Nebraska Drug Product Selection Act	71-5401.01
Nebraska Educational Finance Authority Act	85-1701
Nebraska Educational Telecommunications Act	79-1312
Nebraska Elementary and Secondary School Finance Authority Act	79-1801
Nebraska Energy Code	81-1611
Nebraska Emergency Planning and Community Right to Know Act	81-15,191
Nebraska Emergency Seat of Local Government Act	13-701
Nebraska Emergency Seat of State Government Act	72-701.01
Nebraska Environmental Trust Act	81-15,167
Nebraska Equal Opportunity in Education Act	79-2,114
Nebraska Equal Opportunity in Postsecondary Education Act	85-9,166
Nebraska Evidence Rules	27-1103
Nebraska Fair Employment Practice Act	48-1125
Nebraska Fair Housing Act	20-301
Nebraska Foreclosure Protection Act	76-2701
Nebraska General Emergency Succession Act	84-1101
Nebraska Governmental Unit Credit Facility Act	10-1201
Nebraska Governmental Unit Security Interest Act	10-1101
Nebraska Graded Egg Act	2-3525
Nebraska Ground Water Management and Protection Act	46-701
Nebraska Health Care Certificate of Need Act	71-5801
Nebraska Health Care Funding Act	71-7605
Nebraska Highway Bond Act	39-2222
Nebraska Highway-Rail Grade Crossing Safety and Consolidation Act	74-1329
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Nebraska Hospital-Medical Liability Act	44-2855
Nebraska Housing Agency Act	71-1572
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Nebraska Installment Sales Act	45-334
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Nebraska Investment Finance Authority Act	58-201
Nebraska Juvenile Code	43-2,129
Nebraska Life and Health Insurance Guaranty Association Act	44-2720
Nebraska Life, Sickness and Accident Insurance Policy Readability Act	44-3401
Nebraska Limited Cooperative Association Act	21-2901
Nebraska Liquor Control Act	53-101
Nebraska Litter Reduction and Recycling Act	81-1534
Nebraska Livestock Dealer Licensing Act	54-1702
Nebraska Livestock Sellers Protective Act	54-1801
Nebraska Local Hospital District Act	23-3528
Nebraska Lottery and Raffle Act	9-401
Nebraska Meat and Poultry Inspection Law	54-1901
Nebraska Mental Health Commitment Act	71-901
Nebraska Milk Act	2-3965
Nebraska Municipal Auditing Law	19-2901
Nebraska Natural Gas Pipeline Safety Act of 1969	81-552
Nebraska Nonprofit Corporation Act	21-1901
Nebraska Nursing Home Act	71-6037
Nebraska Operational Assistance Act	81-12,129
Nebraska Opportunity Grant Act	85-1901
Nebraska Opportunity Zone Act	81-12,117
Nebraska Pickle Card Lottery Act	9-301
Nebraska Plane Coordinate System Act	76-2501
Nebraska Political Accountability and Disclosure Act	49-1401
Nebraska Potato Development Act	2-1801
Nebraska Potato Inspection Act	2-1813
Nebraska Poultry and Egg Resources Act	2-3401
Nebraska Poultry Disease Control Act	2-3001
Nebraska Probate Code	30-2201
Nebraska Probation Administration Act	29-2269
Nebraska Professional Association Mutual Insurance Company Act	44-3101
Nebraska Professional Corporation Act	21-2201
Nebraska Property and Liability Insurance Guaranty Association Act	44-2418
Nebraska Prostitution Intervention and Treatment Act	71-2301
Nebraska Protection in Annuity Transactions Act	44-8101
Nebraska Public Safety Communication System Act	86-401
Nebraska Public Transportation Act	13-1201
Nebraska Pure Food Act	81-2,239
Nebraska Rangeland Grasshopper Control Act	2-1071
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Nebraska Real Estate License Act	81-885
Nebraska Redevelopment Act	58-501

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Nebraska Revenue Act of 1967	77-2701
Nebraska Right to Farm Act	2-4401
Nebraska Rules of the Road	60-601
Nebraska Safe Drinking Water Act	71-5313
Nebraska Safety Code for Building Construction	48-413
Nebraska Sale of Checks and Funds Transmission Act	8-1001.01
Nebraska Security Instrument Satisfaction Act	76-2801
Nebraska Seed Law	81-2,147
Nebraska Senior Companion Volunteer Program Act	81-2273
Nebraska Shooting Range Protection Act	37-1301
Nebraska Short Form Act	49-1501
Nebraska Small Business Incubator Act	72-1701
Nebraska Small Lottery and Raffle Act	9-501
Nebraska Soil and Plant Analysis Laboratory Act	2-3101
Nebraska Soil and Water Conservation Act	2-1575
Nebraska State Airline Authority Act	3-801
Nebraska State Capitol Environs Act	90-301
Nebraska State Capitol Preservation and Restoration Act	72-2201
Nebraska State Funds Investment Act	72-1260
Nebraska State Patrol Retirement Act	81-2014.01
Nebraska Swine Brucellosis Act	54-1366
Nebraska Telecommunications Regulation Act	86-101
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Nebraska Telehealth Act	71-8501
Nebraska Time-Share Act	76-1701
Nebraska Treatment and Corrections Act	83-1,135
Nebraska Trust Company Act	8-201.01
Nebraska Trust Deeds Act	76-1018
Nebraska Uniform Athlete Agents Act	48-2601
Nebraska Uniform Custodial Trust Act	30-3501
Nebraska Uniform Enforcement of Foreign Judgments Act	25-1587.01
Nebraska Uniform Limited Liability Company Act	21-101
Nebraska Uniform Limited Partnership Act	67-296
Nebraska Uniform Prudent Management of Institutional Funds Act	58-610
Nebraska Uniform Standards for Modular Housing Units Act	71-1555
Nebraska Uniform Transfers to Minors Act	43-2701
Nebraska Uniform Trust Code	30-3801
Nebraska Visitors Development Act	81-1263
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	8 83-4,160		3 86-2014	LB 172	§ 1 77-2712
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LB 451A		Omitted			4	25-1558			13	60-4,119	
LB 461	§ 1	66-1516			5	25-1701			14	60-4,120	
	2	66-1518			6	25-1702			15	60-4,120.01	
	3	66-1519			7	25-1709			16	60-4,122	
	4	66-1523			8	25-1705			17	60-4,123	
	5	66-1525			9	29-2248			18	60-4,124	
	6	66-1529.02			10	30-2402			19	60-4,126	
	7	81-1505.04			11	39-1345.01			20	60-4,127	
	8	81-1532			12	Omitted			21	60-4,130	
	9	81-1504.03			13	Omitted			22	60-4,130.02	
	10	81-15,117			14	Omitted			23	60-4,142	
	11	81-15,119			15	Omitted			24	60-4,148	
	12	81-15,120			16	Omitted			25	60-4,150	
	13	81-15,124.05		LB 505		Omitted			26	60-4,151	
	14	81-15,124.06		LB 516	§ 1	68-1603			27	60-4,171	
	15	81-15,124.07			2	68-1604			28	60-4,180	
	16	81-15,160			3	68-1605			29	60-4,181	
	17	Omitted			4	68-1607			30	60-4,111.01	
	18	Omitted			5	76-902			31	60-1515	
LB 461A		Omitted			6	76-903			32	60-2904	
LB 465	§ 1	77-702			7	Omitted			33	60-2912	
	2	77-1510			8	Omitted			34	Omitted	
	3	77-5003			9	Omitted		LB 574A		Omitted	
	4	77-5004		LB 516A		Omitted		LB 585	§ 1	86-2201	
	5	77-5005		LB 536	§ 1	66-1330			2	86-2202	
	6	77-5009			2	66-1344			3	86-2203	
	7	77-5016			3	66-1345			4	86-2204	
	8	77-5018			4	66-1345.01			5	86-2205	
	9	77-5019			5	66-1345.02			6	86-2206	
	10	Omitted			6	66-1345.04			7	86-2207	
	11	Omitted			7	66-1344.01			8	86-2208	
	12	Omitted			8	Omitted			9	86-2209	
	13	Omitted		LB 536A		Omitted			10	86-2210	
LB 465A		Omitted		LB 538		Omitted			11	86-2211	
LB 468	§ 1	71-17,101		LB 539		Omitted			12	86-2212	
	2	71-17,102		LB 540		Omitted			13	86-2213	
	3	71-17,103		LB 541	§ 1	2-958			14	86-2214	
	4	71-17,104			2	9-1,101			15	86-804	
	5	71-17,105			3	45-621			16	Omitted	
	6	71-17,106			4	71-7607			17	Omitted	
	7	71-17,107			5	83-162.04		LB 585A		Omitted	
LB 468A		Omitted			6	84-612		LB 593	§ 1	20-501	
LB 472	§ 1	46-691.01			7	84-1613			2	20-502	
	2	46-691.02			8	89-187			3	20-503	
LB 477	§ 1	60-315			9	89-1,100			4	20-504	
	2	Omitted			10	9-531 UCC			5	20-505	
LB 483	§ 1	14-375			11	Omitted		LB 593A		Omitted	
	2	14-3,107			12	Omitted		LB 598	§ 1	43-408	
	3	15-701			13	Omitted			2	43-3602	
	4	16-609		LB 542		Omitted			3	Omitted	

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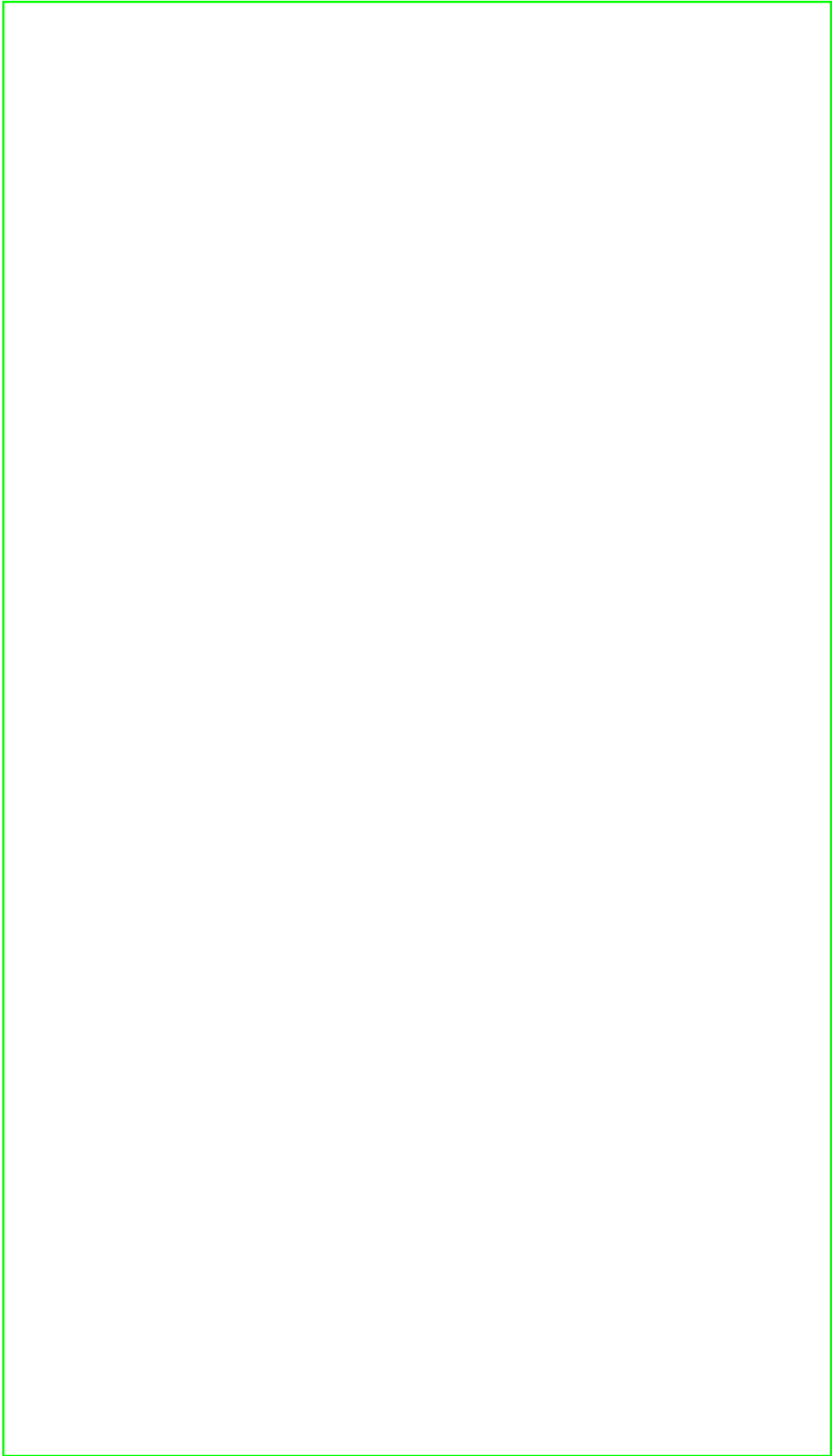
2001 First Session	2001 Supplement	2001 First Session	2001 Supplement	2001 First Session	2001 Supplement		
LB 620	§ 1	77-5501	14	Omitted	4	46-602.01	
	2	77-5502	15	Omitted	5	46-604	
	3	77-5503	16	Omitted	6	46-606	
	4	77-5504	17	Omitted	7	46-636	
	5	77-5505	18	Omitted	8	46-637	
	6	77-5506	19	Omitted	9	46-656.25	
	7	77-5507	LB 640A	Omitted	10	46-1011	
	8	77-5508	LB 641	§ 1	69-2103	11	46-1202
	9	77-5509		2	69-2104	12	46-1204.01
	10	77-5510		3	69-2105	13	46-1209
	11	77-5511		4	69-2108	14	46-1210
	12	77-5512		5	69-2109	15	46-1213
	13	77-5513		6	69-2110	16	46-1214
	14	77-5514		7	69-2112	17	46-1214.01
	15	77-5515		8	69-2113	18	46-1224
	16	77-5516		9	69-2115	19	46-1229
	17	77-5517		10	Omitted	20	46-1233
	18	77-5518	LB 657	§ 1	19-101	21	46-1235
	19	77-5519		2	19-102	22	46-1238
	20	77-5520		3	19-103	23	46-1239
	21	77-5521		4	19-104	24	46-1240
	22	77-5522		5	77-2602	25	46-1241
	23	77-5523		6	Omitted	26	61-210
	24	77-5524		7	Omitted	27	76-2,124
	25	77-5525		8	Omitted	28	71-5301
	26	77-5526	LB 657A	Omitted	29	71-5301.01	
	27	77-5527	LB 659	§ 1	29-4116	30	71-5302
	28	77-5528		2	29-4117	31	71-5303
	29	77-5529		3	29-4118	32	71-5304
	30	77-5530		4	29-4119	33	71-5304.01
	31	77-5531		5	29-4120	34	71-5304.02
	32	77-5532		6	29-4121	35	71-5305
	33	77-5533		7	29-4122	36	71-5305.02
	34	77-5534		8	29-4123	37	71-5306
	35	77-5535		9	29-4124	38	71-5307
	36	77-5536		10	29-4125	39	71-5308
	37	77-5537		11	29-2101	40	71-5309
	38	77-5538		12	29-2102	41	71-5310
	39	77-5539		13	29-2103	42	71-5311
	40	77-5540		14	29-3921	43	71-5311.01
	41	77-5541		15	29-3922	44	71-5315
	42	77-5542		16	29-3929	45	71-5316
	43	77-5543		17	29-3930	46	71-5318
	44	77-5544		18	29-3931	47	71-5322
	45	49-801.01		19	Omitted	48	71-5324
	46	58-529	LB 659A	Omitted	49	81-1505	
	47	77-4932	LB 664	§ 1	44-4302	50	Omitted
	48	Omitted		2	44-4303	51	Omitted
	49	Omitted		3	44-4304	52	Omitted
	50	Omitted		4	44-4313	53	Omitted
LB 640	§ 1	43-413		5	44-4315	LB 667A	Omitted
	2	43-2401		6	44-4317	LB 668	§ 1
	3	43-2402		7	44-4320		71-3502.01
	4	43-2403		8	Omitted		2
	5	43-2404	LB 666	§ 1	81-188.02		71-6321
	6	43-2404.01		2	81-1108.15		4
	7	43-2404.02		3	Omitted		Omitted
	8	43-2405		4	Omitted	LB 668A	Omitted
	9	43-2406		5	Omitted	LB 671	§ 1
	10	43-2408	LB 666A	Omitted			53-123.15
	11	43-2409	LB 667	§ 1	2-3254		2
	12	43-2412		2	46-230		53-124
	13	43-3503		3	46-602		3
							53-162
							4
						LB 671A	Omitted
						LB 677	§ 1
							68-1020

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	2 Omitted		5 Omitted		9 79-442
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LB 678	§ 1 71-2802		2 85-1804		11 79-4,101
	2 Omitted		3 85-1806		12 79-4,108
	3 Omitted		4 85-1808		13 79-528
LB 692	§ 1 68-1526		5 85-1809		14 79-563
	2 71-1626		6 Omitted		15 79-573
	3 71-1627		7 Omitted		16 79-583
	4 71-1626.01	LB 759	§ 1 79-1101		17 79-817
	5 71-1628.02		2 79-1103		18 79-1003
	6 71-1628.03		3 79-1104		19 79-1007.01
	7 71-1628.04		4 Omitted		20 79-1008.01
	8 71-1628.05	LB 768	§ 1 32-101		21 79-1008.02
	9 71-1628.06		2 32-619.01		22 79-1009
	10 71-1628.07		3 32-619		23 79-1010
	11 71-1628.08		4 32-627		24 79-1015.01
	12 71-6050		5 32-813		25 79-1018.01
	13 71-7605		6 32-1122		26 79-1024
	14 71-7606		7 32-1603		27 79-1026
	15 71-7607		8 32-1604		28 79-1027
	16 71-7608		9 32-1608		29 79-1028
	17 71-7609		10 32-1611		30 79-1032
	18 71-7611		11 49-1410		31 79-1035
	19 71-7614		12 Omitted		32 79-1036
	20 71-7611.01	LB 772	§ 1 50-301		33 79-1044
	21 71-7611.02		2 50-302		34 79-1047
	22 71-7611.03		3 50-303		35 79-1051
	23 71-7611.04		4 50-304		36 79-1072.01
	24 71-7611.05		5 50-305		37 79-1072.02
	25 71-7611.06		6 50-306		38 79-1072.03
	26 71-7611.07		7 50-307		39 79-1083.03
	27 Omitted		8 50-308		40 79-1089
	28 Omitted		9 50-309		41 79-1092
	29 Omitted		10 Omitted		42 79-10,110
	30 Omitted	LB 772A	Omitted		43 79-1125
LB 692A	Omitted	LB 773	§ 1 28-1465		44 79-1132
LB 706	§ 1 90-120		2 28-1466		45 79-1142
LB 711	§ 1 24-710.07		3 28-1470		46 79-1155
	2 79-934		4 28-1471		47 79-1162
	3 79-947.01		5 28-1473		48 79-1202
	4 79-956		6 28-1474		49 79-1217
	5 79-980		7 37-1254.01		50 79-1241.02
	6 79-981		8 37-1254.02		51 85-1641
	7 79-982		9 37-1254.03		52 85-1642
	8 79-984		10 37-1254.05		53 85-1657
	9 79-987		11 37-1254.08		54 Omitted
	10 79-990		12 60-4,163		55 Omitted
	11 79-992		13 60-4,168		56 Omitted
	12 79-998		14 60-4,182	LB 808	§ 1 13-303
	13 79-9,101		15 60-6,196		2 23-3547
	14 79-9,103		16 60-6,197		3 23-3594
	15 79-9,105		17 60-6,201		4 35-514.02
	16 79-9,106		18 81-1822		5 35-1301
	17 79-1075		19 Omitted		6 35-1303
	18 79-1082	LB 781	§ 1 25-21,274		7 35-1309
	19 81-2027.03	LB 797	§ 1 9-812		8 35-1309.01
	20 Omitted		2 13-511		9 35-1310
	21 Omitted		3 77-1601.02		10 35-1311.01
	22 Omitted		4 79-214		11 35-1312
LB 730	§ 1 16-302.01		5 79-215		12 35-1313
	2 32-534		6 79-237		13 35-1316
	3 32-538		7 79-238		14 35-1318
	4 32-554		8 79-313		15 35-1320

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	16	35-1321		2	79-1328	32	50-1132
	17	35-1324		3	79-1001	33	50-1133
	18	35-1326		4	79-1003	34	50-1134
	19	35-1327		5	79-1009	35	50-1135
	20	35-1330		6	79-1018.01	36	50-1136
	21	84-1503		7	79-1009.01	37	50-1137
	22	Omitted		8	79-1310	38	50-1138
	23	Omitted		9	Omitted	39	50-1139
	24	Omitted		10	Omitted	40	50-1140
LB 809	§ 1	18-1736	LB 849		Omitted	41	50-1141.01
	2	18-1737	LB 851	§ 1	32-504	42	50-1142
	3	18-1738		2	32-505	43	50-1143
	4	18-1738.01		3	Omitted	44	50-1144
	5	18-1738.02	LB 852	§ 1	50-1101	45	50-1145
	6	18-1739		2	50-1102	46	50-1146
	7	18-1740		3	50-1103	47	50-1147
	8	18-1741		4	50-1104	48	50-1148
	9	18-1741.01		5	50-1105	49	50-1149
	10	81-1108.15		6	50-1106	50	50-1150
	11	Omitted		7	50-1107	51	50-1152
	12	Omitted		8	50-1108	52	Omitted
LB 827	§ 1	86-2301		9	50-1109	53	Omitted
	2	86-2302		10	50-1110	LB 853	§ 1 24-201.02
	3	86-2303		11	50-1111	2	24-201.04
	4	86-2304		12	50-1112	3	Omitted
	5	86-2305		13	50-1113	4	Omitted
	6	86-2306		14	50-1114	LB 854	§ 1 32-510
	7	86-2307		15	50-1115	2	85-103.01
	8	18-419		16	50-1116	3	85-103.02
	9	18-2701		17	50-1117	4	Omitted
	10	18-2702		18	50-1118	5	Omitted
	11	18-2703		19	50-1119.01	LB 855	§ 1 32-509
	12	18-2703.01		20	50-1120	2	75-101.01
	13	18-2705		21	50-1121	3	75-101.02
	14	18-2709		22	50-1122	4	Omitted
	15	70-625		23	50-1123	5	Omitted
	16	70-704		24	50-1124	6	Omitted
	17	70-1409		25	50-1125	LB 856	§ 1 32-511
	18	75-132.01		26	50-1126	2	79-311
	19	75-604		27	50-1127	3	79-312
	20	Omitted		28	50-1128	4	Omitted
	21	Omitted		29	50-1129	5	Omitted
LB 827A		Omitted		30	50-1130		
LB 833	§ 1	9-812		31	50-1131		



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Legislative Bills, 97th Legislature
First Session, 2001

Showing the date each act went into effect.

The Ninety-seventh Session of the Legislature adjourned May 31, 2001.

LB No.	Effective Date	LB No.	Effective Date
1	September 1, 2001	56	September 1, 2001
2	September 1, 2001	67	February 14, 2001
3	September 1, 2001	68	September 1, 2001
4	September 1, 2001	71	Sections 2 and 6 of this act become operative on September 1, 2001. The other sections of this act become operative on May 16, 2001.
5	September 1, 2001		
6	September 1, 2001	75	September 1, 2001
7	September 1, 2001	83	September 1, 2001
8	September 1, 2001	83A	September 1, 2001
9	September 1, 2001	84	September 1, 2001
10	September 1, 2001	85	September 1, 2001
15	September 1, 2001	92	July 1, 2001 (operative date)
23	May 26, 2001	92A	May 26, 2001
23A	May 26, 2001	96	Sections 2 to 4, 6, and 8 of this act become operative on July 1, 2001. The other sections of this act become operative on March 29, 2001.
24A	May 26, 2001		
25	September 1, 2001	97	September 1, 2001
25A	September 1, 2001	97A	September 1, 2001
31	March 29, 2001	101	September 1, 2001
34	January 1, 2002 (operative date)	104	September 1, 2001
36	February 7, 2001	105	September 1, 2001
38	January 1, 2002 (operative date)	106	March 15, 2001
46	September 1, 2001	108	September 1, 2001
48	March 2, 2001	111	January 1, 2002 (operative date)
49	July 1, 2001 (operative date)	113	September 1, 2001
51	September 1, 2001	113A	September 1, 2001
52	Sections 26 to 42, 45, 47 to 57, and 61 of this act become operative on September 1, 2001. Sections 16 to 20 of this act become operative on January 1, 2003. The other sections of this act become operative on April 5, 2001.	114	September 1, 2001
53	Sections 4, 5, 7, 19 to 24, 27 to 86, 89 to 102, 108 to 111, 113, and 115 of this act become operative on September 1, 2001. The other sections of this act become operative on March 2, 2001.	118	February 14, 2001
54	July 1, 2001 (operative date)	122	February 7, 2001
55	July 1, 2001 (operative date)	126	September 1, 2001
		128	September 1, 2001
		128A	September 1, 2001
		129	September 1, 2001
		130	September 1, 2001
		131	September 1, 2001
		133	September 1, 2001
		134	September 1, 2001
		135	September 1, 2001
		136	September 1, 2001
		137	September 1, 2001

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LB No.	Effective Date	LB No.	Effective Date
138	February 14, 2001	250	September 1, 2001
142	September 1, 2001	252	September 1, 2001
146	September 1, 2001	253	September 1, 2001
151	September 1, 2001	254	September 1, 2001
152	May 26, 2001	257	March 2, 2001
152A	September 1, 2001	257A	March 2, 2001
154	September 1, 2001	268	July 1, 2001
154A	September 1, 2001		(operative date)
155	September 1, 2001	269	September 1, 2001
156	September 1, 2001	270	September 1, 2001
162	September 1, 2001	270A	September 1, 2001
163	September 1, 2001	275	September 1, 2001
163A	September 1, 2001	278	September 1, 2001
165	September 1, 2001	278A	September 1, 2001
166	September 1, 2001	280	September 1, 2001
166A	September 1, 2001	286	September 1, 2001
168	Sections 4 to 7, 14, and 15 of this act become operative on January 1, 2002. The other sections of this act become operative on February 14, 2001.	295	September 1, 2001
168A	February 14, 2001	299	September 1, 2001
169	September 1, 2001	300	September 1, 2001
170	April 5, 2001	302	February 14, 2001
170A	April 5, 2001	303	May 26, 2001
172	September 1, 2001	303A	May 26, 2001
173	September 1, 2001	308	September 1, 2001
177	September 1, 2001	313	May 26, 2001
179	September 1, 2001	313A	May 26, 2001
180	June 1, 2001	314	March 15, 2001
182	September 1, 2001	317	September 1, 2001
186	January 1, 2003 (operative date)	329	May 31, 2001
186A	September 1, 2001	329A	May 31, 2001
191	September 1, 2001	334	September 1, 2001
191A	September 1, 2001	334A	September 1, 2001
192	March 2, 2001	335	September 1, 2001
193	March 2, 2001	335A	September 1, 2001
194	September 1, 2001	337	September 1, 2001
197	Sections 1 to 4 and 24 of this act become operative on January 1, 2002. The other sections of this act become operative on September 1, 2001.	346	September 1, 2001
198	September 1, 2001	346A	September 1, 2001
209	February 14, 2001	357	June 1, 2001
209A	September 1, 2001	357A	June 1, 2001
210	September 1, 2001	358	May 1, 2001
213	September 1, 2001	360	September 1, 2001
214	September 1, 2001	362	September 1, 2001
222	February 7, 2001	365	September 1, 2001
225	January 1, 2002 (operative date)	366	September 1, 2001
225A	May 26, 2001	368	September 1, 2001
226	March 2, 2001	375	September 1, 2001
238	September 1, 2001	376	September 1, 2001
240	April 6, 2001	387	September 1, 2001
242	September 1, 2001	389	September 1, 2001
243	May 26, 2001	398	Sections 21, 27, 28, 30 to 32, 39 to 42, 44, 65, 67, 69, 70, 77 to 79, 82, 83, 85, 94, and 96 of this act become operative on January 1, 2002. The other sections of this act become operative on May 1, 2001.
244	September 1, 2001	398A	May 1, 2001
244A	September 1, 2001	408	July 1, 2001 (operative date)
245	September 1, 2001	409	September 1, 2001
247	September 1, 2001	411	September 1, 2001
		418	September 1, 2001
		419	March 15, 2001
		420	May 8, 2001

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LB No.	Effective Date	LB No.	Effective Date
432	September 1, 2001	664	September 1, 2001
432A	September 1, 2001	666	July 1, 2001 (operative date)
433	January 1, 2001 (operative date)	666A	May 15, 2001
433A	September 1, 2001	667	Sections 1, 7 to 10, 28 to 50, 52, and 53 of this act become operative on May 22, 2001. The other sections of this act become operative on July 1, 2001.
438	September 1, 2001	667A	September 1, 2001
444	September 1, 2001	668	May 1, 2001
451	September 1, 2001	668A	May 1, 2001
451A	September 1, 2001	671	September 1, 2001
461	May 31, 2001	671A	September 1, 2001
461A	September 1, 2001	677	September 1, 2001
465	June 1, 2001	677A	September 1, 2001
465A	June 1, 2001	678	May 1, 2001
468	September 1, 2001	692	May 17, 2001
468A	September 1, 2001	692A	May 17, 2001
472	September 1, 2001	706	September 1, 2001
477	September 1, 2001	711	May 2, 2001
483	September 1, 2001	730	September 1, 2001
484	September 1, 2001	750	April 18, 2001
489	Sections 4, 12, 13, and 16 of this act become operative on May 8, 2001. The other sections of this act become operative on September 1, 2001.	759	September 1, 2001
505	March 29, 2001	768	September 1, 2001
516	Sections 5 and 8 of this act become operative on October 1, 2001. The other sections of this act become operative on September 1, 2001.	772	January 1, 2002 (operative date)
516A	September 1, 2001	772A	September 1, 2001
536	September 1, 2001	773	September 1, 2001
536A	September 1, 2001	781	September 1, 2001
538	May 15, 2001	797	May 8, 2001
539	July 1, 2001 (operative date)	808	April 18, 2001
540	July 1, 2001 (operative date)	809	May 31, 2001
541	May 15, 2001	827	September 1, 2001
542	July 1, 2001 (operative date)	827A	September 1, 2001
543	July 1, 2001 (operative date)	833	May 22, 2001
574	September 1, 2001	849	May 15, 2001
574A	September 1, 2001	851	September 1, 2001
585	April 18, 2001	852	September 1, 2001
585A	April 18, 2001	853	June 1, 2001
593	September 1, 2001	854	June 1, 2001
593A	September 1, 2001	855	June 1, 2001
598	September 1, 2001	856	June 1, 2001
620	May 26, 2001		
640	Sections 1, 16, 17, and 19 of this act become operative on June 1, 2001. The other sections of this act become operative on July 1, 2001.		
640A	June 1, 2001		
641	September 1, 2001		
657	July 1, 2001 (operative date)		
657A	June 1, 2001		
659	September 1, 2001		
659A	September 1, 2001		



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2001 Session Laws of Nebraska, First Special Session

2001 First Special Session	2002 Cumulative Supplement	2001 First Special Session	2002 Cumulative Supplement	2001 First Special Session	2002 Cumulative Supplement
LB 1	Omitted	7	79-1010	LB 4	§ 1 77-27,222
LB 2	Omitted	8	79-1328		2 Omitted
LB 3	§ 1 9-812	9	Omitted		3 Omitted
	2 29-2259.01	10	Omitted		4 Omitted
	3 71-7607	11	Omitted		5 Omitted
	4 71-7609	12	Omitted		6 Omitted
	5 76-903	13	Omitted		
	6 79-8,136	14	Omitted		



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Legislative Bills, 97th Legislature
First Special Session, 2001

Showing the date each act went into effect.
Convened October 25, 2001, and adjourned November 8, 2001.

LB No.	Effective Date	LB No.	Effective Date
1	November 9, 2001	4	Sections 1 and 4 of this act become operative for taxable years beginning or deemed to begin on or after January 1, 2003, under the Internal Revenue Code of 1986, as amended. The other sections of this act become operative on November 9, 2001.
2	November 9, 2001		
3	Sections 5 and 11 of this act become operative on January 1, 2002. The other sections of this act become operative on November 9, 2001.		



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2002 Session Laws of Nebraska, Second Session

2002 Second Session	2002 Cumulative Supplement	2002 Second Session	2002 Cumulative Supplement	2002 Second Session	2002 Cumulative Supplement
LB 21	§ 1 68-1021.01		4 50-1302	4	71-343
	2 Omitted		5 60-2121	5	71-348
LB 22	§ 1 20-150		6 71-1405	6	71-351
	2 20-151		7 71-1901	7	71-352
	3 20-152		8 71-1902	8	71-357
	4 20-153		9 71-1903	9	71-357.01
	5 20-154		10 71-1904	10	71-357.02
	6 20-156		11 71-1905	11	71-357.03
	7 20-159		12 71-3503	12	71-362
	8 25-2401		13 71-3504	13	71-364
	9 25-2402		14 71-3505	14	71-365.02
	10 25-2404		15 71-3508.01	15	71-368
	11 25-2405		16 71-4609	16	71-369
	12 25-2407		17 71-4903	17	71-371
	13 55-424		18 75-366	18	71-374
	14 71-4720.01		19 77-27,187	19	71-377
	15 71-4727		20 79-1312	20	71-381
	16 71-4728		21 81-177	21	71-382
	17 71-4728.05		22 81-5,147	22	71-386
	18 71-4732		23 81-8,307	23	71-387
	19 Omitted		24 81-1417	24	71-394
LB 29	§ 1 48-838		25 83-4,124	25	71-397
	2 Omitted		26 Omitted	26	71-3,102
LB 57	§ 1 33-126.05		27 Omitted	27	71-3,103
	2 77-2701	LB 112	§ 1 83-183	28	71-3,105
	3 77-2704.42		2 Omitted	29	71-3,107
	4 Omitted	LB 123	§ 1 77-2704.15	30	71-3,109
	5 Omitted		2 Omitted	31	71-3,117
LB 58	§ 1 44-1540		3 Omitted	32	71-3,120
	2 Omitted	LB 176	§ 1 25-2501	33	71-3,136
LB 82	§ 1 29-430		2 31-740	34	71-3,138.02
	2 18-1741.03		3 31-741	35	71-3,137
	3 28-106		4 31-786	36	71-3,138
	4 28-519		5 31-787	37	71-3,139
	5 28-1006		6 31-788	38	71-3,140
	6 28-1009		7 31-789	39	71-3,141
	7 28-1012		8 31-791	40	71-3,145
	8 28-1204.04		9 Omitted	41	71-3,147
	9 28-1213	LB 188	§ 1 83-1025	42	71-3,150
	10 28-1221		2 Omitted	43	71-3,151
	11 29-423	LB 235	§ 1 71-519	44	71-3,154
	12 29-820		2 71-520	45	71-3,155
	13 29-1819.02		3 71-521	46	71-3,159
	14 29-1819.03		4 71-522	47	71-3,169
	15 29-3504		5 71-523	48	71-3,174
	16 32-1549		6 71-524	49	71-3,177
	17 42-924		7 Omitted	50	71-3,179
	18 Omitted	LB 235A	Omitted	51	Omitted
LB 93	§ 1 2-2626	LB 241	§ 1 71-340	LB 241A	Omitted
	2 20-139		2 71-341	LB 251	§ 1 32-560
	3 44-788		3 71-342		2 32-572

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2002 Second Session	2002 Cumulative Supplement	2002 Second Session	2002 Cumulative Supplement	2002 Second Session	2002 Cumulative Supplement
	3 32-605	LB 385	§ 1 76-2005		43 79-971
	4 32-615		2 Omitted		44 79-973
	5 32-616	LB 391	§ 1 79-2001		45 79-976
	6 32-625		2 79-2002		46 79-977
	7 85-1514		3 79-2003		47 79-998
	8 Omitted		4 79-2004		48 81-2014.01
	9 Omitted		5 79-2005		49 81-2016
LB 259	§ 1 77-27,223		6 79-2006		50 81-2017
	2 77-27,224		7 79-2007		51 81-2031.03
	3 77-27,225		8 79-2008		52 81-2031.04
	4 77-27,226		9 79-2009		53 81-2031.07
	5 77-27,227		10 79-2010		54 84-1301
	6 13-518		11 79-2011		55 84-1307
	7 13-519		12 79-2012		56 84-1310.01
	8 Omitted		13 79-2013		57 84-1311.03
LB 276	§ 1 28-101		14 79-2014		58 84-1312
	2 28-608		15 79-2015		59 84-1313
	3 28-620	LB 406	§ 1 81-1108		60 84-1322
	4 28-632		2 Omitted		61 84-1313.01
	5 28-633		3 Omitted		62 84-1331
	6 28-634	LB 407	§ 1 23-2301		63 84-1503
	7 84-712.05		2 23-2306		64 Omitted
	8 Omitted		3 23-2308		65 Omitted
LB 326	§ 1 79-1901		4 23-2309.01		66 Omitted
	2 79-1902		5 23-2310.05		67 Omitted
	3 79-1903		6 23-2320		68 Omitted
	4 79-1904		7 23-2323.02	LB 417	§ 1 48-106
	5 79-1905		8 23-2323.03		2 48-115
LB 326A	Omitted		9 23-2323.04		3 48-139
LB 384	§ 1 19-4624		10 23-2331		4 Omitted
	2 19-4625		11 24-701.01		5 Omitted
	3 19-4626		12 24-702		6 Omitted
	4 19-4627		13 24-703	LB 435	§ 1 2-5501
	5 19-4628		14 24-710.05		2 2-5502
	6 19-4629		15 24-710.06		3 2-5503
	7 19-4630		16 24-710.12		4 2-5504
	8 19-4631		17 72-1237		5 2-5505
	9 19-4632		18 72-1239.01		6 2-5506
	10 19-4633		19 72-1246		7 2-5507
	11 19-4634		20 72-1249.02		8 2-5508
	12 19-4635		21 79-901		9 75-109
	13 19-4636		22 79-902		10 Omitted
	14 19-4637		23 79-910	LB 435A	Omitted
	15 19-4638		24 79-916	LB 436	§ 1 2-2622
	16 19-4639		25 79-917		2 2-2623
	17 19-4640		26 79-910.01		3 2-2624
	18 19-4641		27 79-927		4 2-2625
	19 19-4642		28 79-933.01		5 2-2626
	20 19-4643		29 79-933.02		6 2-2629
	21 19-4644		30 79-933.06		7 2-2632
	22 19-4645		31 79-933.09		8 2-2635
	23 16-645		32 79-934		9 2-2636
	24 16-674		33 79-947		10 2-2637
	25 17-559		34 79-948		11 2-2638
	26 18-2520		35 79-958		12 2-2646.01
	27 18-2523		36 79-960		13 2-2639
	28 18-2528		37 79-963		14 2-2640
	29 19-701		38 79-966.01		15 2-2641
	30 19-709		39 79-966		16 2-2642
	31 76-703		40 79-967		17 2-2643
	32 Omitted		41 79-968		18 2-2643.01
	33 Omitted		42 79-972.01		19 2-2643.02

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	20	2-2643.03	5	60-302.08	43	9-425		
	21	2-2649.01	6	60-1515	44	9-601		
	22	2-2649.02	7	44-1545	45	9-603		
	23	2-2645	8	Omitted	46	9-603.02		
	24	2-2646	9	Omitted	47	9-605.01		
	25	2-2649		Omitted	48	9-606.02		
	26	81-2,173	LB 488A		49	9-615.01		
	27	81-2,177.01	LB 491	§ 1	39-1349	50	9-606.01	
	28	Omitted		2	60-680	51	9-620	
	29	Omitted	LB 499	§ 1	60-4,132	52	9-622	
LB 436A		Omitted		2	60-4,162	53	9-625	
LB 446	§ 1	3-129		3	60-4,168	54	9-631	
	2	3-133		4	60-1306	55	9-631.01	
	3	3-157		5	75-363	56	9-642.01	
	4	3-239		6	75-364	57	9-653	
	5	3-501		7	75-369.03	58	Omitted	
	6	3-508		8	Omitted	59	Omitted	
	7	3-513		9	Omitted	60	Omitted	
	8	3-514	LB 500	§ 1	28-405	LB 547	§ 1	28-631
	9	Omitted		2	Omitted	2	44-6603	
LB 458	§ 1	46-230	LB 545	§ 1	9-1,104	3	44-6604	
	2	46-602		2	9-201	4	44-6606	
	3	46-606		3	9-204.03	5	Omitted	
	4	46-656.28		4	9-211	LB 547A		Omitted
	5	46-677		5	9-213	LB 564	§ 1	29-2261
	6	46-1225		6	9-214.01	2	29-4002	
	7	46-1237.03		7	9-225.02	3	29-4003	
	8	61-210		8	9-226	4	29-4004	
	9	76-2,124		9	9-226.01	5	29-4005	
LB 460	10	Omitted		10	9-230.01	6	29-4006	
	§ 1	79-4,110		11	9-231	7	29-4007	
	2	79-1027		12	9-232.01	8	29-4009	
	3	Omitted		13	9-232.02	9	29-4010	
	4	Omitted		14	9-233	10	29-4013	
	5	Omitted		15	9-241.05	11	Omitted	
	6	Omitted		16	9-255.02	LB 568	§ 1	13-504
LB 470	§ 1	60-1301		17	9-255.04	2	13-505	
	2	60-1303		18	9-255.05	3	13-506	
	3	81-2002.01		19	9-255.06	4	13-508	
	4	60-1304		20	9-255.08	5	13-511	
	5	81-2003		21	9-301	6	19-2903	
	6	81-2005		22	9-304	7	19-2905	
	7	81-2014		23	9-306.01	8	23-250	
	8	81-2016		24	9-309	9	77-3442	
	9	81-2033		25	9-311	10	79-10,110	
	10	84-1301		26	9-321.03	11	84-304	
	11	Omitted		27	9-322	12	Omitted	
LB 470A		Omitted		28	9-322.02	13	Omitted	
LB 474	§ 1	2-2304		29	9-326	14	Omitted	
	2	2-2305		30	9-328	15	Omitted	
	3	Omitted		31	9-329	16	Omitted	
	4	Omitted		32	9-331	LB 589	§ 1	54-193
LB 482	§ 1	81-8,130		33	9-340.02	2	54-198	
	2	81-8,130.01		34	9-347	3	54-199	
	3	81-8,133		35	9-347.01	4	54-1,100	
	4	81-8,133.01		36	9-349	5	54-1,102	
	5	81-8,139		37	9-401	6	54-1,105	
	6	Omitted		38	9-410	7	54-1,108	
LB 488	§ 1	60-302		39	9-417.02	8	54-1,110	
	2	60-302.05		40	9-418	9	Omitted	
	3	60-302.06		41	9-418.01	LB 604	§ 1	83-915
	4	60-302.07		42	9-423	2	83-915.01	

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LB 616	3 Omitted § 1 39-1803 2 39-2519 3 Omitted 4 Omitted 5 Omitted 6 Omitted	LB 722	§ 1 48-230 2 48-231 3 55-160 4 55-161 5 55-164 6 55-165 7 79-990 8 Omitted 9 Omitted	LB 830A LB 848	Omitted § 1 7-102 2 Omitted 3 Omitted LB 848A Omitted LB 857 § 1 8-1109.01 2 8-1401 3 8-1508 4 8-1511 5 76-882 6 87-301 7 Omitted LB 858 § 1 54-724.01 2 54-724.02 3 Omitted 4 Omitted 5 Omitted
LB 642	§ 1 28-734 2 28-735 3 28-736 4 28-737 5 28-738 6 28-739 7 28-725 8 28-726 9 Omitted	LB 729	§ 1 13-327 2 13-328 3 16-901 4 16-902 5 17-301 6 17-302 7 17-303 8 17-305 9 17-305.01 10 17-1001 11 17-1002 12 23-114 13 90-303 14 Omitted	LB 859 LB 860	Omitted § 1 16-716 2 Omitted LB 863 § 1 76-2,120 2 76-2403 3 76-2407 4 76-2417 5 76-2418 6 76-2419 7 76-2421 8 76-2422 9 76-2426 10 81-885.01 11 81-885.03 12 81-885.11 13 81-885.12 14 81-885.13 15 81-885.17 16 81-885.18 17 81-885.19 18 81-885.21 19 81-885.24 20 81-885.29 21 81-885.33 22 81-885.34 23 81-885.40 24 81-885.45 25 81-885.51 26 81-885.52 27 81-885.53 28 81-885.55 29 Omitted
LB 647	§ 1 79-734.01 2 79-1217 3 Omitted				
LB 649	§ 1 19-2402 2 19-2403 3 Omitted				
LB 684	§ 1 25-21,253 2 Omitted	LB 752	§ 1 29-1928 2 29-1929		
LB 687	§ 1 50-417.01 2 2-1608 3 23-2301 4 23-2305.01 5 23-2306 6 23-2308.01 7 23-2309 8 23-2309.01 9 23-2310 10 23-2310.05 11 23-2316 12 23-2317 13 23-2319 14 23-2319.01 15 23-2320 16 23-2321 17 23-2331 18 84-1301 19 84-1305.02 20 84-1307 21 84-1309.02 22 84-1310 23 84-1310.01 24 84-1311 25 84-1311.03 26 84-1318 27 84-1319 28 84-1321 29 84-1321.01 30 84-1322 31 84-1323 32 84-1331 33 Omitted 34 Omitted 35 Omitted	LB 824	§ 1 28-101 2 28-388 3 28-389 4 28-390 5 28-391 6 28-392 7 28-393 8 28-394 9 Omitted 10 Omitted 11 Omitted		
		LB 830	§ 1 60-106 2 60-107 3 60-108 4 60-110 5 60-112 6 60-117 7 60-129 8 60-129.01 9 60-129.02 10 60-129.03 11 60-129.04 12 60-129.05 13 60-130 14 60-131 15 60-302 16 60-310 17 60-311.11 18 60-311.12 19 60-311.23 20 60-315 21 60-315.01 22 60-319 23 60-328 24 60-2603 25 Omitted 26 Omitted	LB 873	§ 1 81-2104 2 Omitted 3 Omitted LB 876 § 1 25-801.01 2 25-201.02 3 13-518 4 24-209 5 25-217 6 25-318 7 25-321 8 25-323 9 25-328 10 25-330
LB 687A	Omitted				
LB 719	§ 1 44-5256 2 Omitted				

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12	25-501	74	44-2833	4	48-1710
13	25-503.01	75	44-2840	5	48-1711
14	25-504.01	76	44-2841	6	Omitted
15	25-516.01	77	44-2842	7	Omitted
16	25-519	78	45-103	LB 932	§ 1 15-401
17	25-525	79	60-4,105		2 Omitted
18	25-531	80	76-1002	LB 935	§ 1 10-703.01
19	25-1002	81	76-1441		2 29-1401
20	25-1063	82	76-1442		3 29-1401.02
21	25-1064.01	83	77-1904		4 32-303
22	25-1075	84	77-1906		5 32-552
23	25-1085	85	77-1917		6 32-802
24	25-1102	86	81-1316		7 32-819
25	25-1321	87	Omitted		8 32-933
26	25-1506	88	Omitted		9 32-941
27	25-1715	89	Omitted		10 32-942
28	25-2002	90	Omitted		11 32-943
29	25-2005	91	Omitted		12 32-946
30	25-2124	92	Omitted		13 32-950
31	25-2125	LB 876A	Omitted		14 32-954
32	25-2137	LB 898	§ 1 77-3442		15 32-956
33	25-2138		2 79-1001		16 32-1027
34	25-2139		3 79-1003		17 79-552
35	25-2140		4 79-1005.01		18 Omitted
36	25-2142		5 79-1005.02		19 Omitted
37	25-2143		6 79-1007.01	LB 947	§ 1 77-2706.02
38	25-2148		7 79-1007.02		2 13-326
39	25-2151		8 79-1008.01		3 77-2701
40	25-2162		9 79-1008.02		4 77-2702.07
41	25-2170		10 79-1009		5 77-27,147
42	25-2171		11 79-1017.01		6 Omitted
43	25-2178		12 79-1022	LB 951	§ 1 83-145.01
44	25-21,108		13 79-1022.02		2 Omitted
45	25-21,113		14 79-1031.01	LB 952	§ 1 43-146.17
46	25-21,115		15 Omitted		2 43-104
47	25-21,124		16 Omitted		3 43-143
48	25-21,134	LB 898A	§ 1 90-529		4 43-146.01
49	25-21,156		2 Omitted		5 Omitted
50	25-21,202		3 Omitted	LB 952A	Omitted
51	25-21,206	LB 905	§ 1 77-2101	LB 957	§ 1 8-115.01
52	25-21,223		2 77-2101.01		2 8-120
53	25-2210		3 77-2101.02		3 8-122
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55	25-2221		5 77-2102		5 8-178
56	25-2226		6 77-2103		6 8-183.03
57	25-2704		7 77-2104		7 8-1,140
58	25-2805		8 77-2105		8 8-355
59	25-2924		9 77-2108		9 8-1111
60	25-2925		10 77-2113		10 8-1103.01
61	25-2928		11 77-2116		11 8-1123
62	25-2929		12 Omitted		12 8-1401
63	29-2709		13 Omitted		13 8-1402
64	29-3920	LB 912	§ 1 2-4816		14 10-126
65	29-3921		2 Omitted		15 21-1701
66	29-3927	LB 921	§ 1 48-602		16 21-1732
67	29-3931		2 48-628		17 21-1725.01
68	29-3932		3 48-648		18 21-1736
69	29-3933		4 Omitted		19 21-17,109
70	29-4121		5 Omitted		20 21-17,115
71	29-4122	LB 931	§ 1 48-1702		21 45-337
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		25 72-1262		18 77-1347		45 72-2010
		26 72-1263		19 77-1348		46 72-2011
		27 72-1264		20 77-1380		47 72-2004.01
		28 72-1266		21 77-1702		48 81-15,167
		29 72-1268.03		22 77-1710		49 81-15,170
		30 76-252		23 77-1734		50 81-15,170.01
		31 76-1002		24 77-1822		51 81-15,175
		32 76-1014.01		25 77-1836		52 81-15,176
		33 Omitted		26 77-3443		53 Omitted
		34 Omitted		27 77-3618	LB 1003A	Omitted
		35 Omitted		28 77-5004	LB 1018	§ 1 23-906
		36 Omitted		29 77-5016		2 23-1302
LB 970	§ 1	16-104		30 79-1016		3 Omitted
	2	32-534		31 81-118.01	LB 1021	§ 1 46-1222
	3	Omitted		32 Omitted		2 46-1225
LB 977	§ 1	80-401.03		33 Omitted		3 46-1235.02
	2	Omitted		34 Omitted		4 71-101
LB 989	§ 1	21-301	LB 994A	Omitted		5 71-110
	2	21-304	LB 1003	§ 1		6 71-111
	3	21-306		2		7 71-112
	4	21-313		3		8 71-131
	5	21-323		4		9 71-139
	6	21-325		5		10 71-149
	7	39-2215		6		11 71-161.05
	8	49-801.01		7		12 71-161.09
	9	77-2601		8		13 71-161.10
	10	77-2602.03		9		14 71-174.01
	11	77-2603		10		15 71-175.01
	12	77-2604		11		16 71-179.01
	13	77-2609		12		17 71-185
	14	77-2612		13		18 71-1,107.25
	15	77-2615.01		14		19 71-1,132.11
	16	77-2617		15		20 71-1,132.20
	17	77-2620		16		21 71-1,136.01
	18	77-2704.12		17		22 71-1,144.01
	19	77-27,119		18		23 71-1,155
	20	77-27,150		19		24 71-1,162
	21	77-27,151		20		25 71-1,165
	22	77-27,152		21		26 71-1,193
	23	77-27,153		22		27 71-1,195.01
	24	77-27,154		23		28 71-1,206.31
	25	Omitted		24		29 71-1,228
	26	Omitted		25		30 71-1,234
	27	Omitted		26		31 71-1,280
LB 989A		Omitted		27		32 71-1,292
LB 994	§ 1	13-609		28		33 71-1,294
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	3	19-3315		30		35 71-1,321
	4	37-335		31		36 71-1,326
	5	49-1202		32		37 71-1,330
	6	49-1203		33		38 71-341
	7	60-106		34		39 71-377
	8	60-302		35		40 71-382
	9	60-6,322		36		41 71-397
	10	77-202		37		42 71-3,107
	11	77-415		38		43 71-3,108
	12	77-1315		39		44 71-3,112
	13	77-1318.01		40		45 71-3,115
	14	77-1327		41		46 71-3,117
	15	77-1340		42		47 71-3,179

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48	71-3,196		110	Omitted	27	71-1,132.24
49	71-3,197		111	Omitted	28	71-1,132.25
50	71-3,198	LB 1033	§ 1	71-5178	29	71-1,132.35
51	71-3,202		2	71-5184	30	71-1,134
52	71-3,205		3	Omitted	31	71-1,135.07
53	71-3,206	LB 1033A		Omitted	32	71-1,136.03
54	71-1326	LB 1040		Omitted	33	71-1,139.01
55	71-1354	LB 1054	§ 1	19-3101	34	71-1,147.53
56	71-1718.02		2	19-616	35	71-1,158
57	71-1722		3	29-112	36	71-1,160
58	71-1724		4	29-112.01	37	71-1,161
59	71-1724.01		5	29-113	38	71-1,231
60	71-1724.02		6	29-2264	39	71-404
61	71-1730		7	32-101	40	71-428
62	71-1735		8	32-223	41	71-432
63	71-1755		9	32-227	42	71-434
64	71-1757		10	32-228	43	71-436
65	71-1779		11	32-230	44	71-438
66	71-1782		12	32-231	45	71-456
67	71-1788		13	32-233	46	71-1723.02
68	71-2802		14	32-235	47	71-1729
69	71-2815		15	32-236	48	71-1757
70	71-2823		16	32-241	49	71-1761
71	71-3503		17	32-624	50	71-1787
72	71-3507		18	32-628	51	71-20,120
73	71-3508.03		19	32-914	52	71-2412
74	71-3514.01		20	32-914.03	53	71-2421
75	71-3515.01		21	32-916	54	71-5310
76	71-3515.02		22	32-947	55	71-6053
77	71-3517		23	32-1002	56	71-6054
78	71-3519		24	32-1119	57	71-6056
79	71-3709		25	32-1303	58	71-6057
80	71-3710		26	32-1304	59	71-6060
81	71-4301		27	83-187	60	71-6061
82	71-4302		28	83-1,118	61	71-6065
83	71-4305		29	Omitted	62	71-6066
84	71-4702.01	LB 1062	§ 1	23-3502	63	71-6603
85	71-4711		2	42-358	64	71-7611.04
86	71-4716		3	43-3342.01	65	81-1316
87	71-5178		4	43-3342.03	66	83-126
88	71-5179		5	43-3342.05	67	Omitted
89	71-5206.01		6	44-3,144	68	Omitted
90	71-5308		7	44-3,145	69	Omitted
91	71-6053		8	44-3,146	70	Omitted
92	71-6054		9	44-3,149	71	Omitted
93	71-6060		10	44-2901	72	Omitted
94	71-6067		11	71-101	73	Omitted
95	71-6103		12	71-131	LB 1062A	Omitted
96	71-6113		13	71-139.01	LB 1071	§ 1
97	71-6115		14	71-183.02		76-537
98	71-6302		15	71-193.16		2
99	71-6303		16	71-185.03		76-538
100	71-6310.02		17	71-1,103		3
101	71-6321		18	71-1,104		76-539
102	71-6327		19	71-1,132.04		4
103	71-6725		20	71-1,132.06		76-542
104	71-6734		21	71-1,132.07	LB 1073	§ 1
105	81-649		22	71-1,132.11		60-6,267
106	81-666		23	71-1,132.13		2
107	81-673		24	71-1,132.16		60-6,268
108	81-6,105		25	71-1,132.18	LB 1085	§ 1
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	9 77-2702.16		3 86-102	65	86-203
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	11 77-2703		5 86-104	67	86-205
	12 77-2704.11		6 86-105	68	86-206
	13 77-2704.26		7 86-106	69	86-207
	14 77-2704.27		8 86-107	70	86-208
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	16 77-2704.31		10 86-109	72	86-210
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	21 77-4025		15 86-114	77	86-215
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	5 8-234		30 86-131	92	86-230
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	7 8-602		32 86-133	94	86-232
	8 8-910		33 86-134	95	86-233
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	5 8-157		44 86-145	106	86-244
	6 8-601		45 86-146	107	86-245
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	8 8-815		47 86-148	109	86-247
	9 8-1511		48 86-149	110	86-248
	10 21-1335		49 86-150	111	86-249
	11 21-1755		50 86-151	112	86-250
	12 21-17,131		51 86-152	113	86-251
	13 28-612		52 86-153	114	86-252
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123	86-261	185	86-307	247	86-446
124	86-262	186	86-308	248	86-447
125	86-263	187	86-309	249	86-448
126	86-264	188	86-310	250	86-449
127	86-265	189	86-311	251	86-450
128	86-266	190	86-312	252	86-451
129	86-267	191	86-313	253	86-452
130	86-268	192	86-314	254	86-453
131	86-269	193	86-315	255	86-454
132	86-270	194	86-316	256	86-455
133	86-271	195	86-317	257	86-456
134	86-272	196	86-318	258	86-457
135	86-273	197	86-319	259	86-458
136	86-274	198	86-320	260	86-459
137	86-275	199	86-321	261	86-460
138	86-276	200	86-322	262	86-461
139	86-277	201	86-323	263	86-462
140	86-278	202	86-324	264	86-463
141	86-279	203	86-325	265	86-464
142	86-280	204	86-326	266	86-465
143	86-281	205	86-327	267	86-466
144	86-282	206	86-328	268	86-467
145	86-283	207	86-329	269	86-468
146	86-284	208	86-401	270	86-469
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149	86-287	211	86-406	273	86-503
150	86-288	212	86-407	274	86-504
151	86-289	213	86-408	275	86-505
152	86-290	214	86-409	276	86-506
153	86-291	215	86-414	277	86-507
154	86-292	216	86-1807	278	86-508
155	86-293	217	86-417	279	86-509
156	86-294	218	86-418	280	86-510
157	86-295	219	86-1810	281	86-511
158	86-296	220	86-419	282	86-512
159	86-297	221	86-420	283	86-513
160	86-298	222	86-421	284	86-514
161	86-299	223	86-422	285	86-515
162	86-2,100	224	86-423	286	86-516
163	86-2,101	225	86-424	287	86-517
164	86-2,102	226	86-425	288	86-518
165	86-2,103	227	86-426	289	86-519
166	86-2,104	228	86-427	290	86-520
167	86-2,105	229	86-428	291	86-521
168	86-2,106	230	86-429	292	86-522
169	86-2,107	231	86-430	293	86-523
170	86-2,108	232	86-431	294	86-524
171	86-2,109	233	86-432	295	86-525
172	86-2,110	234	86-433	296	86-526
173	86-2,111	235	86-434	297	86-527
174	86-2,112	236	86-435	298	86-528
175	86-2,113	237	86-436	299	86-529
176	86-2,114	238	86-437	300	86-530
177	86-2,115	239	86-438	301	86-531
178	86-2,116	240	86-439	302	86-532
179	86-301	241	86-440	303	86-533
180	86-302	242	86-441	304	86-534
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309	86-539	371	86-609	433	28-1310
310	86-540	372	86-610	434	30-3219
311	86-541	373	86-611	435	30-3220
312	86-542	374	86-612	436	39-101
313	86-543	375	86-613	437	43-158
314	86-544	376	86-614	438	49-14,141
315	86-545	377	86-615	439	52-1307
316	86-546	378	86-616	440	52-1314
317	86-547	379	86-617	441	54-7,104
318	86-548	380	86-618	442	60-102
319	86-549	381	86-619	443	60-301
320	86-550	382	86-620	444	60-311.14
321	86-551	383	86-621	445	60-471
322	86-552	384	86-622	446	60-4,182
323	86-553	385	86-623	447	60-501
324	86-554	386	86-624	448	60-601
325	86-555	387	86-625	449	60-618.02
326	86-556	388	86-626	450	60-636
327	86-557	389	86-627	451	60-638
328	86-558	390	86-628	452	60-639
329	86-559	391	86-629	453	60-640
330	86-560	392	86-630	454	60-678
331	86-561	393	86-631	455	60-680
332	86-562	394	86-632	456	60-6,142
333	86-563	395	86-633	457	60-6,144
334	86-564	396	86-634	458	60-6,226
335	86-565	397	86-635	459	60-6,375
336	86-566	398	86-636	460	60-6,376
337	86-567	399	86-637	461	60-6,377
338	86-568	400	86-638	462	60-6,241
339	86-569	401	86-639	463	60-6,304
340	86-570	402	86-640	464	60-6,349
341	86-571	403	86-641	465	60-6,351
342	86-572	404	86-642	466	60-1417.01
343	86-573	405	86-643	467	70-301
344	86-574	406	86-701	468	70-305
345	86-575	407	86-702	469	70-306
346	86-576	408	86-703	470	70-307
347	86-577	409	86-704	471	70-308
348	86-578	410	86-705	472	70-309
349	86-579	411	86-706	473	70-310
350	86-580	412	86-707	474	70-311
351	86-581	413	86-708	475	70-312
352	86-582	414	86-709	476	70-313
353	86-583	415	86-710	477	70-625
354	86-584	416	2-1570	478	70-704
355	86-585	417	2-3917.02	479	70-1409
356	86-586	418	9-812	480	71-1,142
357	86-587	419	18-419	481	75-101
358	86-588	420	25-840.02	482	75-109.01
359	86-589	421	25-21,275	483	75-109
360	86-590	422	25-21,276	484	75-117
361	86-591	423	25-21,277	485	75-122.01
362	86-592	424	25-21,278	486	75-126
363	86-601	425	25-2503	487	75-128
364	86-602	426	25-2602.01	488	75-132.01
365	86-603	427	28-109	489	75-133
366	86-604	428	28-401	490	75-134
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	495	76-2325.01	32	44-5242.03	14	86-1803		
	496	76-2321	33	44-5260	15	86-1804		
	497	76-2501	34	44-5260.01	16	86-1805		
	498	76-2502	35	44-5261	16	86-404		
	499	76-2503	36	44-5503	16	86-405		
	500	76-2504	37	44-5504	17	86-410		
	501	76-2505	38	44-5601	18	86-411		
	502	76-2506	39	44-5603	19	86-412		
	503	79-215	40	44-5603.01	20	86-413		
	504	79-1241.02	41	44-5603.02	21	86-1806		
	505	79-1328	42	44-5814	22	86-415		
	506	81-1117	43	44-5815	23	86-416		
	507	81-1120.17	44	44-6901	24	86-1808		
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	509	81-1576	46	44-6916	26	86-2306		
	510	81-1849	47	44-6917.01	27	Omitted		
	511	Omitted	48	44-6918	28	Omitted		
	512	Omitted	49	44-7505	29	Omitted		
	513	Omitted	50	44-7509	30	Omitted		
	514	Omitted	51	44-7510	31	Omitted		
	515	Omitted	52	44-7511	32	Omitted		
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	6	44-7606		2	79-2,126	16	51-604	
	7	44-7607		3	79-2,127	17	53-124.14	
	8	44-7608		4	79-2,128	18	77-2704.16	
	9	44-7609		5	79-2,129	19	81-1108.30	
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	11	44-7611		7	79-2,131	21	Omitted	
	12	44-7612		8	79-2,132	22	Omitted	
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	15	44-7615		11	79-2,135		2	59-808
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	20	44-1984		2	13-2530		7	59-816
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	22	44-2127		4	58-202		9	59-820
	23	44-2845		5	58-203		10	59-821
	24	44-32,161		6	58-219		11	59-821.01
	25	44-4834		7	58-239.03		12	59-822
	26	44-4842		8	86-125		13	59-823
	27	44-4859		9	75-134		14	59-824
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		20 59-831		33 Omitted		95 Omitted
		21 59-1606		34 Omitted		96 Omitted
		22 59-1607		35 Omitted		97 Omitted
		23 59-1608		36 Omitted		98 Omitted
		24 59-1608.01		37 Omitted		99 Omitted
		25 59-1608.02		38 Omitted		100 Omitted
		26 59-1609		39 Omitted		101 Omitted
		27 59-1609.01		40 Omitted		102 Omitted
		28 59-1610		41 Omitted		103 Omitted
		29 59-1611		42 Omitted		104 Omitted
		30 59-1614		43 Omitted		105 Omitted
		31 59-1615		44 Omitted		106 Omitted
		32 59-1616		45 Omitted		107 Omitted
		33 59-1623		46 Omitted		108 Omitted
		34 59-1803		47 Omitted		109 Omitted
		35 68-1035		48 Omitted		110 Omitted
		36 Omitted		49 Omitted		111 Omitted
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	2	29-3602		51 Omitted		113 Omitted
	3	29-3603		52 90-529		114 Omitted
	4	29-3604		53 Omitted		115 Omitted
	5	29-3605		54 Omitted		116 Omitted
	6	29-3606		55 Omitted		117 Omitted
	7	29-3607		56 Omitted		118 Omitted
	8	29-3608		57 Omitted		119 Omitted
	9	29-3609		58 Omitted		120 Omitted
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	12	Omitted		61 Omitted		123 Omitted
	13	Omitted		62 Omitted		124 Omitted
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	5	Omitted		67 Omitted		129 Omitted
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	11	Omitted		73 Omitted		135 Omitted
	12	Omitted		74 Omitted		136 Omitted
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	15	Omitted		77 Omitted		139 Omitted
	16	Omitted		78 Omitted		140 Omitted
	17	Omitted		79 Omitted		141 Omitted
	18	Omitted		80 Omitted		142 Omitted
	19	Omitted		81 Omitted		143 Omitted
	20	Omitted		82 Omitted		144 Omitted
	21	Omitted		83 Omitted		145 Omitted
	22	Omitted		84 Omitted		146 Omitted
	23	Omitted		85 Omitted		147 Omitted
	24	Omitted		86 Omitted		148 Omitted
	25	Omitted		87 Omitted		149 Omitted
	26	Omitted		88 Omitted		150 Omitted
	27	Omitted		89 Omitted		151 Omitted
	28	Omitted		90 Omitted		152 Omitted
	29	Omitted		91 Omitted		153 Omitted

CROSS REFERENCE TABLE

2002 Second Session	2002 Cumulative Supplement
	154 Omitted
	155 Omitted
	156 Omitted
	157 Omitted
	158 Omitted
	159 Omitted
	160 Omitted
	161 Omitted
	162 Omitted
	163 Omitted
	164 Omitted
	165 Omitted
	166 Omitted
	167 Omitted
	168 Omitted
	169 Omitted
	170 Omitted
	171 Omitted
	172 Omitted
	173 Omitted
	174 Omitted
	175 Omitted
	176 Omitted
	177 Omitted
LB 1310	§ 1 Omitted
	2 9-1,101
	3 9-812
	4 43-1906
	5 48-1,116
	6 60-1409
	7 66-1519
	8 71-5714
	9 77-1342
	10 77-4025
	11 81-179
	12 81-184
	13 81-188.01
	14 81-188.02
	15 81-188.03
	16 81-188.04
	17 81-188.05
	18 81-188.06
	19 81-1188
	20 84-612
	21 Omitted
	22 Omitted



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APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, 97th Legislature
Second Session, 2002

Showing the date each act went into effect.

The Ninety-seventh Session of the Legislature adjourned April 19, 2002.

LB No.	Effective Date	LB No.	Effective Date
21	March 19, 2002	458	July 20, 2002
22	July 20, 2002	460	Sections 1, 3, 5, and 6 of this act become operative on April 18, 2002. The other sections of this act become operative on July 20, 2002.
29	July 20, 2002	470	July 20, 2002
57	October 1, 2002 (operative date)	470A	July 20, 2002
58	July 20, 2002	474	February 28, 2002
82	July 20, 2002	482	July 20, 2002
93	July 20, 2002	488	July 20, 2002
112	July 20, 2002	488A	July 20, 2002
123	October 1, 2002 (operative date)	491	July 20, 2002
176	July 20, 2002	499	July 20, 2002
188	July 20, 2002	500	July 20, 2002
235	July 20, 2002	545	Sections 14 and 60 of this act become operative on October 1, 2002. The other sections of this act become operative on July 20, 2002.
235A	July 20, 2002	547	July 20, 2002
241	July 20, 2002	547A	July 20, 2002
241A	July 20, 2002	564	July 20, 2002
251	July 20, 2002	568	Sections 1 to 4, 6 to 8, and 13 of this act become operative on July 1, 2002. The other sections of this act become operative on February 28, 2002.
259	July 20, 2002	589	July 20, 2002
276	July 20, 2002	604	July 20, 2002
326	July 20, 2002	616	Sections 1 and 4 of this act become operative on July 20, 2002. The other sections of this act become operative on March 19, 2002.
326A	July 20, 2002	642	July 20, 2002
384	Sections 18 to 22 of this act become operative on July 1, 2003. The other sections of this act become operative on July 20, 2002.	647	July 20, 2002
385	July 20, 2002	649	July 20, 2002
391	July 20, 2002	684	July 20, 2002
406	July 20, 2002	687	April 18, 2002
407	Sections 1 to 3, 12, 13, 19, 22 to 27, 30, 32 to 46, 49, 50, 54, 55, 60, 63, 66, and 67 of this act become operative on July 1, 2002. The other sections of this act become operative on April 18, 2002.	687A	April 18, 2002
417	Sections 2 and 5 of this act become operative on January 1, 2003. The other sections of this act become operative on July 20, 2002.	719	July 20, 2002
435	July 20, 2002	722	July 20, 2002
435A	July 20, 2002	729	July 20, 2002
436	July 20, 2002	752	July 20, 2002
436A	July 20, 2002	824	February 28, 2002
446	July 20, 2002	830	January 1, 2003

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LB No.	Effective Date	LB No.	Effective Date
	(operative date)	1085	Sections 2, 17 to 19, 22, 23, and 26 of this act become operative on July 20, 2002. The other sections of this act become operative on October 1, 2002.
830A	July 20, 2002	1085A	April 12, 2002
848	March 19, 2002	1086	July 20, 2002
848A	March 19, 2002	1089	July 20, 2002
857	July 20, 2002	1094	July 20, 2002
858	February 15, 2002	1101	February 23, 2002
859	July 20, 2002	1105	Sections 2 to 426, 428 to 435, 437 to 441, 467 to 510, 513, and 515 of this act become operative on January 1, 2003. The other sections of this act become operative on July 20, 2002.
860	July 20, 2002	1110	April 18, 2002
863	July 20, 2002	1126	July 20, 2002
873	April 18, 2002	1139	Sections 20 and 56 of this act become operative on January 1, 2003. The other sections of this act become operative on July 20, 2002.
876	Sections 1, 4, 55, 59 to 63, 72, 73, 78, 80, and 89 of this act become operative on July 20, 2002. Sections 3, 64 to 71, 86 to 88, 91, and 93 of this act become operative on April 19, 2002. The other sections of this act become operative on January 1, 2003.	1148	April 18, 2002
876A	July 20, 2002	1168	April 18, 2002
898	April 12, 2002	1172	July 20, 2002
898A	April 11, 2002	1211	Sections 8 to 10, 13, and 29 of this act become operative on September 1, 2002. The other sections of this act become operative on April 20, 2002.
905	January 1, 2003	1236	January 1, 2003
	(operative date)		(operative date)
912	July 20, 2002	1278	July 20, 2002
921	April 20, 2002	1303	January 1, 2003
931	April 20, 2002		(operative date)
932	July 20, 2002	1309	Provisions line-item vetoed by the Governor and overridden by the Legislature became effective on April 12, 2002. All other provisions became effective on April 9, 2002.
935	July 20, 2002	1310	April 9, 2002
947	July 20, 2002		
951	July 20, 2002		
952	July 20, 2002		
952A	July 20, 2002		
957	Sections 1 to 6, 9 to 11, 14 to 19, 21 to 23, 30 to 32, and 34 of this act become operative on July 20, 2002. The other sections of this act become operative on April 20, 2002.		
970	July 20, 2002		
977	July 20, 2002		
989	April 20, 2002		
989A	July 20, 2002		
994	April 20, 2002		
994A	April 20, 2002		
1003	July 20, 2002		
1003A	July 20, 2002		
1018	July 20, 2002		
1021	January 1, 2003		
	(operative date)		
1033	July 20, 2002		
1033A	July 20, 2002		
1040	April 16, 2002		
1054	July 20, 2002		
1062	Sections 1, 3, 4, 10, 12, 13, 18 to 66, and 70 of this act become operative on July 20, 2002. Sections 6 to 9 and 71 of this act become operative on July 1, 2002. The other sections of this act become operative on April 20, 2002.		
1062A	July 20, 2002		
1071	July 20, 2002		
1073	July 20, 2002		

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CROSS REFERENCE TABLE

2002 Session Laws of Nebraska, Second Special Session

2002 Second Special Session	2002 Cumulative Supplement	2002 Second Special Session	2002 Cumulative Supplement	2002 Second Special Session	2002 Cumulative Supplement		
LB 1	§ 1	9-812	38	Omitted	91	Omitted	
		2	39-2215	39	Omitted	92	Omitted
		3	66-1345.04	40	Omitted	93	Omitted
		4	72-816	41	Omitted	94	Omitted
		5	79-810	42	Omitted	95	Omitted
		6	81-188.01	43	Omitted	96	Omitted
		7	81-15,160	44	Omitted	97	Omitted
		8	81-15,174	45	Omitted	98	Omitted
		9	81-2004.02	46	Omitted	99	Omitted
		10	86-527	47	Omitted	100	Omitted
		11	61-217	48	Omitted	101	Omitted
		12	Omitted	49	Omitted	102	Omitted
		13	Omitted	50	Omitted	103	Omitted
		14	Omitted	51	Omitted	104	Omitted
		15	Omitted	52	Omitted	105	Omitted
	LB 2	§ 1	Omitted	53	Omitted	106	Omitted
2		Omitted	54	Omitted	107	Omitted	
3		Omitted	55	Omitted	108	Omitted	
4		Omitted	56	Omitted	109	Omitted	
5		Omitted	57	Omitted	110	Omitted	
6		Omitted	58	Omitted	111	Omitted	
7		Omitted	59	Omitted	112	Omitted	
8		Omitted	60	Omitted	113	Omitted	
9		Omitted	61	Omitted	114	Omitted	
10		Omitted	62	Omitted	115	Omitted	
11		Omitted	63	Omitted	116	Omitted	
12		Omitted	64	Omitted	117	Omitted	
13		Omitted	65	Omitted	118	Omitted	
14		Omitted	66	Omitted	119	Omitted	
15		Omitted	67	Omitted	120	Omitted	
16		Omitted	68	Omitted	121	Omitted	
17		Omitted	69	Omitted	122	Omitted	
18		Omitted	70	Omitted	123	Omitted	
19		Omitted	71	Omitted	124	Omitted	
20		Omitted	72	Omitted	125	Omitted	
21		Omitted	73	Omitted	126	Omitted	
22		Omitted	74	Omitted	127	Omitted	
23	Omitted	75	Omitted	128	Omitted		
24	Omitted	76	Omitted	129	Omitted		
25	Omitted	77	Omitted	130	Omitted		
26	Omitted	78	Omitted	131	Omitted		
27	Omitted	79	Omitted	132	Omitted		
28	Omitted	80	Omitted	133	Omitted		
29	Omitted	81	Omitted	134	Omitted		
30	Omitted	82	Omitted	135	Omitted		
31	Omitted	83	Omitted	136	Omitted		
32	Omitted	84	Omitted	137	Omitted		
33	Omitted	85	Omitted	138	Omitted		
34	Omitted	86	Omitted	139	Omitted		
35	Omitted	87	Omitted	140	Omitted		
36	Omitted	88	Omitted	141	90-529		
37	Omitted	89	Omitted	142	Omitted		
		90	Omitted	143	Omitted		

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2002 Second Special Session	2002 Cumulative Supplement	2002 Second Special Session	2002 Cumulative Supplement
LB 3	Omitted	LB 46	§ 1 77-2608
LB 4	§ 1 79-1022		2 Omitted
	2 Omitted		3 Omitted
	3 Omitted	LB 48	§ 1 33-106.03
LB 5	§ 1 79-1244		2 43-1906
	2 79-1201		3 71-612
	3 79-1241		4 71-617.15
	4 Omitted		5 71-627
LB 6	§ 1 79-1310		6 71-628
	2 81-1634		7 Omitted
	3 Omitted		8 Omitted
	4 Omitted	LB 49	§ 1 71-4728.04
LB 8	§ 1 68-1019		2 Omitted
	2 68-1020		3 Omitted
	3 68-1713		
	4 Omitted		
	5 Omitted		
LB 9	§ 1 44-32,180		
	2 44-4726		
	3 77-908		
	4 77-912		
	5 Omitted		
	6 Omitted		
LB 11	§ 1 47-119.01		
	2 47-121.01		
	3 Omitted		
	4 Omitted		
LB 12	§ 1 2-15,106		
	2 81-132		
	3 81-1113		
	4 81-2227		
	5 85-1416		
	6 Omitted		
	7 Omitted		
LB 13	§ 1 24-227.01		
	2 33-107.03		
	3 29-2709		
	4 Omitted		
	5 Omitted		
	6 Omitted		
LB 18	§ 1 60-311.01		
	2 Omitted		
	3 Omitted		
LB 22	§ 1 43-118.01		
	2 Omitted		
LB 25	§ 1 71-3204		
	2 71-3205		
	3 71-3209		
	4 Omitted		
	5 Omitted		
	6 Omitted		
LB 32	§ 1 77-2703		
	2 77-2705		
	3 77-2708		
	4 77-4014		
	5 Omitted		
	6 Omitted		
	7 Omitted		
LB 37	§ 1 86-324		
	2 Omitted		
	3 Omitted		
LB 41	Omitted		

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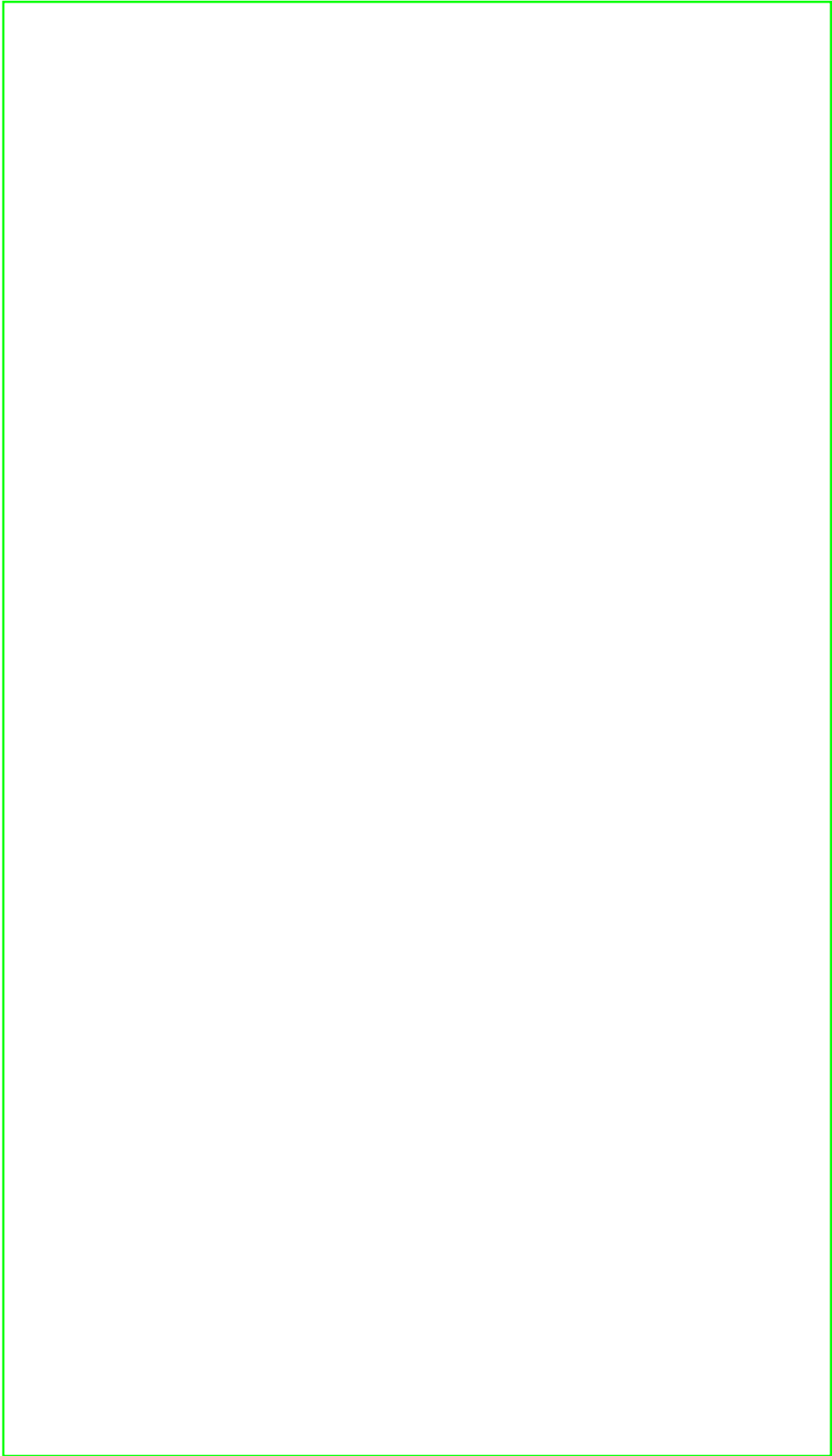
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CROSS REFERENCE TABLE

Legislative Bills, 97th Legislature
Second Special Session, 2002

Showing the date each act went into effect.
Convened July 30, 2002, and adjourned August 15, 2002.

LB No.	Effective Date	LB No.	Effective Date
1	August 16, 2002	18	August 16, 2002
2	August 16, 2002	22	November 16, 2002
3	August 16, 2002	25	October 1, 2002
4	August 16, 2002		(operative date)
5	November 16, 2002	32	October 1, 2002
6	August 16, 2002		(operative date)
8	August 16, 2002	37	August 16, 2002
9	August 16, 2002	41	August 16, 2002
11	August 16, 2002	46	August 16, 2002
12	August 16, 2002	48	November 16, 2002
13	September 1, 2002 (operative date)	49	August 16, 2002



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CROSS REFERENCE TABLE

2002 Session Laws of Nebraska, Third Special Session

2002 Third Special Session	2003 Supplement	2002 Third Special Session	2003 Supplement	2002 Third Special Session	2003 Supplement
LB 1	§ 1 28-105		8 29-2204		15 29-2523
	2 28-105.01		9 29-2261		16 29-2524
	3 28-303		10 29-2519		17 83-1,105.01
	4 29-1602		11 29-2520		18 Omitted
	5 29-1603		12 29-2521		19 Omitted
	6 29-2004		13 29-2521.05		20 Omitted
	7 29-2027		14 29-2522	LB 3	Omitted



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CROSS REFERENCE TABLE

Legislative Bills, 97th Legislature
Third Special Session, 2002

Showing the date each act went into effect.
Convened November 7, 2002, and adjourned November 22, 2002.

LB No.	Effective Date
1	November 23, 2002
3	November 23, 2002



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APPENDIX

CROSS REFERENCE TABLE

2003 Session Laws of Nebraska, First Session

2003 First Session	2003 Supplement	2003 First Session	2003 Supplement	2003 First Session	2003 Supplement
LB 1	Omitted		4 Omitted		4 23-3109
LB 2	§ 1 86-101	LB 15	§ 1 32-811		5 Omitted
	2 Omitted		2 Omitted	LB 43	§ 1 43-260.02
LB 3	§ 1 9-203	LB 17	§ 1 28-101		2 43-260.03
	2 9-303		2 28-322.04		3 43-260.04
	3 9-403		3 28-1349		4 43-260.05
	4 9-603		4 28-1350		5 43-260.06
	5 9-603.03		5 28-1018		6 43-260.07
	6 Omitted		6 28-635		7 23-1201
LB 4	§ 1 52-1302		7 28-603		8 28-101
	2 52-1307		8 28-604		9 28-457
	3 52-1313		9 29-215		10 29-2258
	4 52-1318		10 29-2315		11 29-3601
	5 52-1602		11 29-2315.01		12 43-250
	6 9-315 UCC		12 29-2316		13 43-274
	7 9-320 UCC		13 29-2317		14 43-276
	8 9-529 UCC		14 29-2319		15 43-290
	9 9-531 UCC		15 29-2320		16 43-2,129
	10 Omitted		16 29-2321		17 Omitted
LB 5	§ 1 3-201		17 29-3524	LB 45	§ 1 71-5709
	2 3-501		18 47-401		2 71-5713
	3 3-508		19 Omitted		3 Omitted
	4 3-513	LB 19	§ 1 25-304	LB 46	§ 1 28-416
	5 Omitted		2 25-1210		2 29-2639
LB 6	§ 1 44-4206.02		3 25-1601		3 29-2640
	2 44-5237.01		4 25-1625		4 29-2250
	3 44-5242		5 25-1628		5 29-2252
	4 44-6904		6 Omitted		6 29-2254
	5 44-6908		7 Omitted		7 29-2259.01
	6 Omitted	LB 30	§ 1 46-656.10		8 29-2261
LB 7	§ 1 85-121		2 Omitted		9 29-2262
	2 85-121.03		3 Omitted		10 29-2263
	3 85-943	LB 30A	Omitted		11 29-2266
	4 85-966.01	LB 31	§ 1 46-606		12 29-2262.06
	5 85-1412		2 46-1233.01		13 29-2262.07
	6 85-1413		3 71-5301		14 29-2269
	7 85-1414		4 71-5303		15 29-2709
	8 Omitted		5 71-5304		16 81-1423
	9 Omitted		6 71-5309		17 81-1425
LB 8	§ 1 77-913		7 Omitted		18 83-187.01
	2 81-1113		8 Omitted		19 83-1,102
	3 Omitted	LB 31A	Omitted		20 83-1,107
	4 Omitted	LB 34	§ 1 46-656.29		21 83-1,107.01
LB 9	§ 1 13-519		2 Omitted		22 83-1,107.02
	2 Omitted	LB 35	§ 1 46-656.30		23 83-1,110
LB 10	Omitted		2 Omitted		24 83-1,111
LB 11	Omitted	LB 40	§ 1 23-1723.01		25 83-1,118
LB 12	Omitted		2 Omitted		26 83-1,123
LB 14	§ 1 32-204	LB 41	§ 1 23-3104		27 83-1,125
	2 32-320		2 23-3107		28 83-1,135
	3 Omitted		3 23-3108		29 83-4,146

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2003 First Session	2003 Supplement	2003 First Session	2003 Supplement	2003 First Session	2003 Supplement			
	30	83-933	9	Omitted	2	85-106.06		
	31	47-619	10	Omitted	3	85-108		
	32	47-620	LB 60	§ 1	81-885.13	4	85-112	
	33	47-621		2	81-885.17	5	85-118	
	34	47-622		3	Omitted	6	85-131	
	35	47-623	LB 61	§ 1	76-1301	7	85-132	
	36	47-624		2	76-1302	8	85-194	
	37	47-625		3	76-1304	9	85-1,119	
	38	47-626		4	76-1305	10	Omitted	
	39	47-627		5	76-1306	11	Omitted	
	40	47-628		6	76-1307	LB 69	§ 1	55-181
	41	47-629		7	76-1308		2	55-101
	42	47-630		8	76-1309		3	Omitted
	43	47-631		9	76-1310	LB 69A		Omitted
	44	47-632		10	76-1313	LB 70	§ 1	52-1603
	45	47-633		11	76-1314		2	Omitted
	46	83-960		12	76-1315		3	Omitted
	47	83-961		13	Omitted	LB 71	§ 1	45-338
	48	83-962	LB 65	§ 1	70-1001.01		2	Omitted
	49	83-963		2	70-1014	LB 72	§ 1	77-2701
	50	83-1,135.02		3	70-1014.01		2	77-27,119.05
	51	Omitted		4	Omitted		3	77-27,119.06
	52	Omitted	LB 66	§ 1	79-1310		4	77-27,119.04
	53	Omitted		2	Omitted		5	2-107
	54	Omitted		3	Omitted		6	Omitted
	55	Omitted	LB 66A		Omitted	LB 72A		Omitted
	56	Omitted	LB 67	§ 1	10-704	LB 73	§ 1	81-6,111
	57	Omitted		2	79-101		2	81-6,112
LB 46A		Omitted		3	79-2,135		3	81-6,113
LB 48	§ 1	81-3602		4	79-4,102		4	81-6,114
	2	81-3606		5	79-527		5	81-6,115
	3	81-3601 to		6	79-528		6	81-6,116
		81-3609,		7	79-554		7	81-6,117
		revived		8	79-565		8	81-6,118
	4	Omitted		9	79-598		9	81-6,119
	5	Omitted		10	79-602		10	44-7,101
LB 52	§ 1	16-6,109		11	79-1007.02		11	44-1525
	2	19-2408		12	79-1022		12	Omitted
	3	19-2409		13	79-1023	LB 73A		Omitted
	4	19-2410		14	79-1024	LB 76	§ 1	17-966
	5	19-2411		15	79-1026		2	Omitted
	6	19-2414		16	79-1027	LB 83	§ 1	80-407
	7	19-2415		17	79-1027.01		2	Omitted
	8	Omitted		18	79-1028		3	Omitted
LB 53	§ 1	79-1241		19	79-1029	LB 84	§ 1	23-1201.01
	2	Omitted		20	79-1070		2	32-604
LB 54	§ 1	71-1904		21	79-1083.02		3	Omitted
	2	Omitted		22	79-1083.03		4	Omitted
	3	Omitted		23	79-10,110	LB 85	§ 1	8-105
LB 54A		Omitted		24	79-1135		2	44-119
LB 55	§ 1	71-507		25	79-1155		3	81-1316
	2	71-510		26	79-1156		4	81-1373
	3	71-511		27	79-1167		5	Omitted
	4	Omitted		28	79-1303		6	Omitted
LB 56	§ 1	71-2601		29	79-1305	LB 85A		Omitted
	2	71-2602		30	79-1306	LB 90	§ 1	22-112
	3	71-2603		31	79-1307		2	22-119
	4	71-2606		32	79-1324		3	22-171
	5	71-2607		33	Omitted		4	Omitted
	6	71-2610		34	Omitted		5	Omitted
	7	71-2610.01		35	Omitted	LB 92		Omitted
	8	71-2611	LB 68	§ 1	85-105	LB 93	§ 1	46-656.07

CROSS REFERENCE TABLE

2003 First Session	2003 Supplement	2003 First Session	2003 Supplement	2003 First Session	2003 Supplement
	2 Omitted	LB 95A	Omitted	4	30-3804
LB 94	§ 1 81-15,236	LB 97	§ 1 14-3,107	5	30-3805
	2 81-15,237		2 14-3,127	6	30-3806
	3 81-15,238		3 Omitted	7	30-3807
	4 81-15,239	LB 101	§ 1 39-1108	8	30-3808
	5 81-15,240		2 Omitted	9	30-3809
	6 81-15,241	LB 102	§ 1 60-106	10	30-3810
	7 81-15,242		2 Omitted	11	30-3811
	8 81-15,243	LB 102A	Omitted	12	30-3812
	9 81-15,244	LB 103	§ 1 60-6,294.01	13	30-3813
	10 81-15,245		2 Omitted	14	30-3814
	11 81-15,246	LB 106	§ 1 85-9,181	15	30-3815
	12 81-15,247		2 Omitted	16	30-3816
	13 81-15,248	LB 107	§ 1 85-1730	17	30-3817
	14 81-15,249		2 85-1738	18	30-3818
	15 81-15,250		3 Omitted	19	30-3819
	16 81-15,251		4 Omitted	20	30-3820
	17 81-15,252	LB 111	§ 1 28-813.01	21	30-3821
	18 81-15,253		2 Omitted	22	30-3822
	19 81-3453		3 Omitted	23	30-3823
	20 Omitted	LB 112	§ 1 81-1120.19	24	30-3824
LB 94A	Omitted		2 Omitted	25	30-3825
LB 95	§ 1 71-1355		3 Omitted	26	30-3826
	2 71-1356	LB 114	§ 1 50-114.03	27	30-3827
	3 71-1357		2 Omitted	28	30-3828
	4 71-1358	LB 118	§ 1 87-302	29	30-3829
	5 71-1359		2 Omitted	30	30-3830
	6 71-1360	LB 119	§ 1 71-1,104.01	31	30-3831
	7 71-1361		2 71-519	32	30-3832
	8 71-1362		3 Omitted	33	30-3833
	9 71-1363	LB 122	§ 1 37-438	34	30-3834
	10 71-1364		2 Omitted	35	30-3835
	11 71-1365	LB 126	§ 1 81-2101	36	30-3836
	12 71-1366		2 81-2102	37	30-3837
	13 71-1367		3 81-2103	38	30-3838
	14 71-1368		4 81-2104	39	30-3839
	15 71-1369		5 81-2106	40	30-3840
	16 71-1370		6 81-2107	41	30-3841
	17 71-1371		7 81-2108	42	30-3842
	18 71-1372		8 81-2113	43	30-3843
	19 71-1373		9 81-2114	44	30-3844
	20 71-1374		10 81-2117.02	45	30-3845
	21 71-1375		11 81-2118	46	30-3846
	22 71-1376		12 81-2119	47	30-3847
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	34 71-606		5 3-417 UCC	59	30-3859
	35 71-1301		6 4-207 UCC	60	30-3860
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	37 71-1340		8 Omitted	62	30-3862
	38 71-20,121	LB 130	§ 1 30-3801	63	30-3863
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	40 Omitted		3 30-3803	65	30-3865

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68	30-3868	130	30-2628		2 13-2003
69	30-3869	131	30-2637		3 13-2013.01
70	30-3870	132	30-2646		4 13-2013.02
71	30-3871	133	30-3119		5 13-2033
72	30-3872	134	30-3201		6 13-2039
73	30-3873	135	30-3205		7 13-2040
74	30-3874	136	30-3508		8 13-2042
75	30-3875	137	49-1544		9 81-1504.01
76	30-3876	138	76-2004		10 81-15,159.02
77	30-3877	139	76-2006		11 81-15,160
78	30-3878	140	Omitted		12 81-15,161
79	30-3879	141	Omitted		13 81-15,162
80	30-3880	142	Omitted		14 Omitted
81	30-3881	143	Omitted		15 Omitted
82	30-3882	LB 131	§ 1 8-101	LB 143A	Omitted
83	30-3883		2 8-102	LB 146	§ 1 44-2825
84	30-3884		3 8-103		2 44-2827
85	30-3885		4 8-157.01		3 44-2829
86	30-3886		5 8-1,139		4 44-2831
87	30-3887		6 8-345.01		5 44-2840
88	30-3888		7 8-601		6 44-2842
89	30-3889		8 8-602		7 25-21,188.02
90	30-3890		9 8-1110		8 Omitted
91	30-3891		10 8-1401	LB 148	§ 1 43-1226
92	30-3892		11 8-1501		2 43-1227
93	30-3893		12 8-1502		3 43-1228
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101	30-38,101		20 12-1107		11 43-1236
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104	30-38,104		23 21-20,162		14 43-1239
105	30-38,105		24 28-612		15 43-1240
106	30-38,106		25 45-101.04		16 43-1241
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110	30-38,110		29 45-702		20 43-1245
111	8-201		30 45-1002		21 43-1246
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40	43-1265	102	Omitted	40	54-2740
41	43-1266	103	Omitted	41	54-2741
42	42-351	104	Omitted	42	54-2742
43	42-701	105	Omitted	43	54-2743
44	42-702	LB 149	§ 1 72-1244	44	54-2744
45	42-704		2 72-1248	45	54-2745
46	42-705		3 72-1252	46	54-2746
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49	42-710		6 83-133	49	54-2749
50	42-711		7 Omitted	50	54-2750
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54	42-713.02	LB 156	§ 1 8-1401	54	54-2754
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60	42-720		3 2-4324	60	54-2760
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96	42-938		34 54-2734		6 89-188
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	2 71-3524		5 17-1002	9	60-4,118.06
	3 71-3525		6 18-2432	10	60-4,129
	4 71-3526		7 39-1311	11	60-6,196
	5 71-3527		8 39-1311.01	12	60-6,197
	6 71-3528		9 39-1311.02	13	60-6,209
	7 18-2410		10 39-1311.03	14	60-6,211.04
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	9 18-2430		12 70-604.06	16	60-1513
	10 18-2433		13 70-1016	17	83-1,129
	11 18-2446		14 75-116	18	84-205
	12 70-627.02		15 75-117	19	84-221
	13 Omitted		16 75-121	20	84-913.03
	14 Omitted		17 75-128	21	Omitted
	15 Omitted		18 75-132.01	22	Omitted
LB 165A	Omitted		19 75-134	23	Omitted
LB 167	§ 1 35-108		20 75-134.01	24	Omitted
	2 Omitted		21 75-136	LB 209A	Omitted
	3 Omitted		22 75-156	LB 210	§ 1 48-106
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	2 77-2704.43		24 75-903	3	Omitted
	3 Omitted		25 75-1008	LB 213	§ 1 71-1773
	4 Omitted		26 86-123	2	71-1774
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	2 72-1261		29 86-442	5	71-1779
	3 72-1262		30 86-470	6	71-1780
	4 72-1263		31 86-457	7	Omitted
	5 72-1264		32 86-578	LB 214	§ 1 1-114
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	10 72-1268.02		37 Omitted	6	1-135
	11 72-1268.03	LB 191	§ 1 77-1601	7	1-136
	12 72-1268.04		2 Omitted	8	Omitted
	13 77-2365.01	LB 192	§ 1 77-3510	9	Omitted
	14 77-2387		2 77-3512	LB 216	§ 1 44-113
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LB 181	§ 1 32-101	LB 195	§ 1 48-606	5	44-501
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	5 Omitted	LB 209	§ 1 60-462	19	44-7508.01
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	25	Omitted	11	45-716	8	60-3001	
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	2	8-115.01	13	45-1007	LB 241	§ 1	71-1559
	3	8-116.01	14	45-1024	2	71-4604.01	
	4	8-132	15	45-1025	3	Omitted	
	5	8-133	16	45-1033	LB 242	§ 1	11-201
	6	8-148	17	45-1066	2	28-406	
	7	8-157	18	76-252	3	28-410	
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	10	8-234	LB 219	§ 1	2-3745	6	46-606
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	13	8-378	4	Omitted	9	46-1229	
	14	8-602	LB 222	§ 1	23-1721	10	46-1231
	15	8-701	2	23-1723	11	46-1236	
	16	8-815	3	23-1723.01	12	69-305	
	17	8-916	4	23-1725	13	71-101	
	18	8-1001	5	23-1726	14	71-110	
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	20	8-1003	7	23-1729	16	71-121.01	
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	22	8-1013	9	23-1731	18	71-131	
	23	8-1103	10	23-1732	19	71-145	
	24	8-1120	11	23-1734	20	71-149	
	25	8-1503	12	23-1736	21	71-157	
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	29	8-1731	2	42-1202	25	71-162.02	
	30	21-1725.01	3	42-1203	26	71-162.03	
	31	21-17,102	4	42-1204	27	71-162.04	
	32	21-17,115	5	42-1205	28	71-162.05	
	33	45-191.02	6	42-1206	29	71-164.01	
	34	45-335	7	42-1207	30	71-163	
	35	45-343	8	42-1208	31	71-172.01	
	36	45-345	9	42-1209	32	71-172.02	
	37	45-902	10	42-1210	33	71-175	
	38	45-1002	11	32-331	34	71-185	
	39	45-1003	12	60-484	35	71-185.02	
	40	45-1018	13	60-4,144	36	71-185.03	
	41	59-1701.01	14	60-4,181	37	71-193.18	
	42	59-1703	15	84-907.03	38	71-193.31	
	43	59-1749	16	Omitted	39	71-1,104	
	44	59-1722.01	LB 228A	Omitted	40	71-1,107.10	
	45	59-1758.01	LB 233	§ 1	54-626	41	71-1,107.13
	46	76-2,123	2	54-627	42	71-1,107.14	
	47	Omitted	3	Omitted	43	71-1,107.26	
	48	Omitted	4	Omitted	44	71-1,132.13	
	49	Omitted	LB 233A	Omitted	45	71-1,132.20	
	50	Omitted	LB 234	§ 1	81-3109	46	71-1,132.21
	51	Omitted	2	Omitted	47	71-1,132.37	
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	2	45-704	LB 235	§ 1	14-548	49	71-1,132.53
	3	45-705	2	Omitted	50	71-1,135.02	
	4	45-706	LB 238	§ 1	60-105	51	71-1,143.01
	5	45-707	2	60-106	52	71-1,147.30	
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	7	45-710	4	60-320	54	71-1,147.64	

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57	71-1,165	119	71-3705	6	79-2,128
58	71-1,166	120	71-3708	7	79-2,131
59	71-1,194	121	71-3710	8	79-2,132
60	71-1,195.01	122	71-3712	9	79-2,133
61	71-1,227	123	71-4305	10	79-2,134
62	71-1,228	124	71-4706	11	Omitted
63	71-1,232	125	71-4708	12	Omitted
64	71-1,235	126	71-4711	13	Omitted
65	71-1,238	127	71-4714.01	LB 250 § 1	2-3512
66	71-1,239.01	128	71-5172	2	2-3520
67	71-1,240	129	71-5181.01	3	81-2,239
68	71-1,242	130	71-5306	4	81-2,244.01
69	71-1,278	131	71-5308	5	81-2,245.01
70	71-1,281.01	132	71-6053	6	81-2,257
71	71-1,291	133	71-6054	7	81-2,263
72	71-1,294	134	71-6055	8	81-2,270
73	71-1,314.01	135	71-6060	9	81-2,272.10
74	71-1,319.01	136	71-6061	10	81-2,272.15
75	71-1,320	137	71-6063	11	81-2,272.19
76	71-1,322	138	71-6101	12	81-2,272.20
77	71-1,327	139	71-6106	13	81-2,272.21
78	71-1,329	140	71-6107	14	81-2,272.23
79	71-1,331	141	71-6110	15	81-2,272.24
80	71-1,344	142	71-6113	16	81-2,272.25
81	71-1,345	143	71-6114	17	81-2,272.27
82	71-388	144	71-6303	18	81-2,272.28
83	71-394.01	145	71-6321	19	81-2,272.31
84	71-397	146	71-6328.01	20	81-2,272.29
85	71-3,115	147	71-6734	21	81-2,272.30
86	71-3,125	148	71-7417	22	81-2,272.32
87	71-3,132	149	71-7418	23	81-2,272.33
88	71-3,147	150	71-7420	24	81-2,272.34
89	71-3,155	151	71-7421	25	81-2,272.35
90	71-3,173	152	Omitted	26	81-2,272.36
91	71-3,184	153	Omitted	27	81-2,272.37
92	71-3,196	154	Omitted	28	Omitted
93	71-3,205	LB 243 § 1	2-1203	29	Omitted
94	71-3,214	2	Omitted	30	Omitted
95	71-3,221	LB 245 § 1	28-405	LB 255 § 1	25-2930
96	71-3,228	2	29-4125	2	25-2931
97	71-1304	3	43-1723	3	25-2932
98	71-1327	4	43-3313	4	25-2933
99	71-1327.01	5	43-3329	5	25-2934
100	71-1331	6	46-602	6	25-2935
101	71-1722	7	46-1204.01	7	25-2936
102	71-1723	8	46-1235	8	25-2937
103	71-1724	9	54-311	9	25-2938
104	71-1725.01	10	54-315	10	25-2939
105	71-1730	11	71-155.01	11	25-2940
106	71-1735	12	71-176.01	12	25-2941
107	71-1755	13	71-1,143.01	13	25-2942
108	71-1757	14	71-1,166	14	Omitted
109	71-1777	15	71-1,233	LB 257 § 1	84-1204
110	71-1778	16	81-1316	2	84-1227
111	71-1787	17	Omitted	3	Omitted
112	71-2803.01	18	Omitted	LB 258 § 1	1-135
113	71-2819	19	Omitted	2	Omitted
114	71-3508.03	LB 249 § 1	79-235	LB 259 § 1	74-1336
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116	71-3702	3	79-2,126	3	74-1415.05

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	2 71-3205	39	77-2701.35		3 77-1510
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	2 28-101	42	77-2701.38		6 77-5005
	3 28-1005	43	77-2701.39		7 77-5011
	4 28-1008	44	77-2701.40		8 77-5015
	5 28-1009	45	77-2701.41		9 77-5016
	6 28-1013	46	77-2701.42		10 77-5021
	7 28-1014	47	77-2701.43		11 77-5024.01
	8 28-1015	48	77-2703		12 77-5022
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	10 Omitted	50	77-2703.02		14 Omitted
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	2 54-626	52	77-2703.04		2 60-3006
	3 54-627	53	77-2704.09		3 77-101
	4 54-637	54	77-2704.10		4 77-112
	5 54-638	55	77-2704.13		5 77-115
	6 54-639	56	77-2704.14		6 77-126
	7 54-640	57	77-2704.24		7 77-129
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	7 77-2701.03	69	77-2704.54		19 Omitted
	8 77-2701.04	70	77-2705		20 Omitted
	9 77-2701.05	71	77-2708		21 Omitted
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	11 77-2701.07	73	77-2711		2 Omitted
	12 77-2701.08	74	77-2712.02	LB 295	§ 1 77-112
	13 77-2701.09	75	77-2712.03		2 77-1361
	14 77-2701.10	76	77-2712.04		3 77-1371
	15 77-2701.11	77	77-2712.05		4 Omitted
	16 77-2701.12	78	77-2713	LB 305	§ 1 37-201
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	25	37-1256	12	60-150	20	32-909
	26	37-1273	13	60-151	21	32-913
	27	Omitted	14	60-152	22	32-914
	28	Omitted	15	60-153	23	32-914.02
	29	Omitted	16	60-154	24	32-915
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	31	Omitted	18	60-156	26	32-916
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	2	37-415	20	60-158	28	32-921
	3	37-426	21	60-159	29	32-929
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	23	Omitted		2	3	32-319
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	2	77-1833		7	2	16-404
	3	77-1834		8	3	17-614
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	5	Omitted		10	LB 367	§ 1
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	4	Omitted	LB 358	§ 1	LB 371	§ 1
	5	Omitted		2	2	60-1438
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	6	81-188.03	LB 440	§ 1	18-2603	37	Omitted	
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	11	Omitted		6	Omitted	LB 464	§ 1	21-1931
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	11	81-3106	12	39-2309	10	79-10,110		
	12	81-3107	13	39-2310	11	85-1536.01		
	13	81-3201	14	39-2311	12	Omitted		
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	6	44-7706		10	21-321		19	60-4,172
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24	66-1824	LB 799	§ 1 80-401.01
25	66-1825		2 Omitted
26	66-1826		3 Omitted
27	66-1827	LB 804	§ 1 37-1015
28	66-1828		2 Omitted
29	66-1829	LB 806	Omitted
30	66-1830		
31	66-1831		
32	66-1832		
33	66-1833		
34	66-1834		
35	66-1835		
36	66-1836		
37	66-1837		
38	66-1838		
39	66-1839		
40	66-1840		
41	66-1841		
42	66-1842		
43	66-1843		
44	66-1844		
45	66-1845		
46	66-1846		
47	66-1847		
48	66-1848		
49	66-1849		
50	66-1850		
51	66-1851		
52	66-1852		
53	66-1853		
54	66-1854		
55	66-1855		
56	66-1856		
57	66-1857		
58	57-705		
59	59-1617		
60	75-101		
61	75-102		
62	75-109		
63	75-109.01		
64	75-110.01		



APPENDIX

APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, 98th Legislature
First Session, 2003

Showing the date each act went into effect.
The Ninety-eighth Session of the Legislature adjourned
May 30, 2003.

LB No.	Effective Date	LB No.	Effective Date
1	August 31, 2003	60	August 31, 2003
2	August 31, 2003	61	August 31, 2003
3	August 31, 2003	65	August 31, 2003
4	August 31, 2003	66	May 29, 2003
5	August 31, 2003	66A	May 29, 2003
6	August 31, 2003	67	January 31, 2003
7	August 31, 2003	68	August 31, 2003
8	August 31, 2003	69	August 31, 2003
9	August 31, 2003	69A	August 31, 2003
10	August 31, 2003	70	February 4, 2003
11	August 31, 2003	71	August 31, 2003
12	August 31, 2003	72	August 31, 2003
14	February 21, 2003	72A	August 31, 2003
15	August 31, 2003	73	August 31, 2003
17	August 31, 2003	73A	August 31, 2003
19	August 31, 2003	76	August 31, 2003
30	March 21, 2003	83	February 21, 2003
30A	August 31, 2003	84	March 4, 2003
31	January 1, 2004 (operative date)	85	March 4, 2003
31A	August 31, 2003	85A	March 4, 2003
34	August 31, 2003	90	January 1, 2004 (operative date)
35	August 31, 2003	92	July 1, 2003 (operative date)
40	August 31, 2003	93	August 31, 2003
41	August 31, 2003	94	August 31, 2003
43	August 31, 2003	94A	August 31, 2003
45	August 31, 2003	95	August 31, 2003
46	Sections 2 to 4, 6, 27, 30, 53, and 55 of this act become operative when thirty-five states have adopted the Interstate Compact for Adult Offender Supervision. Sections 12, 13, 21, and 22 of this act become operative on July 1, 2003. The other sections of this act become operative on May 24, 2003.	95A	August 31, 2003
46A	May 24, 2003	97	August 31, 2003
48	May 31, 2003	101	August 31, 2003
52	August 31, 2003	102	August 31, 2003
53	August 31, 2003	102A	August 31, 2003
54	March 21, 2003	103	August 31, 2003
54A	March 21, 2003	106	August 31, 2003
55	August 31, 2003	107	March 21, 2003
56	October 1, 2003 (operative date)	111	April 17, 2003
		112	May 1, 2003
		114	August 31, 2003
		118	August 31, 2003
		119	August 31, 2003
		122	August 31, 2003
		126	March 4, 2003
		127	August 31, 2003
		128	August 31, 2003
		130	January 1, 2005

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LB No.	Effective Date	LB No.	Effective Date
	(operative date)		2003.
131	August 31, 2003	218	August 31, 2003
137	February 4, 2003	219	March 21, 2003
138	August 31, 2003	222	August 31, 2003
142	August 31, 2003	228	August 31, 2003
143	August 31, 2003	228A	August 31, 2003
143A	August 31, 2003	233	April 17, 2003
146	August 31, 2003	233A	April 17, 2003
148	January 1, 2004	234	January 1, 2004
	(operative date)		(operative date)
149	August 31, 2003	234A	August 31, 2003
150	August 31, 2003	235	August 31, 2003
156	August 31, 2003	238	August 31, 2003
157	August 31, 2003	241	August 31, 2003
158	Sections 1 to 61 of this act become operative on January 1, 2004. The other sections of this act become operative on March 21, 2003.	242	July 1, 2004
			(operative date)
160	August 31, 2003	243	August 31, 2003
161	March 21, 2003	245	January 1, 2004
164	August 31, 2003		(operative date)
164A	August 31, 2003	249	May 29, 2003
165	August 31, 2003	250	April 17, 2003
	(operative date)	255	August 31, 2003
165A	August 31, 2003	257	August 31, 2003
167	October 1, 2003	258	August 31, 2003
	(operative date)	259	August 31, 2003
168	July 1, 2003	267	August 31, 2003
	(operative date)	273	August 31, 2003
175	August 31, 2003	274	August 31, 2003
181	August 31, 2003	281	February 21, 2003
182	August 31, 2003	282	Sections 74 to 77, 84, and 85 of this act become operative on August 31, 2003. The other sections of this act become operative on January 1, 2004.
185	January 1, 2004		
	(operative date)	283	Sections 2 and 6 of this act become operative on January 1, 2003. The other sections of this act become operative on July 1, 2003.
186	August 31, 2003		
187	Sections 14, 17, 23, 24, 33, and 35 of this act become operative on January 1, 2004. The other sections of this act become operative on August 31, 2003.	285	October 1, 2003
			(operative date)
191	August 31, 2003	285A	May 31, 2003
192	August 31, 2003	291	April 3, 2003
194	August 31, 2003	292	Sections 15, 17 to 19, and 21 of this act become operative on July 1, 2003. The other sections of this act become operative on August 31, 2003.
195	August 31, 2003		
197	May 1, 2003	294	August 31, 2003
199	August 31, 2003	295	August 31, 2003
200	August 31, 2003	305	Sections 1, 3 to 19, 24, and 28 of this act become operative on August 31, 2003. Sections 2, 20, 21, 25, 26, and 29 of this act become operative on June 1, 2003. The other sections of this act become operative on May 14, 2003.
205	August 31, 2003		
209	Sections 1 to 15, 17, 18, 20, and 22 of this act become operative on October 1, 2003. The other sections of this act become operative on May 30, 2003.	306	July 1, 2004
			(operative date)
209A	May 30, 2003	307	August 31, 2003
210	August 31, 2003	319	April 3, 2003
213	August 31, 2003	320	May 30, 2003
214	March 4, 2003	331	August 31, 2003
216	August 31, 2003		
217	Sections 1 to 8, 10, 12 to 31, 33 to 46, 49, and 50 of this act become operative on August 31, 2003. The other sections of this act become operative on March 4,		

CROSS REFERENCE TABLE

LB No.	Effective Date	LB No.	Effective Date
332	May 1, 2003		
333	August 31, 2003		
333A	August 31, 2003	524	Sections 20 to 22 of this act become operative on August 31, 2003. The other sections of this act become operative on January 1, 2004.
349	August 31, 2003		
354	August 31, 2003		
357	April 17, 2003		
357A	April 17, 2003	536	August 31, 2003
358	August 31, 2003	537	August 31, 2003
359	August 31, 2003	540	May 28, 2003
365	August 31, 2003	548	August 31, 2003
367	October 1, 2003 (operative date)	561	April 3, 2003
371	August 31, 2003	562	August 31, 2003
381	October 1, 2003 (operative date)	562A	August 31, 2003
381A	August 31, 2003	563	August 31, 2003
385	August 31, 2003	572	May 30, 2003
394	July 1, 2003 (operative date)	574	Sections 21 and 43 of this act become operative on July 1, 2003. The other sections of this act become operative on May 30, 2003.
402	May 27, 2003		
403	May 27, 2003	574A	May 30, 2003
403A	May 27, 2003	596	August 31, 2003
404	July 1, 2003 (operative date)	607	August 31, 2003
405	July 1, 2003 (operative date)	608	January 1, 2004 (operative date)
406	July 1, 2003 (operative date)	608A	August 31, 2003
407	July 1, 2003 (operative date)	610	August 31, 2003
408	May 27, 2003	619	April 17, 2003
410	July 1, 2003 (operative date)	622	May 31, 2003
411	May 27, 2003	626	August 31, 2003
412	July 1, 2003 (operative date)	626A	August 31, 2003
414	July 1, 2003 (operative date)	643	January 1, 2004 (operative date)
415	July 1, 2003 (operative date)	655	August 31, 2003
418	August 31, 2003	667	August 31, 2003
424	July 1, 2003 (operative date)	667A	August 31, 2003
429	April 3, 2003	685	May 27, 2003
430	August 31, 2003	688	August 31, 2003
440	July 1, 2003 (operative date)	701	August 31, 2003
443	August 31, 2003	707	August 31, 2003
444	August 31, 2003	720	August 31, 2003
451	April 17, 2003	721	August 31, 2003
461	August 31, 2003	724	August 31, 2003
464	August 31, 2003	726	August 31, 2003
467	August 31, 2003	735	August 31, 2003
476	August 31, 2003	735A	August 31, 2003
480	August 31, 2003	754	August 31, 2003
481	August 31, 2003	756	September 15, 2003
487	August 31, 2003	756A	August 31, 2003
494	August 31, 2003	759	Sections 10, 13, 16, 19, 20, and 27 of this act become operative on January 1, 2004. The other sections of this act become operative on October 1, 2003.
498	August 31, 2003		
500	January 1, 2004 (operative date)	759A	August 31, 2003
510	August 31, 2003	760	May 24, 2003
513	August 31, 2003	760A	May 24, 2003
521	August 31, 2003	790	May 31, 2003
		790A	May 31, 2003
		796	May 27, 2003
		798	May 27, 2003
		799	May 27, 2003
		804	August 31, 2003
		806	May 27, 2003



APPENDIX

APPENDIX

CROSS REFERENCE TABLE

2004 Session Laws of Nebraska, Second Session

2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement
LB 16	§ 1 21-2204		2 25-21,279	LB 355	§ 1 77-2716.01
	2 21-2209		3 29-119		2 Omitted
	3 21-2607		4 81-1423		3 Omitted
	4 21-2631		5 81-1801.01		4 Omitted
	5 21-2639		6 81-1841	LB 382	§ 1 48-212
	6 67-454		7 81-1840.01		2 Omitted
	7 67-456		8 81-1844	LB 439	§ 1 72-2201
	8 67-458		9 81-1844.01		2 72-2202
	9 Omitted		10 81-1845		3 72-2203
LB 75	§ 1 23-1701.01		11 81-1848		4 72-2204
	2 Omitted		12 81-1848.01		5 72-2205
LB 155	§ 1 44-1984		13 81-1848.02		6 72-2206
	2 44-1993		14 81-1848.03		7 72-2207
	3 44-19,106		15 81-1849		8 72-2208
	4 44-19,116		16 81-1850		9 72-2209
	5 44-19,120.01		17 81-1851		10 72-2210
	6 76-238		18 Omitted		11 72-2211
	7 Omitted	LB 279	§ 1 60-308		12 72-2212
	8 Omitted		2 60-311		13 72-2213
LB 172	Omitted		3 60-320		14 72-2214
LB 208	§ 1 28-306		4 Omitted		15 81-188.01
	2 28-394	LB 279A	Omitted		16 81-188.02
	3 29-3605	LB 297	§ 1 83-1202.01		17 81-1107
	4 60-484		2 83-1209		18 81-1108.15
	5 60-498.01		3 83-1216		19 81-1108.17
	6 60-498.02		4 83-1217		20 81-1108.18
	7 60-4,144		5 83-1219		21 81-1108.20
	8 60-601		6 83-1224		22 81-1108.22
	9 60-6,108		7 Omitted		23 81-1108.23
	10 60-6,196		8 Omitted		24 81-1108.31
	11 60-6,197	LB 315	§ 1 33-133		25 81-1108.32
	12 60-6,197.02		2 64-101		26 81-1108.38
	13 60-6,197.03		3 64-101.01		27 81-1108.50
	14 60-6,197.04		4 64-102		28 81-1108.51
	15 60-6,197.05		5 64-103		29 81-1108.52
	16 60-6,197.06		6 64-105		30 81-1108.53
	17 60-6,197.07		7 64-105.01		31 81-2004
	18 60-6,197.08		8 64-105.02		32 Omitted
	19 60-6,209		9 64-105.03		33 Omitted
	20 60-6,210		10 64-105.04		34 Omitted
	21 60-6,211.04		11 64-113	LB 439A	Omitted
	22 60-6,211.05		12 64-210	LB 449	§ 1 81-1505
	23 83-1,129		13 Omitted		2 81-1505.06
	24 Omitted		14 Omitted		3 81-1532
LB 227	§ 1 60-6,265	LB 323	§ 1 23-272		4 81-15,181
	2 60-6,267		2 32-608		5 81-15,182
	3 60-6,268		3 Omitted		6 81-15,183
	4 Omitted		4 Omitted		7 81-15,186.01
LB 236	§ 1 84-712.05		5 Omitted		8 81-15,184
	2 Omitted	LB 353	§ 1 60-4,125		9 81-15,185
LB 270	§ 1 28-112		2 Omitted		10 81-15,185.01

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2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement
	11 81-15,185.02	LB 559	§ 1 60-484		2 81-3445
	12 81-15,185.03		2 60-493		3 81-3449
	13 81-15,186		3 60-494		4 81-3451
	14 81-15,248		4 60-4,144		5 81-3453
	15 Omitted		5 60-4,181		6 Omitted
LB 449A	Omitted		6 60-2907		7 Omitted
LB 454	§ 1 24-1301		7 71-4822		8 Omitted
	2 24-1302		8 71-4823	LB 599A	Omitted
LB 479	§ 1 66-482		9 Omitted	LB 613	§ 1 29-4301
	2 66-1330		10 Omitted		2 29-4302
	3 66-1345.05		11 Omitted		3 29-4303
	4 66-1333	LB 559A	Omitted		4 29-4304
	5 66-1344	LB 560	§ 1 13-910		5 28-323
	6 66-1344.01		2 30-24,125		6 29-404.02
	7 66-1345		3 37-1201		7 29-439
	8 66-1345.01		4 37-1291		8 29-440
	9 77-4104.01		5 37-1292		9 29-4401
	10 77-5536		6 37-1293		10 29-4402
	11 Omitted		7 37-1294		11 29-4305
	12 Omitted		8 37-1295		12 42-903
	13 Omitted		9 37-1296		13 Omitted
LB 485	§ 1 9-329.03		10 37-1297	LB 625	§ 1 20-326
	2 53-101		11 37-1298		2 20-330
	3 53-103		12 37-1299		3 Omitted
	4 53-116.01		13 37-12,100		4 Omitted
	5 53-116.02		14 37-12,101	LB 644	§ 1 77-202.13
	6 53-117		15 37-12,102	LB 644A	Omitted
	7 53-119.01		16 37-12,103	LB 692	§ 1 25-21,211
	8 53-122		17 37-12,104		2 Omitted
	9 53-123		18 37-12,105	LB 727	§ 1 32-939
	10 53-123.02		19 37-12,106		2 Omitted
	11 53-123.03		20 37-12,107	LB 740	§ 1 60-110
	12 53-123.04		21 37-12,108		2 Omitted
	13 53-123.13		22 37-12,109	LB 810	Omitted
	14 53-123.15		23 37-12,110	LB 811	§ 1 77-3901
	15 53-124		24 60-106		2 Omitted
	16 53-124.02		25 60-108		3 Omitted
	17 53-124.12		26 60-110	LB 812	§ 1 60-6,347
	18 53-124.14		27 60-111.01		2 Omitted
	19 53-129		28 60-129	LB 813	§ 1 10-505
	20 53-131		29 60-139		2 12-522
	21 53-132		30 60-301		3 15-813
	22 53-133		31 60-302.05		4 19-3005
	23 53-134		32 60-308		5 19-3006
	24 53-134.03		33 60-311.01		6 19-3007.01
	25 53-134.04		34 60-311.02		7 19-3037
	26 53-135		35 60-364		8 23-1802
	27 53-138.03		36 60-462.01		9 23-1809
	28 53-168		37 60-483		10 30-2329
	29 53-179		38 60-484.02		11 30-3408
	30 53-1,115		39 60-6,324		12 31-324
	31 Omitted		40 60-1805		13 31-331
	32 Omitted		41 60-1901		14 31-333
	33 Omitted		42 60-1904		15 32-812
LB 485A	Omitted		43 60-1907		16 32-934
LB 499	§ 1 66-1850		44 81-8,219		17 32-1040
	2 Omitted		45 Omitted		18 32-1401
	3 Omitted		46 Omitted		19 32-1402
LB 514	§ 1 81-2017		47 Omitted		20 49-218
	2 Omitted		48 Omitted		21 49-1522
	3 Omitted	LB 560A	Omitted		22 49-1559
	4 Omitted	LB 599	§ 1 2-3256		23 53-135.01

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2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement
	24 53-1,108		43 85-1502	LB 868	§ 1 79-201
	25 54-403		44 86-327		2 25-21,280
	26 57-202		45 86-413		3 84-712.05
	27 58-525		46 Omitted		4 Omitted
	28 76-1004	LB 824	§ 1 3-104		5 Omitted
	29 76-1007		2 Omitted	LB 869	§ 1 2-945.01
	30 76-1008	LB 826	§ 1 37-201		2 2-953
	31 76-1012		2 37-706.01		3 2-954
	32 77-1819		3 37-706		4 2-958.01
	33 77-1839		4 37-707		5 2-958.02
	34 77-3204		5 37-708.01		6 2-958
	35 Omitted		6 Omitted		7 2-10,117
LB 818	§ 1 71-702		7 Omitted		8 81-201
	2 Omitted	LB 826A	Omitted		9 81-201.05
LB 819	§ 1 81-1114.02	LB 832	§ 1 81-15,173		10 Omitted
	2 Omitted		2 81-15,175	LB 878	§ 1 75-363
LB 820	§ 1 32-1303		3 81-15,176		2 75-364
	2 32-1306		4 Omitted		3 Omitted
	3 Omitted	LB 835	§ 1 81-2,165		4 Omitted
	4 Omitted		2 81-2,166	LB 884	§ 1 2-1201
LB 821	§ 1 2-101		3 81-2,167		2 3-103
	2 2-238		4 81-2,170		3 8-104
	3 2-261		5 81-2,171		4 8-105
	4 13-2515		6 81-2,173		5 8-197
	5 13-2517		7 81-2,174		6 8-1,101
	6 13-2801		8 Omitted		7 9-807
	7 13-2812		9 Omitted		8 11-119
	8 16-1037	LB 836	§ 1 2-3948		9 11-121
	9 25-2937		2 2-3951		10 11-201
	10 28-731		3 2-3951.01		11 11-201.01
	11 39-1108		4 2-3951.02		12 11-202
	12 46-2,120		5 2-3951.03		13 25-2101
	13 50-307		6 2-3951.04		14 25-21,207
	14 58-230		7 Omitted		15 25-21,218
	15 66-1619		8 Omitted		16 32-561
	16 71-121		9 Omitted		17 32-602
	17 71-3406	LB 837	§ 1 54-2280		18 37-110
	18 71-5176		2 Omitted		19 37-431
	19 71-5705		3 Omitted		20 48-158
	20 71-6224	LB 841	§ 1 77-2704.12		21 48-609
	21 72-1704		2 68-1801		22 48-618
	22 74-1308		3 68-1802		23 48-721
	23 77-5005		4 68-1803		24 48-804.03
	24 79-317		5 68-1804		25 53-109
	25 79-554		6 68-1805		26 54-191
	26 79-560		7 68-1806		27 55-123
	27 79-561		8 68-1807		28 55-126
	28 79-814.01		9 68-1808		29 55-127
	29 79-832		10 68-1809		30 55-150
	30 79-1239		11 Omitted		31 57-917
	31 81-1505.03		12 Omitted		32 60-1303
	32 81-15,217		13 Omitted		33 60-1502
	33 81-1712		14 Omitted		34 71-222.01
	34 84-1407	LB 841A	Omitted		35 72-1241
	35 84-1408	LB 845	§ 1 76-1708		36 77-366
	36 84-1409		2 76-1711		37 77-703
	37 84-1410		3 76-1734		38 80-401.02
	38 84-1411		4 81-885.55		39 81-111
	39 84-1412		5 Omitted		40 81-151
	40 84-1414	LB 846	§ 1 60-311.14		41 81-8,128
	41 84-1502		2 Omitted		42 81-8,141
	42 85-104		3 Omitted		43 81-1108.14

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2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement
	44	81-2002	23	71-3,100	LB 927 § 1 32-404
	45	83-128	24	71-3,105	2 Omitted
	46	83-139	25	71-385.02	3 Omitted
	47	84-106	26	71-3,119.02	LB 936 § 1 51-213
	48	84-206	27	71-3,119.03	2 Omitted
	49	84-314	28	71-3,106	LB 937 § 1 16-696
	50	84-502	29	71-3,169	2 Omitted
	51	84-505	30	71-3,170	LB 939 § 1 13-501
	52	84-718	31	71-3,174	2 13-513
	53	84-801	32	71-3,177	3 13-804
	54	Omitted	33	71-3,179	4 13-2504
LB 888	§ 1	72-804	34	71-3,236	5 Omitted
	2	72-805	35	71-3,237	LB 940 § 1 43-260
	3	72-806	36	71-3,238	2 81-8,271.01
	4	81-1608	37	Omitted	3 Omitted
	5	81-1609		Omitted	4 Omitted
	6	81-1611	LB 906A		5 Omitted
	7	81-1613	LB 911	§ 1	60-529
	8	81-1614		2	Omitted
	9	81-1615	LB 914	§ 1	81-2102
	10	81-1616		2	81-2108
	11	81-1617		3	81-2109
	12	81-1618		4	81-2113
	13	81-1620		5	81-2118
	14	81-1622		6	81-2121
	15	81-1625		7	81-2124
	16	Omitted		8	Omitted
	17	Omitted	LB 914A		Omitted
	18	Omitted	LB 915	§ 1	84-902
LB 890	§ 1	81-3501		2	Omitted
	2	81-3503	LB 916	§ 1	13-2042
	3	81-3509.01		2	46-241
	4	81-3527		3	46-257
	5	81-3529		4	54-744.01
	6	81-3539		5	54-2416
	7	81-3540		6	54-2417
	8	Omitted		7	54-2418
	9	Omitted		8	54-2419
LB 902	§ 1	84-311		9	54-2420
	2	Omitted		10	54-2421
LB 906	§ 1	71-110.01		11	54-2422
	2	71-162		12	54-2423
	3	71-340		13	54-2424
	4	71-341		14	54-2425
	5	71-342		15	54-2426
	6	71-343		16	54-2427
	7	71-346.01		17	54-2428
	8	71-346.02		18	54-2429
	9	71-346.03		19	54-2430
	10	71-346.04		20	54-2431
	11	71-358.01		21	54-2432
	12	71-362.01		22	54-2433
	13	71-363.01		23	54-2434
	14	71-364		24	54-2435
	15	71-370.01		25	81-1502
	16	71-370.02		26	81-1506
	17	71-376		27	81-15,149
	18	71-377		28	Omitted
	19	71-386		29	Omitted
	20	71-396	LB 916A		Omitted
	21	71-397	LB 917	§ 1	85-161
	22	71-398		2	85-162
					19 46-293

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2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement
20	46-294	82	46-742	2	19-929
21	46-294.01	83	46-743	3	23-114.01
22	46-294.02	84	46-744	4	23-168.03
23	46-294.03	85	46-745	5	77-123
24	46-294.04	86	46-746	6	77-201
25	46-294.05	87	46-747	7	77-202.03
26	46-295	88	46-748	8	77-202.04
27	46-296	89	46-749	9	77-422
28	46-2,112	90	46-750	10	77-603
29	46-2,119	91	46-751	11	77-612
30	46-2,127	92	46-752	12	77-684
31	46-2,132	93	46-753	13	77-801
32	46-2,135	94	46-676	14	77-802
33	46-2,138	95	46-678.01	15	77-802.02
34	46-601.01	96	46-680	16	77-1234
35	46-602	97	46-691.03	17	77-1249
36	46-609	98	46-1207.01	18	77-1301
37	46-613.02	99	46-1207.02	19	77-1303
38	46-651	100	46-1212	20	77-1315
39	46-653	101	46-1228	21	77-1315.01
40	46-655.01	102	61-206	22	77-1317
41	46-701	103	66-1501	23	77-1318
42	46-702	104	66-1532	24	77-1330
43	46-703	105	66-1519	25	77-1343
44	46-704	106	66-1523	26	77-1344
45	46-705	107	66-1525	27	77-1345
46	46-706	108	66-1529.02	28	77-1345.01
47	46-707	109	77-27,137.02	29	77-1348
48	46-708	110	77-3442	30	77-1363
49	46-709	111	81-15,174	31	77-1380
50	46-710	112	Omitted	32	77-1384
51	46-711	113	81-15,176	33	77-1502
52	46-712	114	Omitted	34	77-1504.01
53	46-713	115	Omitted	35	77-1510
54	46-714	116	Omitted	36	77-1510.01
55	46-715	117	Omitted	37	77-1514
56	46-716	118	Omitted	38	77-1606
57	46-717	119	Omitted	39	77-1608
58	46-718	120	Omitted	40	77-1610
59	46-719	LB 962A	Omitted	41	77-1623
60	46-720	LB 963	§ 1 55-121	42	77-1775
61	46-721		2 55-125	43	77-3506.02
62	46-722		3 55-126	44	77-3519
63	46-723		4 55-157	45	77-3520
64	46-724		5 Omitted	46	77-5001
65	46-725	LB 969	§ 1 70-1701	47	77-5004
66	46-726		2 70-1702	48	77-5007
67	46-727		3 70-1703	49	77-5013
68	46-728		4 70-1704	50	77-5015
69	46-729		5 70-1705	51	77-5016
70	46-730		6 18-412.06	52	77-5016.01
71	46-731		7 18-412.07	53	77-5016.02
72	46-732		8 18-412.08	54	77-5016.03
73	46-733		9 18-412.09	55	77-5016.04
74	46-734		10 18-412.10	56	77-5016.05
75	46-735		11 18-2451	57	77-5016.06
76	46-736		12 70-601	58	77-5016.07
77	46-737		13 70-623	59	77-5016.08
78	46-738		14 Omitted	60	77-5016.09
79	46-739		15 Omitted	61	77-5017
80	46-740		16 Omitted	62	77-5020
81	46-741	LB 973	§ 1 19-910	63	77-5022

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	64	77-5023	51	66-726	21	21-17,115		
	65	77-5027	52	66-727	22	25-1530		
	66	79-1016	53	66-733	23	30-2734		
	67	79-1022	54	66-734	24	30-3811		
	68	84-912.03	55	66-735	25	30-3837		
	69	Omitted	56	66-736	26	30-3854		
	70	Omitted	57	66-737	27	30-3855		
	71	Omitted	58	66-1334	28	30-3867		
	72	Omitted	59	66-1345	29	30-38,110		
	73	Omitted	60	66-1401	30	43-3334		
LB 980	§ 1	44-704	61	66-1416	31	45-101.04		
	2	Omitted	62	66-1417	32	45-205		
LB 983	§ 1	39-2215	63	66-1418	33	45-206		
	2	60-1303	64	66-1419	34	45-342		
	3	60-1306	65	66-1510	35	45-346		
	4	60-1307	66	66-1521	36	45-351		
	5	66-482	67	77-2704.05	37	45-921		
	6	66-483	68	77-2734.03	38	45-1017		
	7	66-484	69	Omitted	39	45-1018		
	8	66-485	70	Omitted	40	45-1024		
	9	66-486	71	Omitted	41	45-1025		
	10	66-487	LB 986	§ 1	77-3526	42	45-1065	
	11	66-488		2	77-3527	43	72-1262	
	12	66-489		3	Omitted	44	76-1006	
	13	66-489.01		4	Omitted	45	76-1009	
	14	66-495		5	Omitted	46	76-1010	
	15	66-495.01	LB 986A		Omitted	47	76-1012	
	16	66-496	LB 997	§ 1	16-230	48	77-2365.01	
	17	66-498		2	17-563	49	77-2366	
	18	66-499		3	Omitted	50	77-2387	
	19	66-4,105	LB 998	§ 1	44-2824	51	77-2365.02	
	20	66-4,106		2	44-2825	52	Omitted	
	21	66-4,114		3	44-2827	53	Omitted	
	22	66-4,116		4	44-2829	54	Omitted	
	23	66-4,140		5	44-2831	55	Omitted	
	24	66-4,124.01		6	44-2831.01	56	Omitted	
	25	66-4,141		7	44-2832	57	Omitted	
	26	66-4,143		8	44-2833	LB 1002	§ 1	54-626
	27	66-4,144		9	44-2855		2	54-627
	28	66-4,145		10	Omitted		3	Omitted
	29	66-4,146		11	Omitted	LB 1004	§ 1	75-112
	30	66-4,146.01	LB 998A		Omitted		2	86-329
	31	66-4,147	LB 999	§ 1	8-113		3	Omitted
	32	66-4,149		2	8-157.01	LB 1005	§ 1	13-518
	33	66-502		3	8-1,140		2	28-414
	34	66-525		4	8-355		3	29-2264
	35	66-685		5	8-602		4	43-107
	36	66-686		6	8-910		5	43-3344
	37	66-687		7	8-1001		6	43-3346
	38	66-698		8	8-1003		7	68-1036.02
	39	66-6,100		9	8-1006		8	71-101
	40	66-6,106		10	8-1008		9	71-110.01
	41	66-6,107		11	8-1009		10	71-162
	42	66-6,109.01		12	8-1010		11	71-185.03
	43	66-6,110		13	8-1012.01		12	71-190
	44	66-6,111		14	8-1511		13	71-1,142
	45	66-712		15	8-1512		14	71-1,144
	46	66-713		16	8-1513		15	71-1,143.01
	47	66-717		17	8-2401		16	71-1,146
	48	66-718		18	8-2402		17	71-1,147.33
	49	66-720		19	8-2403		18	71-1,155
	50	66-722		20	9-701		19	71-341

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2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement
20	71-342	82	71-1919	144	Omitted
21	71-356.04	83	71-1920	145	Omitted
22	71-365.01	84	71-1921	146	Omitted
23	71-368	85	71-1922	LB 1005A	Omitted
24	71-371	86	71-1923	LB 1017	§ 1 49-801.01
25	71-385.01	87	71-3601.01		2 77-2701
26	71-387	88	71-3601		3 77-2701.04
27	71-389	89	71-3602		4 77-2701.44
28	71-3,102	90	71-3603		5 77-2701.45
29	71-3,105	91	71-3608		6 77-2701.10
30	71-3,106.01	92	71-3609		7 77-2701.16
31	71-3,137	93	71-3610		8 77-2701.34
32	71-3,139	94	71-3611		9 77-2701.42
33	71-3,140	95	71-3612		10 77-2703
34	71-3,141	96	71-3613		11 77-2703.01
35	71-3,145	97	71-3614		12 77-2703.02
36	71-3,147	98	71-5301		13 77-2704.12
37	71-3,150	99	71-5651		14 77-2704.15
38	71-3,169	100	71-5652		15 77-2704.32
39	71-3,177	101	71-5653		16 77-2704.33
40	71-3,179	102	71-5654		17 77-2704.36
41	71-401	103	71-5661		18 77-2704.49
42	71-409	104	71-5662		19 77-2704.55
43	71-428	105	71-5663		20 77-2712.05
44	71-448	106	71-5665		21 77-27,188.01
45	71-5901	107	71-5666		22 77-3101
46	71-5902	108	71-5668		23 77-5601
47	71-5903	109	71-5707		24 Omitted
48	71-5904	110	71-6038		25 Omitted
49	71-5905	111	71-6039		26 Omitted
50	71-5906	112	71-6040		27 Omitted
51	71-5907	113	71-6041		28 Omitted
52	71-5908	114	71-6042	LB 1033	§ 1 81-8,139.01
53	71-501	115	71-6039.01		2 Omitted
54	71-542	116	71-6039.02		3 Omitted
55	71-604.05	117	71-6039.03	LB 1034	§ 1 77-2101.03
56	71-612	118	71-6039.04		2 Omitted
57	71-617.05	119	71-6039.05		3 Omitted
58	71-617.15	120	71-6101	LB 1045	§ 1 81-2,239
59	71-627	121	71-6103		2 81-2,240
60	71-628	122	71-6104		3 81-2,254
61	71-634	123	71-6117		4 81-2,267
62	71-1626	124	71-6118		5 81-2,270
63	71-1628.04	125	71-6119		6 Omitted
64	71-1628.08	126	71-6120		7 Omitted
65	71-1636	127	71-6121	LB 1047	§ 1 44-161
66	71-1903	128	71-6122		2 44-201
67	71-1908	129	71-6113		3 44-407.11
68	71-1909	130	71-6123		4 44-407.13
69	71-1910	131	71-6115		5 44-407.14
70	71-1911	132	72-6721		6 44-407.16
71	71-1911.02	133	71-6735		7 44-407.23
72	71-1911.01	134	71-8611		8 44-2703
73	71-1912	135	81-3201		9 44-4201
74	71-1914	136	84-304		10 44-4203
75	71-1914.01	137	85-134		11 44-4215.02
76	71-1914.02	138	Omitted		12 44-4221
77	71-1914.03	139	Omitted		13 44-4228
78	71-1915	140	Omitted		14 44-4809
79	71-1916	141	Omitted		15 44-4842
80	71-1917	142	Omitted		16 44-4842.01
81	71-1918	143	Omitted		17 44-4862

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		18 44-5143	36	71-916	98	48-1102
		19 44-6124	37	71-917	99	53-1,120
		20 44-6125	38	71-918	100	58-703
		21 44-708	39	71-919	101	58-706
		22 44-708.01	40	71-920	102	60-6,209
		23 Omitted	41	71-921	103	71-101
		24 Omitted	42	71-922	104	71-102
		25 Omitted	43	71-923	105	71-107
LB 1065	§ 1	66-489	44	71-924	106	71-110
	2	66-4,124	45	71-925	107	71-112
	3	66-4,134	46	71-926	108	71-113
	4	66-726	47	71-927	109	71-114
	5	66-1344	48	71-928	110	71-116
	6	66-1344.01	49	71-929	111	71-131
	7	66-1345	50	71-930	112	71-139.02
	8	66-1345.01	51	71-931	113	71-162
	9	66-1519	52	71-932	114	71-1,312
	10	77-4103	53	71-933	115	71-1,351
	11	Omitted	54	71-934	116	71-1,352
	12	Omitted	55	71-935	117	71-1,353
	13	Omitted	56	71-936	118	71-1,354
	14	Omitted	57	71-937	119	71-1,355
LB 1069	§ 1	81-3451	58	71-938	120	71-1,356
	2	Omitted	59	71-939	121	71-1,357
	3	Omitted	60	71-940	122	71-1,358
LB 1071	§ 1	85-1415	61	71-941	123	71-1,359
	2	Omitted	62	71-942	124	71-1,360
LB 1083	§ 1	71-801	63	71-943	125	71-1,361
	2	71-802	64	71-944	126	80-601
	3	71-803	65	71-945	127	81-1850
	4	71-804	66	71-946	128	81-2213
	5	71-805	67	71-947	129	83-305
	6	71-806	68	71-948	130	83-305.01
	7	71-807	69	71-949	131	83-314
	8	71-808	70	71-950	132	83-324
	9	71-809	71	71-951	133	83-336
	10	71-810	72	71-952	134	83-338
	11	71-811	73	71-953	135	83-340
	12	71-812	74	71-954	136	83-349
	13	71-813	75	71-955	137	83-350
	14	71-814	76	71-956	138	83-351
	15	71-815	77	71-957	139	83-354
	16	71-816	78	71-958	140	83-364
	17	71-817	79	71-959	141	83-376
	18	71-818	80	71-960	142	83-4,157
	19	71-819	81	71-961	143	84-1211
	20	71-820	82	71-962	144	84-1326.01
	21	71-901	83	9-812	145	Omitted
	22	71-902	84	20-164	146	Omitted
	23	71-903	85	23-3402	147	Omitted
	24	71-904	86	28-416	148	Omitted
	25	71-905	87	29-434	149	Omitted
	26	71-906	88	29-3705	150	Omitted
	27	71-907	89	29-3915	LB 1083A § 1	Omitted
	28	71-908	90	42-917	2	Omitted
	29	71-909	91	43-245	3	Omitted
	30	71-910	92	43-247	4	90-530
	31	71-911	93	43-248	5	Omitted
	32	71-912	94	43-250	6	Omitted
	33	71-913	95	43-254.01	7	Omitted
	34	71-914	96	44-773	LB 1084 § 1	68-1073
	35	71-915	97	44-774	2	68-1074

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2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement	
	3	68-1075	48	Omitted	110	Omitted
	4	68-1076	49	Omitted	111	Omitted
	5	68-1077	50	Omitted	112	Omitted
	6	68-1078	51	Omitted	113	Omitted
	7	68-1079	52	Omitted	114	Omitted
	8	68-1080	53	Omitted	115	Omitted
	9	68-1081	54	Omitted	116	Omitted
	10	68-1082	55	Omitted	117	Omitted
	11	68-1083	56	Omitted	118	Omitted
	12	68-1084	57	Omitted	119	Omitted
	13	68-1085	58	Omitted	120	Omitted
	14	68-1086	59	Omitted	121	Omitted
	15	Omitted	60	Omitted	122	Omitted
	16	Omitted	61	Omitted	123	Omitted
LB 1084A		Omitted	62	Omitted	124	Omitted
LB 1089	§ 1	Omitted	63	Omitted	125	Omitted
	2	Omitted	64	Omitted	126	Omitted
	3	Omitted	65	Omitted	127	Omitted
	4	Omitted	66	Omitted	128	Omitted
	5	Omitted	67	Omitted	129	Omitted
	6	Omitted	68	Omitted	130	Omitted
	7	Omitted	69	Omitted	131	Omitted
	8	Omitted	70	Omitted	132	Omitted
	9	Omitted	71	Omitted	133	Omitted
	10	Omitted	72	Omitted	134	Omitted
	11	Omitted	73	Omitted	135	Omitted
	12	Omitted	74	Omitted	136	Omitted
	13	Omitted	75	Omitted	137	Omitted
	14	Omitted	76	Omitted	138	Omitted
	15	Omitted	77	Omitted	139	Omitted
	16	Omitted	78	Omitted	140	Omitted
	17	Omitted	79	Omitted	141	Omitted
	18	Omitted	80	Omitted	142	Omitted
	19	Omitted	81	Omitted	143	Omitted
	20	Omitted	82	Omitted	144	Omitted
	21	Omitted	83	Omitted	145	Omitted
	22	Omitted	84	Omitted	146	Omitted
	23	Omitted	85	Omitted	147	Omitted
	24	Omitted	86	Omitted	148	Omitted
	25	Omitted	87	Omitted	149	Omitted
	26	Omitted	88	Omitted	150	Omitted
	27	Omitted	89	Omitted	151	Omitted
	28	Omitted	90	Omitted	152	Omitted
	29	Omitted	91	Omitted	153	Omitted
	30	Omitted	92	Omitted	154	Omitted
	31	Omitted	93	Omitted	155	Omitted
	32	Omitted	94	Omitted	156	Omitted
	33	Omitted	95	Omitted	157	Omitted
	34	Omitted	96	Omitted	158	Omitted
	35	Omitted	97	Omitted	159	Omitted
	36	Omitted	98	Omitted	160	Omitted
	37	Omitted	99	Omitted	161	Omitted
	38	Omitted	100	Omitted	162	Omitted
	39	Omitted	101	Omitted	163	Omitted
	40	Omitted	102	Omitted	164	Omitted
	41	Omitted	103	Omitted	165	Omitted
	42	Omitted	104	Omitted	166	Omitted
	43	Omitted	105	Omitted	167	Omitted
	44	Omitted	106	Omitted	168	Omitted
	45	Omitted	107	Omitted	169	Omitted
	46	Omitted	108	Omitted	170	Omitted
	47	Omitted	109	Omitted	171	Omitted

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2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement	2004 Second Session	2004 Cumulative Supplement
172	Omitted	234	Omitted	13	24-707
173	Omitted	235	Omitted	14	24-708
174	Omitted	236	Omitted	15	24-710
175	Omitted	237	Omitted	16	24-710.02
176	Omitted	238	Omitted	17	24-710.07
177	Omitted	239	Omitted	18	24-710.09
178	Omitted	LB 1090 § 1	81-179	19	24-713.01
179	Omitted	2	84-612	20	24-714
180	Omitted	3	84-613	21	42-1102
181	Omitted	4	Omitted	22	48-155.01
182	Omitted	5	Omitted	23	79-916
183	Omitted	LB 1091 § 1	9-812	24	79-921
184	Omitted	2	28-1249	25	79-942
185	Omitted	3	48-162.01	26	79-946
186	Omitted	4	48-162.02	27	79-947.01
187	Omitted	5	71-7607	28	79-951
188	Omitted	6	71-7608	29	79-966
189	Omitted	7	71-7611	30	81-2026
190	Omitted	8	79-1001	31	81-2027.03
191	Omitted	9	79-1011	32	84-1301
192	Omitted	10	79-1012	33	84-1307
193	Omitted	11	79-1028	34	84-1311.03
194	Omitted	12	81-504	35	84-1322
195	Omitted	13	81-509	36	84-1323
196	Omitted	14	81-523	37	84-1325
197	Omitted	15	81-528	38	84-1501
198	Omitted	16	81-550	39	84-1511.01
199	Omitted	17	81-5,153	40	Omitted
200	Omitted	18	Omitted	41	Omitted
201	90-530	19	Omitted	42	Omitted
202	Omitted	LB 1092 § 1	81-181	43	Omitted
203	Omitted	2	81-188.01	44	Omitted
204	Omitted	3	81-188.02	LB 1097A	Omitted
205	Omitted	4	81-188.03	LB 1099 § 1	52-1313
206	Omitted	5	81-188.04	2	52-1316
207	Omitted	6	81-188.05	3	9-525 UCC
208	Omitted	7	81-188.06	4	Omitted
209	Omitted	8	81-1108.15	LB 1107 § 1	85-1903
210	Omitted	9	81-1108.22	2	85-1912
211	Omitted	10	90-271	3	Omitted
212	Omitted	11	85-414	LB 1118 § 1	50-1203
213	Omitted	12	Omitted	2	50-1205.01
214	Omitted	13	Omitted	3	84-304
215	Omitted	LB 1093 § 1	77-3442	4	Omitted
216	Omitted	2	79-1005.01	LB 1144 § 1	13-1210
217	Omitted	3	79-1005.02	2	13-1214
218	Omitted	4	79-1007.02	3	39-2215
219	Omitted	5	79-1008.01	4	66-4,100
220	Omitted	6	79-1009	5	Omitted
221	Omitted	7	Omitted	LB 1149 § 1	37-455
222	Omitted	LB 1097 § 1	16-1036	2	37-530
223	Omitted	2	23-2301	3	Omitted
224	Omitted	3	23-2306	4	Omitted
225	Omitted	4	23-2310.05	LB 1162 § 1	20-503
226	Omitted	5	23-2320	2	20-504
227	Omitted	6	23-2321	3	81-1413
228	Omitted	7	24-707.01	4	81-1438
229	Omitted	8	24-703.03	5	20-506
230	Omitted	9	24-701.02	6	Omitted
231	Omitted	10	24-701.01	7	Omitted
232	Omitted	11	24-703	LB 1179 § 1	84-1410
233	Omitted	12	24-704.01	2	84-1411

CROSS REFERENCE TABLE

2004 Second Session	2004 Cumulative Supplement
	3 Omitted
LB 1207	§ 1 24-301.02
	2 24-809.05
	3 25-1144.01
	4 25-1315.02
	5 25-1329
	6 25-1553
	7 25-1565
	8 25-1916
	9 25-21,281
	10 25-21,223
	11 25-21,230
	12 25-21,232
	13 25-21,233
	14 25-21,234
	15 25-2301.02
	16 25-2740
	17 29-2261
	18 42-349
	19 42-350
	20 42-352
	21 42-353
	22 42-355
	23 42-357
	24 42-361
	25 42-364
	26 42-364.11
	27 42-364.13
	28 42-365
	29 42-371
	30 42-373
	31 42-376
	32 42-380
	33 42-501
	34 42-502
	35 42-503
	36 43-512.01
	37 43-512.03
	38 43-512.04
	39 43-512.15
	40 43-1411.01
	41 43-1412
	42 43-2917
	43 43-3318
	44 44-3311
	45 Omitted
	46 Omitted
	47 Omitted
	48 Omitted
	49 Omitted
	50 Omitted
LB 1231	§ 1 12-1301
	2 Omitted
LB 1231A	Omitted
LB 1241	Omitted



APPENDIX

APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, 98th Legislature
Second Session, 2004

Showing the date each act went into effect.
The Ninety-eighth Session of the Legislature adjourned
April 15, 2004.

LB No.	Effective Date	LB No.	Effective Date
16	July 16, 2004		(operative date)
75	July 16, 2004	644	July 16, 2004
155	July 16, 2004	644A	July 16, 2004
172	July 16, 2004	692	July 16, 2004
208	July 16, 2004	727	July 16, 2004
227	July 16, 2004	740	July 16, 2004
236	July 16, 2004	810	July 16, 2004
270	July 16, 2004	811	July 16, 2004
279	July 16, 2004	812	July 16, 2004
279A	July 16, 2004	813	July 16, 2004
297	April 14, 2004	818	July 16, 2004
315	July 16, 2004	819	July 16, 2004
323	Sections 2 and 4 of this act become operative on January 1, 2005. The other sections of this act become operative on July 16, 2004.	820	March 20, 2004
		821	July 16, 2004
		824	July 16, 2004
		826	July 16, 2004
		826A	July 16, 2004
353	July 16, 2004	832	July 16, 2004
355	January 1, 2003	835	July 16, 2004
382	July 16, 2004	836	March 20, 2004
439	April 16, 2004	837	July 16, 2004
439A	April 16, 2004	841	Sections 1, 12, and 13 of this act become operative on October 1, 2004. The other sections of this act become operative on April 15, 2004.
449	July 16, 2004		
449A	July 16, 2004		
454	July 16, 2004		
479	April 16, 2004		
485	May 1, 2005 (operative date)	841A	April 15, 2004
485A	July 16, 2004	845	July 16, 2004
499	April 16, 2004	846	April 10, 2004
514	July 1, 2004 (operative date)	868	July 16, 2004
559	July 1, 2004 (operative date)	869	July 16, 2004
559A	July 16, 2004	878	March 20, 2004
560	Sections 1 to 27, 29 to 44, and 47 of this act become operative on July 16, 2004. The other sections of this act become operative on March 20, 2004.	884	July 16, 2004
		888	Sections 1 to 12, 14, 15, and 17 of this act become operative on July 1, 2005. The other sections of this act become operative on July 16, 2004.
		890	January 1, 2005 (operative date)
560A	July 16, 2004	902	July 16, 2004
599	April 15, 2004	906	July 16, 2004
599A	April 15, 2004	906A	July 16, 2004
613	July 16, 2004	911	March 20, 2004
625	October 1, 2005	914	July 16, 2004

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LB No.	Effective Date	LB No.	Effective Date
914A	July 16, 2004		become operative on July 16, 2004. The other sections of this act become operative on April 16, 2004.
915	July 16, 2004		
916	July 16, 2004		
916A	July 16, 2004		
917	July 16, 2004	1005A	April 16, 2004
927	July 16, 2004	1017	Sections 1, 22 to 26, and 28 of this act become operative on April 16, 2004. The other sections of this act become operative on July 1, 2004.
936	July 16, 2004		
937	July 16, 2004		
939	July 16, 2004		
940	March 20, 2004		
943	April 16, 2004	1033	March 20, 2004
944	April 10, 2004	1034	April 16, 2004
947	January 1, 2005 (operative date)	1045	April 16, 2004
950	January 1, 2005 (operative date)	1047	July 16, 2004
955	July 16, 2004	1065	Sections 1, 4, and 12 of this act become operative on January 1, 2005. The other sections of this act become operative on April 16, 2004.
961	July 16, 2004		
962	Sections 3, 4, 93, 110, and 117 of this act become operative on July 1, 2004. Sections 111, 112, 114, 115, 116, and 120 of this act become operative on April 16, 2004. The other sections of this act become operative on July 16, 2004.	1069	March 20, 2004
962A	April 16, 2004	1071	July 16, 2004
963	July 16, 2004	1083	Sections 1 to 17, 21 to 99, 102 to 144, 147, and 149 of this act become operative on July 1, 2004. The other sections of this act become operative on April 15, 2004.
969	April 1, 2004		
973	Sections 33 and 71 of this act become operative on January 1, 2005. The other sections of this act become operative on April 2, 2004.	1083A	April 15, 2004
980	July 16, 2004	1084	July 16, 2004
983	January 1, 2005 (operative date)	1084A	July 16, 2004
986	January 1, 2004 (operative date)	1089	April 14, 2004
986A	April 15, 2004	1090	April 14, 2004
997	July 16, 2004	1091	April 14, 2004
998	January 1, 2005 (operative date)	1092	April 14, 2004
998A	July 16, 2004	1093	July 16, 2004
999	Sections 1, 2, 5 to 20, 31 to 42, and 54 of this act become operative on July 16, 2004. Sections 24 to 29 and 55 of this act become operative on January 1, 2005. The other sections of this act become operative on April 16, 2004.	1097	Sections 2, 3, 5 to 22, 24 to 28, 31 to 33, 35 to 37, 39, and 41 of this act become operative on July 1, 2004. Sections 1, 4, 30, 34, 38, and 42 of this act become operative on July 16, 2004. The other sections of this act become operative on April 16, 2004.
1002	July 16, 2004	1097A	April 16, 2004
1004	July 16, 2004	1099	July 16, 2004
1005	Sections 1, 53, 62 to 65, 136, and 140 of this act become operative on July 1, 2004. Sections 41, 44 to 52, 141, and 144 of this act become operative on January 1, 2005. Sections 2 to 9, 11 to 40, 43, 54 to 61, 66 to 98, 109, 120 to 134, 137, 139, and 143 of this act	1107	July 16, 2004
		1118	July 16, 2004
		1144	July 16, 2004
		1149	July 16, 2004
		1162	April 16, 2004
		1179	July 16, 2004
		1207	Sections 1 and 47 of this act become operative on July 1, 2004. The other sections of this act become operative on April 16, 2004.
		1231	July 16, 2004
		1231A	July 16, 2004
		1241	April 14, 2004

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CROSS REFERENCE TABLE

2005 Session Laws of Nebraska, First Session
 Showing LB section number to statute section number

2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement
LB 1	§ 1 60-484		31 48-1,102	LB 33	§ 1 81-1566
	2 60-484.01		32 48-1,110		2 Omitted
	3 60-484.02		33 48-1,116	LB 37	§ 1 72-724
	4 60-490		34 Omitted		2 72-728
	5 60-4,115		35 Omitted		3 Omitted
	6 60-4,119		36 Omitted		4 Omitted
	7 60-4,120		37 Omitted	LB 38	§ 1 13-519
	8 60-4,120.01		38 Omitted		2 77-3442
	9 60-4,150	LB 13A			3 85-1503
	10 Omitted	LB 15	§ 1 60-3005		4 85-1517
	11 Omitted		2 60-3006		5 85-1536.01
LB 2	§ 1 71-428		3 77-202.04		6 Omitted
	2 Omitted		4 77-1345.01		7 Omitted
LB 3	§ 1 37-734		5 77-1507.01	LB 39	§ 1 85-162.04
	2 Omitted		6 77-1514		2 Omitted
LB 9	§ 1 23-174.03		7 77-5005	LB 40	§ 1 58-703
	2 Omitted		8 77-5007		2 58-706
LB 10	§ 1 48-1220		9 77-5016		3 58-708
	2 Omitted		10 77-5018		4 66-1519
LB 11	§ 1 86-644		11 77-5019		5 71-812
LB 13	§ 1 48-106		12 77-5026		6 76-901
	2 48-118		13 77-5028		7 76-903
	3 48-120.02		14 Omitted		8 77-1327
	4 48-121.02		15 Omitted		9 Omitted
	5 48-125		16 Omitted		10 Omitted
	6 48-144	LB 16	§ 1 77-2712.05		11 Omitted
	7 48-144.03		2 Omitted	LB 40A	Omitted
	8 48-145		3 Omitted	LB 51	§ 1 81-201
	9 48-145.01	LB 17	§ 1 77-3508		2 81-2,293
	10 48-145.02		2 Omitted		3 Omitted
	11 48-145.04	LB 18	§ 1 77-1719.03	LB 52	§ 1 75-903
	12 48-146.02		2 Omitted		2 75-903.02
	13 48-152	LB 20	§ 1 37-524.01		3 75-905
	14 48-155		2 54-416		4 88-528
	15 48-157		3 Omitted		5 88-528.01
	16 48-158		4 Omitted		6 88-530.01
	17 48-159	LB 21	§ 1 37-1241.07		7 89-1,105
	18 48-162		2 Omitted		8 Omitted
	19 48-162.01		3 Omitted		9 Omitted
	20 48-162.02	LB 28	§ 1 77-2701		10 Omitted
	21 48-163		2 77-27,228	LB 53	§ 1 29-112
	22 48-165		3 77-27,229		2 29-113
	23 48-118.01		4 77-27,230		3 29-2264
	24 48-118.02		5 77-27,231		4 32-312
	25 48-118.03		6 77-27,232		5 32-313
	26 48-118.04		7 77-27,233		6 32-1530
	27 48-118.05		8 77-27,234		7 83-1,118
	28 48-120.03		9 Omitted		8 Omitted
	29 48-177		10 Omitted	LB 54	§ 1 12-104
	30 48-188	LB 28A	Omitted		2 12-1301

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2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement	
	3	19-1830	4	60-465	20	Omitted
	4	23-1309	5	60-484	21	Omitted
	5	23-1310	6	60-490	22	Omitted
	6	37-420	7	60-4,131	LB 90A	Omitted
	7	48-225	8	60-4,132	LB 94	§ 1 81-1505.04
	8	48-227	9	60-4,137		2 Omitted
	9	48-229	10	60-4,141	LB 97	§ 1 76-239
	10	60-311.03	11	60-4,143		2 Omitted
	11	60-311.04	12	60-4,144	LB 98	§ 1 10-703.01
	12	60-311.08	13	60-4,149.01		2 23-3557
	13	60-3002	14	60-4,159		3 23-3575
	14	71-605	15	60-4,168		4 32-331
	15	71-1002	16	60-4,147.01		5 32-558
	16	77-202.24	17	60-4,147.02		6 32-559
	17	77-3508	18	60-4,147.03		7 32-807
	18	77-3509	19	60-4,147.04		8 32-808
	19	77-3513	20	60-4,147.05		9 32-936
	20	77-3514	21	60-4,147.06		10 32-938
	21	80-102	22	Omitted		11 32-939
	22	80-104	23	Omitted		12 32-940
	23	80-105	LB 78	§ 1 74-1413		13 32-941
	24	80-106		2 Omitted		14 32-942
	25	80-107	LB 80	§ 1 60-6,187		15 32-943
	26	80-316		2 Omitted		16 32-944
	27	80-318	LB 82	§ 1 52-604		17 32-945
	28	80-325		2 60-6,114		18 32-946
	29	80-401.01		3 60-6,294		19 32-947
	30	80-401.02		4 60-6,297		20 32-948
	31	80-401.03		5 60-6,298		21 32-949
	32	80-401.06		6 60-2404		22 32-950
	33	80-410		7 60-2410		23 32-951
	34	80-412		8 9-317 UCC		24 32-952
	35	Omitted		9 9-324 UCC		25 32-958
	36	Omitted		10 Omitted		26 32-1027
	37	Omitted		11 Omitted		27 32-1030
	38	Omitted		12 Omitted		28 32-1031
	39	Omitted	LB 83	§ 1 75-363		29 32-1032
LB 55	§ 1	71-8603		2 75-364		30 32-1502
	2	71-8612		3 Omitted		31 32-1539
	3	Omitted		4 Omitted		32 32-1544
	4	Omitted	LB 88	§ 1 76-2422		33 42-1207
LB 59	§ 1	81-1298		2 Omitted		34 53-122
	2	Omitted	LB 89	§ 1 71-183.01		35 Omitted
LB 61	§ 1	43-146.17		2 Omitted	LB 105	§ 1 25-1629.01
	2	Omitted	LB 90	§ 1 81-12,125		2 25-1635
	3	Omitted		2 81-12,126		3 Omitted
LB 66	§ 1	77-1385		3 81-12,127	LB 111	§ 1 29-212
	2	77-1386		4 2-5413		2 29-213
	3	77-1387		5 2-5414		3 29-214
	4	77-1388		6 2-5415		4 29-214.01
	5	77-1389		7 2-5416		5 Omitted
	6	77-1390		8 2-5417	LB 111A	Omitted
	7	77-1391		9 2-5418	LB 114	§ 1 79-214
	8	77-1392		10 2-5419		2 79-220
	9	77-1393		11 2-5420		3 Omitted
	10	77-1394		12 2-5421	LB 115	§ 1 81-1403
	11	77-201		13 2-5422		2 Omitted
	12	Omitted		14 2-5423	LB 116	§ 1 28-710
LB 66A		Omitted		15 2-5424		2 28-711
LB 71A		Omitted		16 58-202		3 28-713
LB 76	§ 1	29-3608		17 58-242		4 28-713.01
	2	60-462		18 66-1345.01		5 28-714
	3	60-462.01		19 66-1345.04		6 28-715

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2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement
	7 28-716		37 44-7802		51 79-1031.01
	8 28-717		38 44-3,157		52 79-1083.02
	9 28-718		39 44-7901		53 79-1083.03
	10 28-719		40 44-7902		54 Omitted
	11 28-720		41 44-7903		55 Omitted
	12 28-720.01		42 48-146.01		56 Omitted
	13 28-721		43 Omitted		57 Omitted
	14 28-722		44 Omitted	LB 126A	Omitted
	15 28-723	LB 121	§ 1 37-421.01	LB 131	§ 1 81-2,239
	16 28-724		2 37-201		2 81-2,240
	17 28-725		3 Omitted		3 81-2,242.04
	18 28-726	LB 122	§ 1 48-726		4 81-2,245.01
	19 28-727		2 Omitted		5 Omitted
	20 43-1724	LB 126	§ 1 79-4,112	LB 139	§ 1 70-301
	21 43-3342.03		2 79-4,113		2 70-601
	22 43-3709		3 79-4,114		3 70-601.01
	23 71-6906		4 79-4,115		4 70-604
	24 Omitted		5 79-1072.03		5 70-604.02
LB 117	§ 1 28-401		6 79-1072.04		6 70-626
	2 28-401.01		7 32-542		7 70-628.01
	3 28-416		8 79-102		8 70-628.02
	4 28-450		9 79-401		9 70-628.03
	5 28-456		10 79-402		10 70-628.04
	6 28-456.01		11 79-403		11 70-631
	7 Omitted		12 79-405		12 70-632
LB 118	§ 1 87-705		13 79-407		13 70-636
	2 Omitted		14 79-408		14 70-637
LB 119	§ 1 12-1108		15 79-409		15 70-646.01
	2 12-1110		16 79-410		16 70-655
	3 12-1115		17 79-413		17 70-667
	4 12-1116		18 79-415		18 70-802
	5 44-401		19 79-416		19 70-1402
	6 44-402.01		20 79-418		20 70-1403
	7 44-409		21 79-419		21 70-1404
	8 44-417		22 79-422		22 70-1409
	9 44-797		23 79-423		23 70-1413
	10 44-2131		24 79-433		24 70-1416
	11 44-2132		25 79-434		25 70-1417
	12 44-4814		26 79-435		26 Omitted
	13 44-5103		27 79-443		27 Omitted
	14 44-5109		28 79-447		28 Omitted
	15 44-5143		29 79-449	LB 144	§ 1 79-907
	16 44-5144		30 79-452		2 Omitted
	17 44-5149		31 79-454	LB 146	§ 1 71-17,108
	18 44-5153		32 79-455		2 71-17,109
	19 44-5154		33 79-470		3 71-17,110
	20 44-5505		34 79-473		4 71-17,111
	21 44-5508		35 79-479		5 71-17,112
	22 44-6122		36 79-499		6 71-17,113
	23 44-6125		37 79-4,101		7 71-17,114
	24 44-6143		38 79-4,108		8 71-17,115
	25 44-7506		39 79-4,111		9 71-17,116
	26 44-7508.01		40 79-4,116		10 71-163
	27 44-7508.02		41 79-556		11 Omitted
	28 44-7509		42 79-611	LB 146A	Omitted
	29 44-7511		43 79-850	LB 161	§ 1 14-405
	30 44-416.05		44 79-857		2 15-201
	31 44-416.06		45 79-1003		3 16-611
	32 44-416.07		46 79-1016		4 16-669
	33 44-416.08		47 79-1022		5 16-670
	34 44-416.09		48 79-1026		6 17-522
	35 44-416.10		49 79-1027		7 17-558
	36 44-7801		50 79-1028		8 19-905

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	2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement
		9 19-2404		17 71-1117		5 72-2305
		10 19-2405		18 71-1118		6 72-2306
		11 23-165		19 71-1119		7 72-2307
		12 74-1307		20 71-1120		8 72-2308
		13 Omitted		21 71-1121		9 13-808
LB 162	§ 1	37-201		22 71-1122		10 13-2530
	2	37-407		23 71-1123		11 13-2531
	3	37-411		24 71-1124		12 Omitted
	4	37-415		25 71-1125		13 Omitted
	5	37-416		26 71-1126	LB 227	§ 1 12-1301
	6	37-420		27 71-1127		2 37-420
	7	37-421		28 71-1128		3 37-421
	8	37-426		29 71-1129		4 Omitted
	9	37-427		30 71-1130		5 Omitted
	10	37-428		31 71-1131		6 Omitted
	11	37-429		32 71-1132	LB 234	§ 1 16-672.01
	12	37-431		33 71-1133		2 Omitted
	13	37-432		34 71-1134	LB 236	§ 1 48-179
	14	37-438		35 83-1212.01		2 Omitted
	15	37-447		36 Omitted	LB 238	§ 1 48-115
	16	37-450		37 Omitted		2 48-118
	17	37-452	LB 211	§ 1 82-501		3 48-120
	18	37-455.01		2 82-502		4 48-125
	19	37-457		3 82-503		5 48-126
	20	37-538		4 82-504		6 48-136
	21	Omitted		5 82-505		7 48-144.01
	22	Omitted		6 82-506		8 48-144.03
	23	Omitted		7 82-507		9 48-144.04
LB 169	§ 1	18-1803		8 82-508		10 48-145
	2	Omitted		9 82-509		11 48-146
LB 175	§ 1	71-1,107.30		10 82-510		12 48-146.03
	2	Omitted		11 12-1401		13 48-155.01
LB 176	§ 1	71-51,102		12 Omitted		14 48-178
	2	Omitted	LB 211A	Omitted		15 48-178.01
LB 193	§ 1	43-2404.01	LB 216	§ 1 21-2612		16 48-1,117
	2	43-2404.02		2 77-1784		17 Omitted
	3	Omitted		3 77-2115	LB 241	§ 1 50-1302
	4	Omitted		4 77-2701.16		2 Omitted
	5	Omitted		5 77-2701.27	LB 242	§ 1 32-1603
LB 198	§ 1	79-1065.02		6 77-2704.12		2 49-1401
	2	79-475		7 77-2704.25		3 49-1409
	3	79-1022		8 77-2708		4 49-1413
	4	Omitted		9 77-2711		5 49-1419
LB 201	§ 1	81-2104		10 77-2716		6 49-1420
	2	Omitted		11 77-2727		7 49-1445
	3	Omitted		12 77-2734.01		8 49-1446
LB 205		Omitted		13 77-2753		9 49-1446.01
LB 206	§ 1	71-1101		14 77-2756		10 49-1446.02
	2	71-1102		15 77-2775		11 49-1446.03
	3	71-1103		16 77-2776		12 49-1446.04
	4	71-1104		17 77-2786		13 49-1447
	5	71-1105		18 77-27,119		14 49-1453
	6	71-1106		19 77-27,127		15 49-1458
	7	71-1107		20 85-1808		16 49-1461.01
	8	71-1108		21 Omitted		17 49-1463.01
	9	71-1109		22 Omitted		18 49-1467
	10	71-1110		23 Omitted		19 49-1469
	11	71-1111		24 Omitted		20 49-1469.05
	12	71-1112		25 Omitted		21 49-1469.06
	13	71-1113	LB 217	§ 1 72-2301		22 49-1469.07
	14	71-1114		2 72-2302		23 49-1469.08
	15	71-1115		3 72-2303		24 49-1474.02
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	34	49-1486	11	71-17,127	74	71-1729
	35	49-1488.01	12	71-17,128	75	71-1736.01
	36	49-1494	13	71-17,129	76	71-1736.02
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	50	49-14,103.03	27	71-1,132.11	90	71-1757
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	52	49-14,104	29	71-1,142	92	71-1913.01
	53	49-14,112	30	71-1,143	93	71-2610.01
	54	49-14,115	31	71-1,198	94	71-5191
	55	49-14,120	32	71-1,339	95	77-2704.09
	56	49-14,123	33	71-3,106	96	79-214
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	59	49-14,125	36	71-17,131	99	83-4,159
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	61	49-14,132	38	71-17,133	101	Omitted
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	5	60-305	68	60-368	131	60-3,131
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	14	60-314	77	60-377	140	60-3,140
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	16	60-316	79	60-379	142	60-3,142
	17	60-317	80	60-380	143	60-3,143
	18	60-318	81	60-381	144	60-3,144
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	20	60-320	83	60-383	146	60-3,146
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181	60-3,181	244	60-6,246	21	60-121
182	60-3,182	245	60-6,255	22	60-122
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	3	Omitted		19 84-1321.01		3 32-903
LB 352	§ 1	85-1534.01		20 84-1501		4 32-904
	2	Omitted		21 84-1503.03		5 32-915
LB 355	§ 1	12-530		22 23-2319.02		6 32-939.01
LB 361	§ 1	71-8701		23 Omitted		7 32-939
	2	71-8702		24 Omitted		8 32-949.01
	3	71-8703		25 Omitted		9 32-960
	4	71-8704		26 Omitted		10 32-1041
	5	71-8705		27 Omitted		11 Omitted
	6	71-8706		28 Omitted	LB 402	§ 1 25-1628
	7	71-8707	LB 373	§ 1 84-907.09		2 Omitted
	8	71-8708		2 84-906	LB 406	§ 1 18-1740
	9	71-8709		3 84-906.01		2 Omitted
	10	71-8710		4 84-907		3 Omitted
	11	71-8711		5 84-907.06		4 Omitted
	12	71-8712		6 84-907.07	LB 421	Omitted
	13	71-8713		7 84-907.10	LB 422	Omitted
	14	71-8714		8 84-920	LB 423	Omitted
	15	71-8715		9 Omitted	LB 424	Omitted
	16	71-8716	LB 380	§ 1 79-586	LB 425	Omitted
	17	71-8717		2 79-589	LB 426	§ 1 72-1001
	18	71-8718		3 79-590		2 84-619
	19	71-8719		4 79-591		3 81-15,180
	20	71-8720		5 79-592		4 2-108
	21	71-8721		6 Omitted		5 2-109
	22	29-4126	LB 382	§ 1 28-401		6 2-110
	23	42-372.02		2 28-405		7 2-111
	24	76-248.01		3 28-414		8 72-2401
	25	20-325		4 28-1437		9 Omitted
	26	20-326		5 71-168		10 18-2603
	27	20-327		6 71-1,142		11 47-632
	28	20-330		7 71-1,146.01		12 71-7611
	29	24-517		8 71-1,147.35		13 72-816
	30	25-21,280		9 71-374		14 72-1005
	31	29-3303		10 71-375		15 77-2602
	32	71-168		11 71-5402		16 77-27,137.01
	33	71-168.02		12 71-5403		17 81-1561
	34	71-6736		13 71-5404		18 81-15,101.01
	35	76-250		14 71-2431		19 81-15,104
	36	76-802		15 71-104.01		20 81-15,113.01
	37	84-712.05		16 Omitted		21 85-302
	38	Omitted		17 Omitted		22 85-316
	39	Omitted		18 Omitted		23 Omitted

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2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement
	24 Omitted		5 88-527		20 8-602
LB 427	§ 1 81-1201.21		6 88-547		21 8-701
	2 84-612		7 Omitted		22 8-702
	3 Omitted	LB 499	§ 1 77-2101.01		23 8-1006
	4 Omitted		2 Omitted		24 8-2401
LB 439	§ 1 75-902		3 Omitted		25 8-2501
	2 75-903		4 Omitted		26 8-2502
	3 75-905	LB 501	§ 1 84-1413		27 8-2503
	4 88-526		2 Omitted		28 8-2504
	5 88-528	LB 503	§ 1 23-2309.01		29 8-2505
	6 88-543		2 23-2310.05		30 21-1725.01
	7 Omitted		3 23-2312		31 21-17,102
	8 Omitted		4 24-704		32 21-17,115
LB 441	§ 1 54-199		5 72-1238		33 30-3116
	2 54-1,108		6 72-1239		34 30-3117
	3 Omitted		7 72-1243		35 30-3119.01
	4 Omitted		8 79-902		36 30-3803
LB 450	§ 1 87-210		9 79-906		37 30-3805
	2 Omitted		10 79-958		38 30-3810
LB 451	§ 1 52-1312		11 79-1028		39 30-3822
	2 9-522 UCC		12 81-2017		40 30-3836
	3 Omitted		13 81-2021		41 30-3837
LB 453	§ 1 71-3519		14 84-1305.01		42 30-3849
	2 71-3512		15 84-1309.01		43 30-3855
	3 Omitted		16 84-1310.01		44 30-3867
LB 465	§ 1 8-1,131		17 84-1311.03		45 30-3878
	2 21-1799		18 84-1502		46 30-3879
	3 44-371		19 84-1503		47 45-346
	4 44-1089		20 84-1503.04		48 45-348
	5 Omitted		21 84-1503.03		49 45-350
LB 471	§ 1 60-6,232		22 84-1512		50 45-703
	2 Omitted		23 Omitted		51 45-704
LB 475	§ 1 81-2711		24 Omitted		52 45-705
	2 81-2701		25 Omitted		53 45-706
	3 Omitted		26 Omitted		54 45-707
LB 476	§ 1 69-1311	LB 503A	Omitted		55 45-711
	2 Omitted	LB 516	§ 1 86-420		56 45-910
LB 484	§ 1 48-310		2 86-441.01		57 45-1001
	2 48-601		3 Omitted		58 45-1005
	3 48-602	LB 525	§ 1 84-1205.03		59 45-1006
	4 48-619		2 Omitted		60 45-1013
	5 48-627	LB 528	§ 1 16-318		61 45-1024
	6 48-628		2 17-606		62 45-1032
	7 48-648		3 Omitted		63 45-1033
	8 48-648.01	LB 533	§ 1 8-113		64 45-1069
	9 48-649		2 8-115.01		65 45-1055
	10 48-654		3 8-116.01		66 Omitted
	11 48-654.01		4 8-120		67 Omitted
	12 48-664		5 8-124		68 Omitted
	13 Omitted		6 8-135		69 Omitted
	14 Omitted		7 8-143.01		70 Omitted
	15 Omitted		8 8-148		71 Omitted
	16 Omitted		9 8-157	LB 534	§ 1 71-906
	17 Omitted		10 8-183.04		2 Omitted
LB 485	§ 1 81-8,211		11 8-1,140	LB 538	§ 1 28-929
	2 81-8,224		12 8-206		2 28-930
	3 81-8,225		13 8-213		3 28-931
	4 81-8,239.02		14 8-234		4 28-931.01
	5 Omitted		15 8-305		5 29-2246
LB 492	§ 1 25-1093		16 8-318		6 29-2255
	2 88-525		17 8-320		7 29-2252
	3 88-547.01		18 8-331		8 29-2257
	4 88-547.02		19 8-355		9 29-2258

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2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement		
	10	29-2262.06	18	32-315	22	1-303 UCC	
	11	29-2269	19	32-318	23	1-304 UCC	
	12	47-621	20	32-318.01	24	1-305 UCC	
	13	47-622	21	32-320	25	1-306 UCC	
	14	47-623	22	32-321	26	1-307 UCC	
	15	47-624	23	32-322	27	1-308 UCC	
	16	47-625	24	32-323	28	1-309 UCC	
	17	47-627	25	32-324	29	1-310 UCC	
	18	47-630	26	32-325	30	2-103 UCC	
	19	47-632	27	32-326	31	2-104 UCC	
	20	71-1,148	28	32-328	32	2-202 UCC	
	21	81-1423	29	32-329	33	2-310 UCC	
	22	81-1425	30	32-554	34	2-323 UCC	
	23	83-1,102	31	32-901	35	2-401 UCC	
	24	83-1,135	32	32-908	36	2-503 UCC	
	25	83-1,110.02	33	32-909	37	2-505 UCC	
	26	83-1,110.03	34	32-914	38	2-506 UCC	
	27	83-4,142	35	32-914.01	39	2-509 UCC	
	28	83-4,143	36	32-914.02	40	2-605 UCC	
	29	Omitted	37	32-915	41	2-705 UCC	
	30	Omitted	38	32-916	42	2A-103 UCC	
LB 538A		Omitted	39	32-921	43	2A-501 UCC	
LB 544		Omitted	40	32-938	44	2A-514 UCC	
LB 546	§ 1	81-12,117	41	32-939	45	2A-518 UCC	
	2	81-12,118	42	32-940	46	2A-519 UCC	
	3	81-12,119	43	32-941	47	2A-526 UCC	
	4	81-12,120	44	32-942	48	2A-527 UCC	
	5	81-12,121	45	32-943	49	2A-528 UCC	
	6	81-12,122	46	32-945	50	3-103 UCC	
	7	81-12,123	47	32-946	51	4-104 UCC	
	8	81-12,124	48	32-947	52	4-210 UCC	
LB 546A		Omitted	49	32-948	53	4A-105 UCC	
LB 551	§ 1	71-1,356	50	32-949	54	4A-106 UCC	
	2	71-1,358	51	32-950	55	4A-204 UCC	
	3	71-810	52	32-951	56	5-103 UCC	
	4	71-813	53	32-1002	57	7-101 UCC	
	5	71-815	54	32-1027	58	7-102 UCC	
	6	71-816	55	32-1502	59	7-103 UCC	
	7	71-817	56	Omitted	60	7-104 UCC	
	8	71-818	57	Omitted	61	7-105 UCC	
	9	71-922	58	Omitted	62	7-106 UCC	
	10	Omitted	59	Omitted	63	7-201 UCC	
	11	Omitted	LB 570	§ 1	45-1,109	64	7-202 UCC
	12	Omitted		2	53-208	65	7-203 UCC
LB 557	§ 1	81-1258		3	69-2103	66	7-204 UCC
	2	Omitted		4	86-630	67	7-205 UCC
LB 566	§ 1	32-101		5	86-643	68	7-206 UCC
	2	32-103		6	1-101 UCC	69	7-207 UCC
	3	32-110.02		7	1-102 UCC	70	7-208 UCC
	4	32-203		8	1-103 UCC	71	7-209 UCC
	5	32-301		9	1-104 UCC	72	7-210 UCC
	6	32-306		10	1-105 UCC	73	7-301 UCC
	7	32-308		11	1-106 UCC	74	7-302 UCC
	8	32-309		12	1-107 UCC	75	7-303 UCC
	9	32-310		13	1-108 UCC	76	7-304 UCC
	10	32-311.01		14	1-201 UCC	77	7-305 UCC
	11	32-312		15	1-202 UCC	78	7-306 UCC
	12	32-312.01		16	1-203 UCC	79	7-307 UCC
	13	32-312.02		17	1-204 UCC	80	7-308 UCC
	14	32-312.03		18	1-205 UCC	81	7-309 UCC
	15	32-312.04		19	1-206 UCC	82	7-401 UCC
	16	32-312.05		20	1-301 UCC	83	7-402 UCC
	17	32-314		21	1-302 UCC	84	7-403 UCC

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2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement	2005 Session Laws	2005 Supplement	
	85	7-404 UCC	4	17-952	4	29-4003
	86	7-501 UCC	5	Omitted	5	29-4004
	87	7-502 UCC	LB 639	§ 1 39-1302	6	29-4009
	88	7-503 UCC		2 39-1311	7	29-4013
	89	7-504 UCC		3 Omitted	8	Omitted
	90	7-505 UCC	LB 640	§ 1 76-547	LB 737	Omitted
	91	7-506 UCC		2 Omitted	LB 739	§ 1 48-601
	92	7-507 UCC	LB 645	§ 1 86-593		2 48-602
	93	7-508 UCC		2 86-594		3 48-649.01
	94	7-509 UCC		3 86-595		4 48-603.01
	95	7-601 UCC		4 86-596		5 48-624
	96	7-602 UCC		5 86-597		6 48-648.02
	97	7-603 UCC		6 86-598		7 48-628.01
	98	7-703 UCC		7 86-599		8 48-625
	99	7-704 UCC		8 25-2602.01		9 48-627
	100	8-103 UCC		9 86-575		10 48-628
	101	9-102 UCC		10 Omitted		11 48-649
	102	9-203 UCC		11 Omitted		12 48-652
	103	9-207 UCC	LB 664	§ 1 71-409		13 48-669
	104	9-208 UCC		2 Omitted		14 Omitted
	105	9-301 UCC		3 Omitted	LB 753	§ 1 77-2701.16
	106	9-310 UCC	LB 664A	Omitted		2 Omitted
	107	9-312 UCC	LB 668	§ 1 90-201		3 Omitted
	108	9-313 UCC	LB 675	§ 1 60-480	LB 754	§ 1 24-719
	109	9-314 UCC		2 60-4,120.01		2 24-721
	110	9-317 UCC		3 60-4,123		3 Omitted
	111	9-338 UCC		4 60-4,124	LB 761	§ 1 43-1302
	112	9-601 UCC		5 Omitted		2 Omitted
	113	Omitted		6 Omitted	LB 761A	Omitted
	114	Omitted	LB 675A	Omitted	LB 762	§ 1 23-1302
	115	Omitted	LB 676	§ 1 76-2221		2 77-1501
	116	Omitted		2 Omitted		3 Omitted
LB 573	§ 1	2-1203		3 Omitted		
	2	2-1207	LB 682	§ 1 32-564		
	3	2-1208		2 32-571		
	4	2-1213		3 Omitted		
	5	Omitted	LB 684	§ 1 72-2201		
	6	Omitted		2 72-2205.01		
LB 577	§ 1	79-1003		3 72-2211.01		
	2	79-1007.01		4 81-1108.32		
	3	79-1007.02		5 Omitted		
	4	79-1028	LB 684A	Omitted		
	5	79-1103	LB 689	§ 1 79-1329		
	6	Omitted		2 79-1330		
LB 589	§ 1	68-10,100		3 Omitted		
	2	68-10,101	LB 689A	Omitted		
	3	68-10,102	LB 709	§ 1 68-1087		
	4	68-10,103		2 68-1088		
	5	68-10,104		3 68-1089		
	6	68-10,105		4 68-1090		
	7	68-10,106		5 68-1091		
	8	68-10,107		6 68-1092		
	9	44-1540		7 68-1093		
	10	Omitted		8 68-1094		
	11	Omitted		9 68-1095		
LB 589A		Omitted		10 68-1096		
LB 594	§ 1	28-106		11 68-1097		
	2	60-6,197.02		12 68-1098		
	3	60-6,197.03		13 68-1099		
	4	Omitted		14 Omitted		
LB 626	§ 1	14-3,100	LB 713	§ 1 29-4306		
	2	16-696		2 29-110		
	3	17-501		3 29-2264		



APPENDIX

APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, 99th Legislature
First Session, 2005

Showing the date each act went into effect.
The Ninety-ninth Session of the Legislature adjourned
June 3, 2005.

LB No.	Effective Date	LB No.	Effective Date
1	September 4, 2005	66	September 4, 2005
2	September 4, 2005	66A	September 4, 2005
3	September 4, 2005	71A	September 4, 2005
9	September 4, 2005	76	March 23, 2005
10	September 4, 2005	78	September 4, 2005
11	September 4, 2005	80	September 4, 2005
13	Sections 1 to 4, 6 to 30, 32, 33, and 37 of this act become operative on September 4, 2005. The other sections of this act become operative on June 3, 2005.	82	Sections 8, 9, and 11 of this act become operative on October 17, 2005. The other sections of this act become operative on September 4, 2005.
13A	September 4, 2005	83	March 10, 2005
15	March 10, 2005	88	September 4, 2005
16	March 10, 2005	89	September 4, 2005
17	September 4, 2005	90	May 27, 2005
18	September 4, 2005	90A	May 27, 2005
20	March 10, 2005	94	September 4, 2005
21	March 10, 2005	97	September 4, 2005
28	January 1, 2006 (operative date)	98	September 4, 2005
28A	September 4, 2005	105	September 4, 2005
33	September 4, 2005	111	September 4, 2005
37	March 10, 2005	111A	September 4, 2005
38	May 7, 2005	114	September 4, 2005
39	September 4, 2005	115	September 4, 2005
40	July 1, 2005 (operative date)	116	September 4, 2005
40A	June 3, 2005	117	September 4, 2005
51	September 4, 2005	118	September 4, 2005
52	Sections 7 and 10 of this act become operative on January 1, 2006. The other sections of this act become operative on September 4, 2005.	119	September 4, 2005
53	September 4, 2005	121	September 4, 2005
54	Sections 1 to 5, 10 to 13, 15, 21 to 28, 30 to 34, and 36 of this act become operative on July 1, 2004. The other sections of this act become operative on March 10, 2005.	122	September 4, 2005
55	March 26, 2005	126	Sections 8, 42, 50, and 55 of this act become operative on June 15, 2006. The other sections of this act become operative on September 4, 2005.
59	September 4, 2005	126A	September 4, 2005
61	March 10, 2005	131	September 4, 2005
		139	March 23, 2005
		144	September 4, 2005
		146	September 4, 2005
		146A	September 4, 2005
		161	September 4, 2005
		162	Sections 14, 21, and 22 of this act become operative on September 4, 2005. The other sections of this

APPENDIX

LB No.	Effective Date	LB No.	Effective Date
	act become operative on January 1, 2006.	276	September 4, 2005
169	September 4, 2005	283	September 4, 2005
175	September 4, 2005	284	September 4, 2005
176	September 4, 2005	291	September 4, 2005
193	July 1, 2005 (operative date)	298	Sections 1 and 18 of this act become operative on January 1, 2005. Sections 2 to 15 and 19 of this act become operative on September 4, 2005. The other sections of this act become operative on March 23, 2005.
198	September 4, 2005	299	April 8, 2005
201	March 26, 2005	301	Sections 8, 12 to 20, 30 to 40, 44 to 65, 69 to 74, and 77 of this act become operative on July 1, 2005. Sections 1 to 7, 9 to 11, 21 to 29, 41 to 43, 66 to 68, 76, and 78 of this act become operative on September 4, 2005. The other sections of this act become operative on March 10, 2005.
205	September 4, 2005	306	September 4, 2005
206	June 1, 2005	306A	March 29, 2005
211	Section 11 of this act becomes operative on January 1, 2006. The other sections of this act become operative on September 4, 2005.	312	January 1, 2006 (operative date)
211A	September 4, 2005	312A	September 4, 2005
216	Sections 2, 13, and 23 of this act become operative on January 1, 2006. Sections 4 to 8 and 24 of this act become operative on October 1, 2005. Sections 10 to 12, 20, and 22 of this act become operative for taxable years beginning or deemed to begin on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended. The other sections of this act become operative on September 4, 2005.	319	March 29, 2005
217	September 4, 2005	320	September 4, 2005
227	Sections 2, 3, and 5 of this act become operative on January 1, 2006. The other sections of this act become operative on September 4, 2005.	329	September 4, 2005
234	September 4, 2005	331	September 4, 2005
236	September 4, 2005	332	July 1, 2005 (operative date)
238	September 4, 2005	332A	June 3, 2005
241	September 4, 2005	334	January 1, 2005 (operative date)
242	January 1, 2006 (operative date)	335	September 4, 2005
243	March 23, 2005	342	September 4, 2005
243A	March 23, 2005	343	June 3, 2005
244	March 23, 2005	348	Sections 2, 4 to 17, and 22 of this act become operative on July 1, 2005. Sections 18 and 21 of this act become operative on September 4, 2005. The other sections of this act become operative on June 3, 2005.
246	September 4, 2005	348A	June 3, 2005
247	September 4, 2005	351	April 28, 2005
256	Sections 33, 100, and 101 of this act become operative on September 4, 2005. The other sections of this act become operative on July 1, 2007, except that necessary actions preparatory to their implementation may be taken prior to such date.	352	September 4, 2005
256A	September 4, 2005	355	September 4, 2005
259	March 26, 2005	361	April 28, 2005
261	January 1, 2006 (operative date)	364	Sections 1 to 7, 10, 16 to 22, 24, and 27 of this act become operative on September 4, 2005. Sections 8, 9, and 25 of this act become operative on July 1, 2005. The other sections of this act become operative on June 1, 2005.
262	September 4, 2005	373	September 4, 2005
263	March 10, 2005	380	September 4, 2005
264	September 4, 2005	382	Sections 15 and 17 of this act become operative on September 4, 2005. The other sections of this act become operative on May 7,
268	September 4, 2005		
274	September 4, 2005		

CROSS REFERENCE TABLE

LB No.	Effective Date	LB No.	Effective Date
	2005.		4, 2005. The other sections of this act become operative on January 1, 2006.
383	March 10, 2005		
389	September 4, 2005		
389A	September 4, 2005	570	January 1, 2006 (operative date)
396	September 4, 2005		
401	September 4, 2005	573	June 3, 2005
402	September 4, 2005	577	September 4, 2005
406	August 1, 2005 (operative date)	589	September 4, 2005
421	May 25, 2005	589A	September 4, 2005
422	July 1, 2005 (operative date)	594	September 4, 2005
423	July 1, 2005 (operative date)	626	September 4, 2005
424	July 1, 2005 (operative date)	639	September 4, 2005
425	July 1, 2005 (operative date)	640	September 4, 2005
426	May 25, 2005	645	September 4, 2005
427	May 25, 2005	664	June 1, 2005
439	April 8, 2005	664A	June 1, 2005
441	March 23, 2005	668	September 4, 2005
450	September 4, 2005	675	January 1, 2006 (operative date)
451	September 4, 2005	675A	September 4, 2005
453	September 4, 2005	676	March 29, 2005
465	September 4, 2005	682	September 4, 2005
471	September 4, 2005	684	September 4, 2005
475	September 4, 2005	684A	April 8, 2005
476	September 4, 2005	689	June 1, 2005
484	Sections 1 and 15 of this act become operative on June 3, 2005. The other sections of this act become operative on January 1, 2006.	689A	June 1, 2005
485	September 4, 2005	709	June 3, 2005
492	September 4, 2005	713	September 4, 2005
499	June 1, 2005	737	May 25, 2005
501	September 4, 2005	739	September 4, 2005
503	Sections 1, 2, 16, 17, and 25 of this act become operative on September 4, 2005. The other sections of this act become operative on July 1, 2005.	753	June 1, 2005
503A	April 28, 2005	754	September 4, 2005
516	September 4, 2005	761	September 4, 2005
525	September 4, 2005	761A	September 4, 2005
528	September 4, 2005	762	September 4, 2005
533	Sections 1 to 10, 12, 14 to 18, 20 to 31, 33 to 35, 47 to 65, 69, and 70 of this act become operative on September 4, 2005. The other sections of this act become operative on March 23, 2005.		
534	September 4, 2005		
538	September 4, 2005		
538A	September 4, 2005		
544	September 4, 2005		
546	September 4, 2005		
546A	September 4, 2005		
551	July 1, 2005 (operative date)		
557	September 4, 2005		
566	Sections 30, 56, and 57 of this act become operative on September		



APPENDIX

APPENDIX

CROSS REFERENCE TABLE

2006 Session Laws of Nebraska, Second Session
 Showing LB section number to statute section number

2006 Session Laws	2006 Cumulative Supplement	2006 Session Laws	2006 Cumulative Supplement	2006 Session Laws	2006 Cumulative Supplement
LB 14	§ 1 66-1840		13 49-1446.04		10 29-4109
	2 66-1841		14 49-1463		11 29-4112
	3 Omitted		15 49-1463.01		12 29-4113
	4 Omitted		16 49-14,124		13 29-4114
LB 32	§ 1 2-3218		17 49-14,125		14 29-4115
	2 Omitted		18 49-14,126		15 Omitted
LB 57	§ 1 28-101		19 Omitted	LB 385A	Omitted
	2 28-395		20 Omitted	LB 409	§ 1 40-104
	3 28-396		21 Omitted		2 Omitted
	4 28-397	LB 196	§ 1 85-408	LB 454	§ 1 69-2427
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	6 28-399		3 85-1409		3 69-2429
	7 28-3,100		4 85-1414		4 69-2430
	8 28-3,101		5 Omitted		5 69-2431
	9 28-115	LB 239	§ 1 85-502		6 69-2432
	10 60-6,198		2 Omitted		7 69-2433
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	37 48-418.09		8 77-2711	30	60-3,130.06
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71	68-1405	133	71-1,377		5 60-465
72	68-1503	134	71-1,378		6 60-4,138
73	68-1514	135	71-1,379		7 60-4,145
74	68-1521	136	71-1,380		8 60-4,146
75	68-1522	137	71-1,381		9 60-4,163
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	21	75-391	22	79-408	84	79-1008.01
	22	Omitted	23	79-409	85	79-1008.02
	23	Omitted	24	79-413	86	79-1022
	24	Omitted	25	79-415	87	79-1024
LB 1008	§ 1	60-490	26	79-416	88	79-1026
	2	60-4,115	27	79-433	89	79-1026.01
	3	60-4,118	28	79-4,117	90	79-1028
	4	Omitted	29	79-4,118	91	79-1030
	5	Omitted	30	79-4,119	92	79-1033
	6	Omitted	31	79-4,120	93	79-1073
LB 1008A		Omitted	32	79-4,121	94	79-1073.01
LB 1010	§ 1	77-27,230	33	79-4,122	95	79-1074
	2	77-27,231	34	79-4,123	96	79-1075
	3	77-27,232	35	79-4,124	97	79-1083
	4	77-27,233	36	79-4,125	98	79-1084
	5	Omitted	37	79-4,126	99	79-1086
	6	Omitted	38	79-4,127	100	79-10,120
LB 1019	§ 1	23-2301	39	79-4,128	101	79-10,126
	2	23-2305.01	40	79-4,129	102	79-10,126.01
	3	23-2308.01	41	79-4,130	103	79-2101
	4	23-2317	42	79-452	104	79-2102
	5	24-703	43	79-458	105	79-2103
	6	71-1631	44	79-458.01	106	79-2104
	7	72-1237	45	79-467	107	79-2105
	8	79-902	46	79-468	108	79-2106
	9	79-966.01	47	79-469	109	79-2107
	10	79-987	48	79-473	110	79-2108
	11	79-992	49	79-476	111	79-2109
	12	81-2017	50	79-479	112	79-11,150
	13	81-2026	51	79-527	113	Omitted
	14	84-1301	52	79-528	114	Omitted
	15	84-1305.02	53	79-535	115	Omitted
	16	84-1309.02	54	79-536	LB 1024A	Omitted
	17	84-1319	55	79-549	LB 1038	§ 1
	18	84-1503.02	56	79-611		2
	19	84-1503.03	57	79-769		3
	20	Omitted	58	79-760	LB 1039	§ 1
	21	Omitted	59	79-850		2
	22	Omitted	60	79-979		3
	23	Omitted	61	79-980	LB 1060	Omitted
	24	Omitted	62	79-981	LB 1061	§ 1
LB 1024	§ 1	13-503	63	79-983		2
	2	13-508	64	79-984		3
	3	13-511	65	79-985		4
	4	32-543	66	79-986		5
	5	77-1601.02	67	79-9,107		6
	6	77-1614	68	79-9,108		7
	7	77-1624	69	79-9,109		8
	8	77-1702	70	79-9,115		9
	9	77-1704.01	71	79-1001		10
	10	77-1708	72	79-1002		11
	11	77-1772	73	79-1003		12
	12	77-2201	74	79-1007.01		13
	13	77-2202	75	79-1007.03		14
	14	77-3442	76	79-1007.02		15
	15	79-102	77	79-1007.04		16
	16	79-2110	78	79-1007.05		17
	17	79-232	79	79-1007.06		18
	18	79-233	80	79-1007.07		19
	19	79-237	81	79-1007.08		20
	20	79-238	82	79-1007.09		21

APPENDIX

2006 Session Laws	2006 Cumulative Supplement	2006 Session Laws	2006 Cumulative Supplement	2006 Session Laws	2006 Cumulative Supplement			
	22	Omitted	25	28-729	32	43-2,129		
	23	Omitted	26	28-730	33	43-2,106.02		
	24	Omitted	27	28-813	34	43-1314		
	25	Omitted	28	29-4101	35	44-3311		
	26	Omitted	29	29-4102	36	71-507		
	27	Omitted	30	29-4104	37	71-510		
	28	Omitted	31	29-4106.01	38	71-601.01		
	29	Omitted	32	29-4106	39	71-612		
	30	Omitted	33	29-4107	40	71-628		
LB 1066	§ 1	18-2805	34	29-4126	41	84-915.01		
	2	Omitted	35	42-364	42	84-917		
LB 1067	§ 1	32-568	36	42-364.13	43	Omitted		
	2	32-569	37	42-1103	44	Omitted		
	3	Omitted	38	43-256	45	Omitted		
LB 1069	§ 1	75-109.01	39	43-271	46	Omitted		
	2	75-303.03	40	43-408	47	Omitted		
	3	75-302	41	43-1412	48	Omitted		
	4	75-370	42	43-3001	LB 1116	§ 1	71-2426	
	5	75-371	43	43-3342.05	2	71-2429		
	6	Omitted	44	47-619	3	Omitted		
	7	Omitted	45	47-620	4	Omitted		
LB 1069A		Omitted	46	47-623	5	Omitted		
LB 1086	§ 1	71-2301	47	47-624	LB 1126		Omitted	
	2	71-2302	48	47-634	LB 1131	§ 1	84-612	
	3	71-2303	49	47-625	2	84-613		
	4	71-2304	50	83-192	3	72-730		
	5	71-2305	51	83-1,114	4	Omitted		
	6	28-101	52	83-1,115	5	Omitted		
	7	28-801	53	86-291	LB 1148	§ 1	79-224	
	8	28-801.01	54	Omitted	2	25-21,280		
	9	28-804.01	LB 1113A		3	Omitted		
	10	28-830	LB 1115	§ 1	25-3201	LB 1175	§ 1	15-201.02
	11	28-831	2	25-3202	2	18-2147		
	12	28-832	3	25-3203	3	18-1757		
	13	Omitted	4	25-3204	4	29-424		
LB 1107	§ 1	79-225	5	25-3205	5	31-741		
LB 1111	§ 1	2-1201	6	25-3206	6	35-1207		
	2	Omitted	7	25-3207	7	Omitted		
LB 1113	§ 1	43-3801	8	25-214	8	Omitted		
	2	43-3802	9	25-302	LB 1178	§ 1	81-657	
	3	43-3803	10	25-307	2	81-660		
	4	43-3804	11	25-308	3	Omitted		
	5	43-3805	12	25-316	4	Omitted		
	6	43-3806	13	25-322	LB 1189	§ 1	77-2701	
	7	43-3807	14	25-325	2	77-2701.04		
	8	43-3808	15	25-326	3	77-2704.56		
	9	43-3809	16	25-329	4	77-2701.47		
	10	43-3810	17	25-2009	5	77-2704.12		
	11	43-3811	18	25-2720.01	6	77-2704.15		
	12	43-3812	19	29-812	7	Omitted		
	13	2-3202	20	29-814.01	8	Omitted		
	14	2-3290.01	21	29-4202	9	Omitted		
	15	2-3290	22	29-4203	10	Omitted		
	16	2-3296	23	29-4204	LB 1189A		Omitted	
	17	2-3297	24	29-4205	LB 1199	§ 1	28-101	
	18	18-1755	25	29-4206	2	28-111		
	19	20-504	26	29-4207	3	28-311		
	20	23-1824	27	30-2603	4	28-318		
	21	28-311.02	28	42-108	5	28-319		
	22	28-311.03	29	42-116	6	28-319.01		
	23	28-311.04	30	42-371.01	7	28-320.01		
	24	28-728	31	43-247	8	28-320.02		

CROSS REFERENCE TABLE

2006 Session Laws	2006 Cumulative Supplement	2006 Session Laws	2006 Cumulative Supplement	2006 Session Laws	2006 Cumulative Supplement
9	28-707	71	71-1215	23	79-1337
10	29-110	72	71-1216	24	79-1319
11	29-119	73	71-1217	25	79-1325
12	29-1926	74	71-1218	26	81-1634
13	29-2028	75	71-1219	27	86-515
14	29-2221	76	71-1220	28	86-516
15	29-2290	77	71-1221	29	86-520
16	29-2923	78	71-1222	30	86-5,100
17	29-4001	79	71-1223	31	Omitted
18	29-4003	80	71-1224	32	Omitted
19	29-4004	81	71-1225	LB 1208A	Omitted
20	29-4005	82	71-1226	LB 1222	§ 1 86-420
21	29-4006	83	79-267		2 86-440.01
22	29-4007	84	80-601		3 86-442
23	29-4009	85	81-1850		4 86-443
24	29-4011	86	83-174		5 86-443.01
25	29-4013	87	83-174.01		6 86-450.01
26	29-4014	88	83-174.02		7 86-456
27	29-4015	89	83-174.03		8 86-457
28	29-4016	90	83-174.04		9 86-459
29	29-4017	91	83-174.05		10 86-463
30	29-4103	92	83-1,100		11 86-465
31	42-1203	93	83-1,102		12 86-466
32	71-1,206.14	94	83-1,103		13 86-466.01
33	71-1,206.18	95	83-1,103.01		14 Omitted
34	71-1,206.34	96	83-1,103.02		15 Omitted
35	71-916	97	83-1,103.03	LB 1222A	Omitted
36	71-917	98	83-1,103.04	LB 1226	§ 1 2-965
37	71-918	99	83-1,135		2 2-945.01
38	71-919	100	83-338		3 2-1588
39	71-942	101	83-351		4 2-3225
40	71-944	102	83-364		5 2-3240
41	71-945	103	83-376		6 46-2,139
42	71-946	104	83-4,143		7 46-229.02
43	71-947	105	83-933		8 46-229.03
44	71-948	106	29-4019		9 46-229.04
45	71-949	107	71-1227		10 46-290
46	71-954	108	71-1228		11 46-291
47	71-956	109	Omitted		12 46-294.01
48	71-957	LB 1199A	Omitted		13 46-2,112
49	71-958	LB 1208	§ 1 9-812		14 46-2,136
50	71-959		2 79-704		15 46-602
51	71-960		3 79-761		16 46-655.01
52	71-961		4 79-1003		17 46-683
53	71-962		5 79-1007.02		18 46-691.03
54	71-1128		6 79-1018.01		19 46-701
55	29-4018		7 79-1028		20 46-754
56	71-6908		8 79-1204		21 46-706
57	71-1201		9 79-1223		22 46-712
58	71-1202		10 79-1233		23 46-713
59	71-1203		11 79-1241.01		24 46-714
60	71-1204		12 79-1241.02		25 46-715
61	71-1205		13 79-1243		26 46-719
62	71-1206		14 79-1302		27 46-739
63	71-1207		15 79-1303		28 46-740
64	71-1208		16 79-1304		29 61-205
65	71-1209		17 79-1331		30 77-3442
66	71-1210		18 79-1332		31 Omitted
67	71-1211		19 79-1333		32 Omitted
68	71-1212		20 79-1334		33 Omitted
69	71-1213		21 79-1335		34 Omitted
70	71-1214		22 79-1336	LB 1226A	Omitted

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2006 Session Laws	2006 Cumulative Supplement	2006 Session Laws	2006 Cumulative Supplement	2006 Session Laws	2006 Cumulative Supplement
LB 1227	§ 1	69-2402	53	30-2487	9
	2	69-2404	54	43-512.12	10
	3	69-2405	55	43-2508	11
	4	69-2406	56	44-3,144	Omitted
	5	69-2410	57	44-3,149	Omitted
	6	69-2411	58	44-526	
	7	69-2418	59	44-1540	
	8	69-2419	60	44-32,180	
	9	Omitted	61	44-4221	
	10	Omitted	62	44-4222	
LB 1248	§ 1	68-901	63	44-4228	
	2	68-902	64	44-4726	
	3	68-903	65	44-5305	
	4	68-904	66	44-8002	
	5	68-905	67	68-104	
	6	68-906	68	68-150	
	7	68-907	69	68-716	
	8	68-908	70	68-1070	
	9	68-909	71	68-1509	
	10	68-910	72	68-1802	
	11	68-911	73	68-1803	
	12	68-912	74	71-804	
	13	68-913	75	71-806	
	14	68-914	76	71-820	
	15	68-915	77	71-2426	
	16	68-916	78	71-6017.01	
	17	68-917	79	71-7607	
	18	68-918	80	71-7610	
	19	68-919	81	71-8405	
	20	68-920	82	71-8506	
	21	68-921	83	77-908	
	22	68-922	84	77-912	
	23	68-923	85	77-2704.09	
	24	68-924	86	77-27,163.01	
	25	68-925	87	79-215	
	26	68-926	88	81-6,113	
	27	68-927	89	50-422	
	28	68-928	90	Omitted	
	29	68-929	91	Omitted	
	30	68-930	92	Omitted	
	31	68-931		Omitted	
	32	68-932	LB 1248A		
	33	68-933	LB 1249	§ 1	13-2802
	34	68-934		2	66-1801
	35	68-935		3	66-1804
	36	68-936		4	66-1852
	37	68-937		5	66-1858
	38	68-938		6	66-1859
	39	68-939		7	66-1860
	40	68-940		8	66-1861
	41	68-941		9	66-1862
	42	68-942		10	66-1863
	43	68-943		11	66-1864
	44	68-944		12	75-109.01
	45	68-945		13	Omitted
	46	68-946	LB 1256	§ 1	79-1101
	47	68-947		2	79-1103
	48	68-948		3	79-1104
	49	68-949		4	79-1104.01
	50	25-21,188.02		5	79-1104.02
	51	28-705		6	79-1104.03
	52	28-706		7	79-1104.04
				8	79-1104.05

APPENDIX

APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, 99th Legislature
Second Session, 2006

Showing the date each act went into effect.
The Ninety-ninth Session of the Legislature adjourned
April 13, 2006.

LB No.	Effective Date	LB No.	Effective Date
14	March 7, 2006	542A	April 12, 2006
32	July 14, 2006	548	July 14, 2006
57	April 14, 2006	562	July 14, 2006
79	July 14, 2006	588	July 14, 2006
85	July 14, 2006	605	April 12, 2006
85A	July 14, 2006	605A	April 12, 2006
87	July 14, 2006	647	July 14, 2006
87A	July 14, 2006	647A	July 14, 2006
173	November 2, 2006 (operative date)	663	Sections 19 and 37 of this act become operative on June 1, 2006. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 36 of this act become operative on July 14, 2006. The other sections of this act become operative on March 17, 2006.
188	January 1, 2007 (operative date)	690	July 14, 2006
196	July 14, 2006	690A	July 14, 2006
239	July 14, 2006	693	February 7, 2006
248	Sections 2 and 4 of this act become operative on January 1, 2007. The other sections of this act become operative on July 14, 2006.	746	July 14, 2006
287	April 5, 2006	746A	July 14, 2006
366	January 1, 2007 (operative date)	757	March 14, 2006
385	July 14, 2006	764	July 14, 2006
385A	July 14, 2006	765	February 7, 2006
409	July 14, 2006	771	July 14, 2006
454	January 1, 2007 (operative date)	776	March 7, 2006
454A	July 14, 2006	778	July 14, 2006
489	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, and 41 of this act become operative on January 1, 2008. Sections 34 and 39 of this act become operative on July 14, 2006. Sections 37 and 40 of this act become operative on July 1, 2006. The other sections of this act become operative on April 14, 2006.	787	July 1, 2006 (operative date)
489A	July 14, 2006	789	July 14, 2006
508	July 14, 2006	792	March 14, 2006
542	April 12, 2006	795	April 12, 2006
		808	Sections 5, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 43, 44, 49, and 52 of this act become operative on January 1, 2007. Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 50 of this act become operative on July 14, 2006. The other sections of this act become operative on April 13, 2006.

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LB No.	Effective Date	LB No.	Effective Date
815	July 14, 2006		
817	July 14, 2006		
817A	April 14, 2006		
818	March 7, 2006		
819	July 14, 2006		
821	July 14, 2006		
823	July 14, 2006		
833	July 14, 2006		
845	July 14, 2006		
845A	July 14, 2006		
853	Sections 11 and 24 of this act become operative on January 1, 2007. The other sections of this act become operative on March 17, 2006.	968A	April 7, 2006
		975	Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, and 22 of this act become operative on December 1, 2006. The other sections of this act become operative on March 17, 2006.
856	July 14, 2006		
856A	July 14, 2006		
860	July 14, 2006	990	July 14, 2006
872	July 14, 2006	994	Sections 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 86, 87, 88, 89, 90, 151, 152, 153, 154, and 157 of this act become operative on July 1, 2006. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 81, 158, and 161 of this act become operative on August 1, 2006. Sections 115, 116, 117, and 159 of this act become operative on January 1, 2007. Sections 38, 39, 40, 41, 50, 62, 64, 79, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 160, and 162 of this act become operative on July 14, 2006. The other sections of this act become operative on April 13, 2006.
872A	July 14, 2006		
874	July 14, 2006		
875	Section 24 of this act becomes operative on December 31, 2007. Sections 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 22 of this act become operative on July 14, 2006. The other sections of this act become operative on March 14, 2006.	994A	April 13, 2006
		996	July 14, 2006
876	Sections 1, 2, 3, 4, 5, 6, 7, 8, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 49, and 60 of this act become operative on July 14, 2006. The other sections of this act become operative on April 7, 2006.	996A	July 14, 2006
		1003	Sections 1, 8, 9, and 20 of this act become operative for all taxable years beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended. Sections 3, 4, and 21 of this act become operative on July 1, 2006. The other sections of this act become operative on March 7, 2006.
887	July 14, 2006		
898	July 14, 2006		
904	October 1, 2006 (operative date)		
915	July 14, 2006		
921	July 14, 2006		
924	July 14, 2006		
925	July 14, 2006		
940	July 14, 2006		
941	July 14, 2006		
956	July 14, 2006		
956A	July 14, 2006		
962	July 14, 2006		
962A	July 14, 2006		
965	Sections 7, 8, and 10 of this act become operative on July 14, 2006. The other sections of this act become operative for taxable years beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended.		
		1007	March 7, 2006
965A	July 14, 2006	1008	Sections 2, 3, and 6 of this act become operative on January 1, 2007. The other sections of this act become operative on July 14,
968	Sections 2, 13, 14, 15, and 18 of this act become operative on January 1, 2007. Sections 7, 8, 9,		

CROSS REFERENCE TABLE

LB No.	Effective Date	LB No.	Effective Date
	2006.		operative on July 14, 2006.
1008A	July 14, 2006		Sections 29, 30, 38, 39, 40, and 45 of this act become operative on January 1, 2007. The other sections of this act become operative on March 17, 2006.
1010	January 1, 2006 (operative date)	1116	July 1, 2006 (operative date)
1019	Sections 1, 2, 3, 4, 6, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21, and 23 of this act become operative on July 14, 2006. The other sections of this act become operative on March 23, 2006.	1126	April 4, 2006
1024	July 14, 2006	1131	April 4, 2006
1024A	July 14, 2006	1148	July 14, 2006
1038	July 14, 2006	1175	April 14, 2006
1039	July 14, 2006	1178	July 14, 2006
1060	Provisions line-item vetoed by the Governor and overridden by the Legislature become effective on April 6, 2006. All other provisions became effective April 4, 2006.	1189	July 1, 2006 (operative date)
1061	Sections 9, 10, 22, 23, 26, and 28 of this act become operative on July 1, 2006. The other sections of this act become operative on April 4, 2006.	1189A	July 14, 2006
1066	July 14, 2006	1199	July 14, 2006
1067	July 14, 2006	1199A	July 14, 2006
1069	July 14, 2006	1208	July 14, 2006
1069A	July 14, 2006	1208A	July 14, 2006
1086	July 14, 2006	1222	April 14, 2006
1107	July 14, 2006	1222A	April 14, 2006
1111	July 14, 2006	1226	Sections 4, 30, 31, 32, and 34 of this act become operative on April 14, 2006. The other sections of this act become operative on July 14, 2006.
1113	July 14, 2006	1226A	July 14, 2006
1113A	July 14, 2006	1227	April 14, 2006
1115	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 31, 32, 33, 34, 35, 36, 37, 41, 42, 44, and 47 of this act become	1248	July 1, 2006 (operative date)
		1248A	July 14, 2006
		1249	July 14, 2006
		1256	July 14, 2006
		1256A	July 14, 2006



APPENDIX

APPENDIX

CROSS REFERENCE TABLE

2007 Session Laws of Nebraska, First Session
Showing LB section number to statute section number

2007 Session Laws	2007 Supplement	2007 Session Laws	2007 Supplement	2007 Session Laws	2007 Supplement
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	30 71-17,121		6	85-2105		10	77-2712.03	
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67	43-107	131	43-1720	195	44-32,165
68	43-118	132	43-1902	196	44-32,176
69	43-119	133	43-1903	197	44-4109.01
70	43-122	134	43-1904	198	44-7006
71	43-123.01	135	43-1905	199	44-7107
72	43-124	136	43-2002	200	44-7206
73	43-125	137	43-2003	201	44-7306
74	43-126	138	43-2411	202	46-602
75	43-127	139	43-2503	203	46-705
76	43-130	140	43-2505	204	46-724
77	43-131	141	43-2507	205	46-1011
78	43-132	142	43-2508	206	46-1018
79	43-133	143	43-2509	207	46-1204.01
80	43-134	144	43-2510	208	46-1207
81	43-135	145	43-2511	209	46-1217
82	43-137	146	43-2512	210	46-1235
83	43-138	147	43-2515	211	46-1235.01
84	43-139	148	43-2605	212	46-1237.01
85	43-140	149	43-2606	213	46-1237.02
86	43-141	150	43-2616	214	46-1240.05
87	43-142	151	43-2617	215	47-623
88	43-143	152	43-2620	216	48-602
89	43-144	153	43-3305.01	217	48-647
90	43-145	154	43-3314	218	48-1902
91	43-146	155	43-3317	219	48-2305
92	43-146.02	156	43-3318	220	48-2306
93	43-146.04	157	43-3319	221	48-2307
94	43-146.05	158	43-3320	222	49-506
95	43-146.06	159	43-3323	223	49-617
96	43-146.07	160	43-3325	224	54-703
97	43-146.08	161	43-3326	225	54-744.01
98	43-146.09	162	43-3327	226	54-747
99	43-146.10	163	43-3329	227	60-3,135
100	43-146.11	164	43-3333	228	60-480.01
101	43-146.12	165	43-3334	229	60-493

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231	60-4,164.01	295	69-305	359	71-1,238
232	60-6,104	296	71-101	360	71-1,290
233	60-6,107	297	71-102	361	71-1,312
234	60-6,201	298	71-104	362	71-1,339
235	60-6,202	299	71-105	363	71-1,341
236	68-126	300	71-121.01	364	71-1,367
237	68-129	301	71-139	365	71-354
238	68-130	302	71-141	366	71-390
239	68-309	303	71-142	367	71-3,173
240	68-312	304	71-150	368	71-3,174
241	68-313	305	71-151	369	71-410
242	68-703.01	306	71-153	370	71-411
243	68-716	307	71-155	371	71-434
244	68-717	308	71-155.01	372	71-445
245	68-718	309	71-156	373	71-448
246	68-907	310	71-161.02	374	71-501
247	68-908	311	71-161.03	375	71-501.02
248	68-913	312	71-161.06	376	71-502
249	68-915	313	71-161.07	377	71-502.01
250	68-921	314	71-161.12	378	71-502.02
251	68-922	315	71-161.13	379	71-502.03
252	68-923	316	71-161.14	380	71-502.04
253	68-924	317	71-161.16	381	71-503
254	68-925	318	71-161.17	382	71-503.01
255	68-926	319	71-161.20	383	71-504
256	68-927	320	71-165	384	71-505
257	68-928	321	71-169	385	71-507
258	68-930	322	71-172.01	386	71-514.02
259	68-931	323	71-172.02	387	71-516.02
260	68-932	324	71-181	388	71-516.03
261	68-940	325	71-188	389	71-516.04
262	68-948	326	71-193.01	390	71-519
263	68-949	327	71-193.13	391	71-520
264	68-1001.01	328	71-193.15	392	71-521
265	68-1002	329	71-193.18	393	71-522
266	68-1007	330	71-193.19	394	71-523
267	68-1008	331	71-193.22	395	71-524
268	68-1014	332	71-1,104	396	71-529
269	68-1015	333	71-1,104.01	397	71-532
270	68-1016	334	71-1,107	398	71-541
271	68-1017	335	71-1,107.06	399	71-543
272	68-1095.01	336	71-1,107.07	400	71-601.01
273	68-1101	337	71-1,107.08	401	71-602
274	68-1103	338	71-1,107.16	402	71-602.01
275	68-1104	339	71-1,132.05	403	71-604
276	68-1105	340	71-1,132.53	404	71-604.01
277	68-1204	341	71-1,135.02	405	71-604.05
278	68-1205	342	71-1,136	406	71-605.01
279	68-1206	343	71-1,141	407	71-605.02
280	68-1207	344	71-1,142	408	71-606
281	68-1207.01	345	71-1,143.01	409	71-608.01
282	68-1210	346	71-1,147.26	410	71-609
283	68-1402	347	71-1,147.28	411	71-610
284	68-1403	348	71-1,147.31	412	71-611
285	68-1405	349	71-1,147.33	413	71-612
286	68-1503	350	71-1,147.44	414	71-614
287	68-1514	351	71-1,147.45	415	71-615
288	68-1521	352	71-1,147.48	416	71-616
289	68-1522	353	71-1,147.53	417	71-616.03
290	68-1523	354	71-1,147.59	418	71-616.04
291	68-1732	355	71-1,154	419	71-617.02
292	68-1802	356	71-1,190.01	420	71-617.06
293	68-1807	357	71-1,206.05	421	71-617.07

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424	71-617.10	488	71-1798.01	552	71-2619
425	71-617.11	489	71-1799	553	71-2620
426	71-617.12	490	71-17,102	554	71-2621
427	71-617.13	491	71-17,109	555	71-2622
428	71-617.15	492	71-17,113	556	71-3101
429	71-626	493	71-17,118	557	71-3102
430	71-626.01	494	71-1802	558	71-3104
431	71-627	495	71-1803	559	71-3305
432	71-627.01	496	71-1804	560	71-3306
433	71-627.02	497	71-1903	561	71-3401
434	71-628	498	71-1909	562	71-3402
435	71-629	499	71-1910	563	71-3406
436	71-630	500	71-1913.01	564	71-3410
437	71-634	501	71-1913.02	565	71-3502.01
438	71-636	502	71-1913.03	566	71-3503
439	71-639	503	71-1914	567	71-3504
440	71-640.02	504	71-1915	568	71-3505
441	71-640.03	505	71-1919	569	71-3508.03
442	71-641	506	71-1922	570	71-3508.04
443	71-644	507	71-2002	571	71-3513
444	71-645	508	71-2003	572	71-3516.01
445	71-646	509	71-2004	573	71-3517
446	71-647	510	71-2006	574	71-3524
447	71-648	511	71-2007	575	71-3526
448	71-701	512	71-2009	576	71-3601
449	71-702	513	71-2010	577	71-3610
450	71-703	514	71-2011	578	71-3702
451	71-705	515	71-2013	579	71-3706
452	71-706	516	71-2014	580	71-4302
453	71-707	517	71-2015	581	71-4303
454	71-804	518	71-2081	582	71-4304
455	71-805	519	71-2082	583	71-4305
456	71-806	520	71-2084	584	71-4306
457	71-809	521	71-2086	585	71-4401
458	71-811	522	71-2096	586	71-4621
459	71-812	523	71-2097	587	71-4624
460	71-814	524	71-2098	588	71-4635
461	71-916	525	71-2099	589	71-4701
462	71-919	526	71-20,100	590	71-4728.05
463	71-961	527	71-20,101	591	71-4737
464	71-1001	528	71-20,103	592	71-4738
465	71-1301	529	71-20,113	593	71-4739
466	71-1333.01	530	71-2201	594	71-4740
467	71-1340	531	71-2202	595	71-4741
468	71-1341	532	71-2203	596	71-4742
469	71-1356	533	71-2207	597	71-4743
470	71-1363	534	71-2208	598	71-4744
471	71-1367	535	71-2304	599	71-4813
472	71-1368	536	71-2305	600	71-4816
473	71-1405	537	71-2407	601	71-4819
474	71-1617	538	71-2408	602	71-5175
475	71-1626	539	71-2409	603	71-5192
476	71-1628	540	71-2411	604	71-5197
477	71-1628.05	541	71-2423	605	71-51,102
478	71-1628.06	542	71-2431	606	71-51,103
479	71-1628.07	543	71-2432	607	71-5205
480	71-1630	544	71-2437	608	71-5301
481	71-1631	545	71-2503	609	71-5302
482	71-1635	546	71-2506	610	71-5303
483	71-1637	547	71-2509	611	71-5304.01
484	71-1710	548	71-2511	612	71-5304.02
485	71-1729	549	71-2610	613	71-5305.01

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616	71-5310	680	71-7617	744	81-664
617	71-5310.01	681	71-7618	745	81-676
618	71-5311	682	71-7619	746	81-677
619	71-5311.02	683	71-7620	747	81-678
620	71-5318	684	71-7621	748	81-679
621	71-5322	685	71-7622	749	81-680
622	71-5402	686	71-7702	750	81-699
623	71-5647	687	71-8008	751	81-6,110
624	71-5649	688	71-8211	752	81-6,113
625	71-5653	689	71-8228	753	81-1021
626	71-5654	690	71-8231	754	81-1139.01
627	71-5655	691	71-8236	755	81-1281
628	71-5681	692	71-8239	756	81-1316
629	71-5707	693	71-8312	757	81-15,103
630	71-5710	694	71-8313	758	81-15,170
631	71-5711	695	71-8503	759	81-15,189
632	71-5713	696	72-249	760	81-15,210
633	71-5714	697	75-303.01	761	81-15,245
634	71-5803.04	698	75-303.02	762	81-2205
635	71-5829.05	699	75-303.03	763	81-2206
636	71-5859	700	76-1304	764	81-2213
637	71-5903	701	76-14,102	765	81-2226
638	71-6010	702	77-912	766	81-2229
639	71-6018.01	703	77-2602	767	81-2248
640	71-6019	704	77-2704.21	768	81-2249
641	71-6021	705	77-27,162	769	81-2250
642	71-6038	706	77-27,222	770	81-2251
643	71-6042	707	79-217	771	81-2252
644	71-6043	708	79-218	772	81-2255
645	71-6045	709	79-219	773	81-2260
646	71-6048	710	79-248	774	81-2265
647	71-6053	711	79-249	775	81-2267
648	71-6059	712	79-843	776	81-2268
649	71-6065	713	79-1104.04	777	81-3602
650	71-6068	714	79-1902	778	83-101.08
651	71-6103	715	79-1903	779	83-107.01
652	71-6208	716	79-1904	780	83-113
653	71-6221	717	79-1905	781	83-114
654	71-6301	718	80-314	782	83-115
655	71-6303	719	80-316	783	83-121
656	71-6309	720	80-317	784	83-126
657	71-6319.15	721	80-318	785	83-130
658	71-6319.28	722	80-319	786	83-305.03
659	71-6319.30	723	80-320	787	83-324
660	71-6319.31	724	80-321	788	83-336
661	71-6321	725	80-322	789	83-348
662	71-6602	726	81-101	790	83-363
663	71-6721	727	81-102	791	83-365
664	71-6724	728	81-502	792	83-366
665	71-6725	729	81-502.01	793	83-373
666	71-6732	730	81-601	794	83-374
667	71-6743	731	81-602	795	83-376
668	71-7012	732	81-604.01	796	83-379
669	71-7105	733	81-604.02	797	83-380
670	71-7107	734	81-604.03	798	83-381
671	71-7110	735	81-637	799	83-382
672	71-7434	736	81-638	800	83-383
673	71-7450	737	81-639	801	83-384
674	71-7457	738	81-640	802	83-385
675	71-7603	739	81-642	803	83-386
676	71-7606	740	81-652	804	83-387
677	71-7607	741	81-654	805	83-390

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		807	83-1204	6	47-632	11	84-1322	
		808	83-1206	7	47-633	12	50-417.02	
		809	83-1216	8	48-162.02	13	50-417.03	
		810	84-1409	9	55-131	14	50-417.04	
		811	85-134	10	60-1303	15	50-417.05	
		812	86-570	11	60-1513	16	50-417.06	
		813	Omitted	12	66-489	17	Omitted	
		814	Omitted	13	66-1345	18	Omitted	
		815	Omitted	14	66-1345.01	19	Omitted	
		816	Omitted	15	66-1345.02		Omitted	
LB 298	§ 1	32-618		16	66-1345.04	LB 328A		
	2	Omitted		17	69-2436	LB 333	§ 1	81-15,236
LB 299	§ 1	37-406		18	71-3532		2	81-15,237
	2	37-407		19	71-7611		3	81-15,247
	3	37-414		20	77-2602		4	81-15,248
	4	37-426		21	81-188.02		5	81-15,248.01
	5	37-427		22	81-188.04		6	81-15,250
	6	37-431		23	81-188.06		7	81-15,250.01
	7	37-447		24	81-523		8	Omitted
	8	37-449		25	81-5,153	LB 334	§ 1	2-257
	9	37-450		26	81-1108.22		2	11-201
	10	37-452		27	81-1201.21		3	23-1601
	11	37-457		28	Omitted		4	23-1611
	12	37-4,111		29	Omitted		5	35-509
	13	37-513		30	Omitted		6	49-506
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	2	Omitted		2	81-179		22	77-202.13
LB 311	§ 1	32-1409		3	84-612		23	77-361
	2	Omitted		4	84-613		24	77-366
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	2	Omitted		6	Omitted		26	77-374
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	3	Omitted	LB 324	§ 1	81-2014		29	77-421
LB 316	§ 1	79-11,151		2	81-2014.01		30	77-422
	2	79-11,152		3	81-2041		31	77-603
	3	79-11,153		4	81-2017		32	77-603.01
	4	79-11,154		5	Omitted		33	77-605
	5	Omitted		6	Omitted		34	77-607
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LB 319		Omitted		3	23-2317		38	77-685
LB 320		Omitted		4	23-2319.01		39	77-687
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	51		3	LB 342A	
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	53	LB 341	§ 1		2
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	60		8	LB 343A	
	61		9	LB 347	§ 1
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	68	LB 342	§ 1		8
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	2	77-4210	33	21-2933	97	21-2997	
	3	77-4211	34	21-2934	98	21-2998	
	4	77-4212	35	21-2935	99	21-2999	
	5	77-908	36	21-2936	100	21-29,100	
	6	77-2101.01	37	21-2937	101	21-29,101	
	7	77-2101.02	38	21-2938	102	21-29,102	
	8	77-2101.03	39	21-2939	103	21-29,103	
	9	77-2701	40	21-2940	104	21-29,104	
	10	77-2701.04	41	21-2941	105	21-29,105	
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	12	77-2701.10	43	21-2943	107	21-29,107	
	13	77-2701.16	44	21-2944	108	21-29,108	
	14	77-2701.34	45	21-2945	109	21-29,109	
	15	77-2703	46	21-2946	110	21-29,110	
	16	77-2703.01	47	21-2947	111	21-29,111	
	17	77-2704.33	48	21-2948	112	21-29,112	
	18	77-2704.55	49	21-2949	113	21-29,113	
	19	77-2715.02	50	21-2950	114	21-29,114	
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750	38-2133	814	38-2322	878	38-2606
751	38-2134	815	38-2323	879	38-2607
752	38-2135	816	38-2401	880	38-2608
753	38-2136	817	38-2402	881	38-2609
754	38-2137	818	38-2403	882	38-2610
755	38-2138	819	38-2404	883	38-2611
756	38-2139	820	38-2405	884	38-2612
757	38-2201	821	38-2406	885	38-2613
758	38-2202	822	38-2407	886	38-2614
759	38-2203	823	38-2408	887	38-2615
760	38-2204	824	38-2409	888	Omitted

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889	38-2616	953	38-2857	1017	38-2924
890	38-2617	954	38-2858	1018	38-2925
891	38-2618	955	38-2859	1019	38-2926
892	38-2619	956	38-2860	1020	38-2927
893	38-2620	957	38-2861	1021	38-2928
894	38-2621	958	38-2862	1022	38-2929
895	38-2622	959	38-2863	1023	38-3001
896	38-2623	960	38-2864	1024	38-3002
897	38-2801	961	38-2865	1025	38-3003
898	38-2802	962	38-2866	1026	38-3004
899	38-2803	963	38-2867	1027	38-3005
900	38-2804	964	38-2868	1028	38-3006
901	38-2805	965	38-2869	1029	38-3007
902	38-2806	966	38-2870	1030	38-3008
903	38-2807	967	38-2871	1031	38-3009
904	38-2808	968	38-2872	1032	38-3010
905	38-2809	969	38-2873	1033	38-3011
906	38-2810	970	38-2874	1034	38-3012
907	38-2811	971	38-2875	1035	38-3101
908	38-2812	972	38-2876	1036	38-3102
909	38-2813	973	38-2877	1037	38-3103
910	38-2814	974	38-2878	1038	38-3104
911	38-2815	975	38-2879	1039	38-3105
912	38-2816	976	38-2880	1040	38-3106
913	38-2817	977	38-2881	1041	38-3107
914	38-2818	978	38-2882	1042	38-3108
915	38-2819	979	38-2883	1043	38-3109
916	38-2820	980	38-2884	1044	38-3110
917	38-2821	981	38-2885	1045	38-3111
918	38-2822	982	38-2886	1046	38-3112
919	38-2823	983	38-2887	1047	38-3113
920	38-2824	984	38-2888	1048	38-3114
921	38-2825	985	38-2889	1049	38-3115
922	38-2826	986	Omitted	1050	38-3116
923	38-2827	987	Omitted	1051	38-3117
924	38-2828	988	38-2898	1052	38-3118
925	38-2829	989	38-2899	1053	38-3119
926	38-2830	990	38-28,100	1054	38-3120
927	38-2831	991	38-28,101	1055	38-3121
928	38-2832	992	38-28,102	1056	38-3122
929	38-2833	993	38-28,103	1057	38-3123
930	38-2834	994	38-2901	1058	38-3124
931	38-2835	995	38-2902	1059	38-3125
932	38-2836	996	38-2903	1060	38-3126
933	38-2837	997	38-2904	1061	38-3127
934	38-2838	998	38-2905	1062	38-3128
935	38-2839	999	38-2906	1063	38-3129
936	38-2840	1000	38-2907	1064	38-3130
937	38-2841	1001	38-2908	1065	38-3131
938	38-2842	1002	38-2909	1066	38-3132
939	38-2843	1003	38-2910	1067	38-3201
940	38-2844	1004	38-2911	1068	38-3202
941	38-2845	1005	38-2912	1069	38-3203
942	38-2846	1006	38-2913	1070	38-3204
943	38-2847	1007	38-2914	1071	38-3205
944	38-2848	1008	38-2915	1072	38-3206
945	38-2849	1009	38-2916	1073	38-3207
946	38-2850	1010	38-2917	1074	38-3208
947	38-2851	1011	38-2918	1075	38-3209
948	38-2852	1012	38-2919	1076	38-3210
949	38-2853	1013	38-2920	1077	38-3211
950	38-2854	1014	38-2921	1078	38-3212
951	38-2855	1015	38-2922	1079	38-3213
952	38-2856	1016	38-2923	1080	38-3214

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1082	38-3216	1146	46-1204.01	1210	71-3505
1083	38-3301	1147	46-1205	1211	71-3507
1084	38-3302	1148	46-1205.01	1212	71-3508.03
1085	38-3303	1149	46-1207.01	1213	71-3515
1086	38-3304	1150	46-1209	1214	71-3517
1087	38-3305	1151	46-1210	1215	71-3518.01
1088	38-3306	1152	46-1213	1216	71-3519
1089	38-3307	1153	46-1214	1217	71-4305
1090	38-3308	1154	46-1214.01	1218	71-4807
1091	38-3309	1155	46-1217	1219	71-4810
1092	38-3310	1156	46-1218	1220	71-4813
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1094	38-3312	1158	46-1227.01	1222	71-51,103
1095	38-3313	1159	46-1223	1223	71-5301
1096	38-3314	1160	46-1223.01	1224	71-5303
1097	38-3315	1161	46-1224	1225	71-5305.02
1098	38-3316	1162	46-1225	1226	71-5307
1099	38-3317	1163	46-1227	1227	71-5308
1100	38-3318	1164	46-1229	1228	71-5309
1101	38-3319	1165	46-1230	1229	71-5311
1102	38-3320	1166	46-1231	1230	71-5312.01
1103	38-3321	1167	46-1233	1231	71-5313
1104	38-3322	1168	46-1235	1232	71-5402
1105	38-3323	1169	46-1238	1233	71-5654
1106	38-3324	1170	46-1239	1234	71-5662
1107	38-3325	1171	46-1240	1235	71-6038
1108	38-3326	1172	46-1241	1236	71-6039
1109	38-3327	1173	54-311	1237	71-6040
1110	38-3328	1174	60-4,118.02	1238	71-6041
1111	38-3329	1175	60-6,261	1239	71-6042
1112	38-3330	1176	69-302	1240	71-6039.06
1113	12-1208	1177	69-2429	1241	71-6211
1114	25-12,123	1178	71-1,190	1242	71-6218
1115	25-21,188.02	1179	71-414	1243	71-6301
1116	25-21,247	1180	71-425	1244	71-6303
1117	27-504	1181	71-448	1245	71-6304
1118	28-328	1182	71-507	1246	71-6305
1119	28-401	1183	71-551	1247	71-6306
1120	28-401.01	1184	71-605	1248	71-6307
1121	28-409	1185	71-906	1249	71-6309
1122	28-414	1186	71-1356	1250	71-6310
1123	28-435	1187	71-1357	1251	71-6310.01
1124	28-435.01	1188	71-1361	1252	71-6310.02
1125	28-435.02	1189	71-1363	1253	71-6310.03
1126	28-435.03	1190	71-1373	1254	71-6310.04
1127	28-1013	1191	71-17,102	1255	71-6312
1128	28-1301	1192	71-17,113	1256	71-6313
1129	29-2261	1193	71-2407	1257	71-6314
1130	29-4013	1194	71-2411	1258	71-6315
1131	43-129	1195	71-2412	1259	71-6317
1132	43-146.03	1196	71-2418	1260	71-6318
1133	43-1302	1197	71-2419	1261	71-6318.01
1134	44-526	1198	71-2420	1262	71-6319.01
1135	44-792	1199	71-2421	1263	71-6319.02
1136	44-2804	1200	71-2423	1264	71-6319.04
1137	44-2902	1201	71-2431	1265	71-6319.05
1138	44-32,170	1202	71-2437	1266	71-6319.06
1139	44-4110	1203	71-2505	1267	71-6319.07
1140	46-602	1204	71-2509	1268	71-6319.08
1141	46-602.01	1205	71-2510	1269	71-6319.09
1142	46-604	1206	71-2610.01	1270	71-6319.10
1143	46-1201	1207	71-3501	1271	71-6319.29
1144	46-1202	1208	71-3502	1272	71-6319.40

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	1275	71-6322	10	81-8,139.01		2 Omitted
	1276	71-6323	11	81-8,131	LB 537	§ 1 66-741
	1277	71-6326	12	Omitted		2 Omitted
	1278	71-6327	13	Omitted	LB 540	§ 1 47-635
	1279	71-6328	LB 472	§ 1 48-801		2 47-636
	1280	71-6328.01		2 48-804		3 47-637
	1281	71-6329		3 48-804.01		4 47-638
	1282	71-6330		4 48-805		5 47-639
	1283	71-6331		5 48-806		6 Omitted
	1284	71-6331.01		6 48-816.01	LB 540A	Omitted
	1285	71-6328.02		7 48-838	LB 542	§ 1 43-4001
	1286	71-6721		8 49-617		2 43-4002
	1287	71-6726		9 Omitted		3 43-4003
	1288	71-6727	LB 481	§ 1 71-101		4 43-407
	1289	71-6728		2 71-104.01		5 Omitted
	1290	71-6734		3 71-131		6 Omitted
	1291	71-6742		4 71-1,106.01	LB 549	§ 1 53-101
	1292	71-7001		5 Omitted		2 53-103
	1293	71-7427		6 Omitted		3 53-116.02
	1294	71-7436	LB 482	§ 1 85-1,138		4 53-117.07
	1295	71-7454		2 85-1,139		5 53-123
	1296	71-7457		3 85-1,140		6 53-123.16
	1297	71-7460.01		4 85-1,141		7 53-124
	1298	71-7460.02		5 85-1,142		8 53-124.11
	1299	71-7460.03		6 71-7611		9 53-124.12
	1300	71-7460.04		7 Omitted		10 53-129
	1301	71-7702		8 Omitted		11 53-131
	1302	71-7901		9 Omitted		12 53-132
	1303	71-8228	LB 482A	Omitted		13 53-133
	1304	71-8231	LB 497	§ 1 55-501		14 53-134
	1305	71-8253		2 55-502		15 53-134.03
	1306	71-8402		3 55-503		16 53-164.01
	1307	71-8709		4 55-504		17 53-169
	1308	77-2704.09		5 55-505		18 53-171
	1309	77-3504		6 55-506		19 53-188
	1310	80-325		7 55-507		20 53-1,115
	1311	81-2,281		8 Omitted		21 Omitted
	1312	81-657	LB 502	§ 1 77-2004	LB 549A	Omitted
	1313	81-6,102		2 77-2005	LB 551	§ 1 13-2602
	1314	81-2121		3 77-2006		2 13-2603
	1315	81-3115		4 77-2010		3 13-2605
	1316	Omitted		5 77-2040		4 13-2607
	1317	Omitted		6 Omitted		5 13-2609
	1318	Omitted	LB 504	§ 1 37-201		6 13-2610
	1319	Omitted		2 37-571		7 13-2612
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	2	49-1401		4 37-573		9 Omitted
	3	49-14,123		5 Omitted		10 Omitted
	4	49-14,124.02	LB 508	§ 1 24-707		11 Omitted
	5	49-14,126		2 79-956	LB 551A	Omitted
	6	49-14,133		3 Omitted	LB 554	§ 1 43-2920
	7	Omitted		4 Omitted		2 43-2921
LB 470	§ 1	29-3523	LB 516	§ 1 50-446		3 43-2922
	2	Omitted		2 50-447		4 43-2923
LB 470A		Omitted		3 50-448		5 43-2924
LB 471	§ 1	81-8,129		4 Omitted		6 43-2925
	2	81-8,130.01	LB 516A	Omitted		7 43-2926
	3	81-8,132	LB 527	§ 1 49-1401		8 43-2927
	4	81-8,133		2 49-1449		9 43-2928
	5	81-8,133.01		3 49-1449.01		10 43-2929
	6	81-8,134		4 49-1463.02		11 43-2930
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	14		5	18	79-1247
	15	LB 570	§ 1	19	79-1248
	16		2	20	79-1249
	17		3	21	79-1223
	18		4	22	79-1233
	19		5	23	79-1241
	20		6	24	79-1241.03
	21		7	25	79-1241.01
	22		8	26	79-1241.02
	23		9	27	79-1243
	24	LB 573	§ 1	28	79-1304
	25		2	29	79-1336
	26		3	30	79-1337
	27		4	31	84-304
	28		5	32	86-515
	29		6	33	86-5,100
	30		7	34	86-5,101
	31		8	35	Omitted
	32		9	36	Omitted
	33		10	37	Omitted
	34		11	38	Omitted
	35		12	39	Omitted
	36		13	40	Omitted
	37	LB 578	§ 1		Omitted
	38		2	LB 603A	
	39		3	LB 610	§ 1
	40		4	LB 629	§ 1
	41		5		2
	42		6		3
	43	LB 580	§ 1		4
	44		2		5
	45		3		6
	46		4		7
	47	LB 588	§ 1		8
	48		2		9
	49		3		10
LB 554A	Omitted		4	LB 629A	Omitted
LB 561	§ 1		5	LB 636	§ 1
	2		6		2
	3		7		3
LB 562	§ 1		8		4
	2	LB 588A			5
	3	LB 596	§ 1		6
	4		2		7
	5		3	LB 638	§ 1
	6		4		2
	7		5		3
	8	LB 603	§ 1		4
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	21 Omitted		4 32-612		3 8-2603		
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	2 32-604		6 32-904		5 8-2605		
	3 32-606		7 32-906		6 8-2606		
	4 77-3442		8 32-909		7 8-2607		
	5 79-4,117		9 32-1001		8 8-2608		
	6 79-4,125		10 32-1002		9 8-2609		
	7 79-4,126		11 32-1004		10 8-2610		
	8 79-4,128		12 32-1010		11 8-2611		
	9 79-528		13 32-1027		12 8-2612		
	10 79-611		14 32-1041		13 8-2613		
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	12 79-1001		16 Omitted		15 8-2615		
	13 79-1003		17 Omitted		16 48-237		
	14 79-1003.01	LB 653	§ 1 79-757		17 Omitted		
	15 79-1007.02		2 79-758	LB 677	§ 1 54-2423		
	16 79-1007.03		3 79-760		2 Omitted		
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	18 79-1007.05		5 79-760.01	LB 681	§ 1 60-1411.01		
	19 79-1007.06		6 79-760.02		2 60-1419		
	20 79-1007.07		7 79-760.04		3 Omitted		
	21 79-1007.08		8 79-760.05	LB 701	§ 1 2-967		
	22 79-1007.09		9 Omitted		2 2-968		
	23 79-1013	LB 653A	Omitted		3 2-945.01		
	24 79-1014	LB 661	§ 1 86-125		4 2-958.02		
	25 79-1015		2 86-140		5 2-3202		
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	28 79-1022		5 86-318		8 2-3226.03		
	29 79-1073		6 86-320.01		9 2-3226.04		
	30 79-1073.01		7 86-322		10 2-3226.05		
	31 79-10,120		8 86-323		11 2-3225		
	32 79-10,126.01		9 86-420		12 2-3231		
	33 79-11,150		10 86-422		13 13-808		
	34 79-1204		11 86-429.01		14 13-2530		
	35 79-2101		12 86-433		15 46-229.04		
	36 79-2102		13 86-434		16 2-32,115		
	37 32-555.01		14 86-435		17 46-601.01		
	38 79-2102.01		15 86-436		18 46-602		
	39 79-2103		16 86-442		19 46-609		
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	41 79-2107		18 86-449.01		21 46-702		
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	46 79-2114		23 86-457		26 61-210		
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	49 32-546.01		26 Omitted		29 66-1345.02		
	50 79-2117		27 Omitted		30 Omitted		
	51 79-2118		28 Omitted		31 Omitted		
	52 Omitted		29 Omitted		32 61-219		
	53 Omitted		30 Omitted		33 77-3442		
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APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, 100th Legislature
First Session, 2007

Showing the date each act went into effect.
The One Hundredth Session of the Legislature adjourned
May 31, 2007.

LB No.	Effective Date	LB No.	Effective Date
1	September 1, 2007		September 1, 2007. The other sections of this act become operative on March 20, 2007.
2	September 1, 2007		
5	September 1, 2007		
8	September 1, 2007		
11	September 1, 2007	132	
12	September 1, 2007	136	
12A	September 1, 2007	142	
21	February 1, 2007	143	
24	February 1, 2007	144	
25	September 1, 2007	145	
26	September 1, 2007	147	
28	September 1, 2007	148	
34	September 1, 2007	150	
35	February 15, 2007	152	September 1, 2007
43	September 1, 2007	160	September 1, 2007
44	September 1, 2007	161	September 1, 2007
63	September 1, 2007	166	March 8, 2007
64	September 1, 2007	167	February 10, 2007
67	September 1, 2007	185	Sections 1, 50, 51, and 55 of this act become operative on March 15, 2007. Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 53, and 54 of this act become operative on July 1, 2007. The other sections of this act become operative on September 1, 2007.
69	September 1, 2007		
73	July 1, 2007 (operative date)		
73A	May 31, 2007		
74	July 1, 2007 (operative date)		
79	September 1, 2007		
80	September 1, 2007		
80A	September 1, 2007		
83	March 20, 2007		
88	May 22, 2007		
94	September 1, 2007	186	September 1, 2007
97	September 1, 2007	188	May 17, 2007
99	March 8, 2007	191	March 8, 2007
108	March 8, 2007	192	September 1, 2007
110	February 15, 2007	199	September 1, 2007
111	September 1, 2007	203	September 1, 2007
115	September 1, 2007	206	September 1, 2007
117	September 1, 2007	207	September 1, 2007
124	Sections 1, 2, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 75, and 78 of this act become operative on	208	September 1, 2007
		211	May 31, 2007
		211A	May 31, 2007
		213	September 1, 2007
		214	September 1, 2007
		218	September 1, 2007
		219	May 17, 2007
		221	September 1, 2007
		223	Sections 1, 3, 4, 5, 6, 7, 8, 12, 13, 14, 15, 22, 23, 24,

APPENDIX

LB No.	Effective Date	LB No.	Effective Date
	and 35 of this act become operative on January 1, 2008. The other sections of this act become operative on September 1, 2007.	313	September 1, 2007
226	May 17, 2007	315	February 15, 2007
227	September 1, 2007	316	May 31, 2007
231	September 1, 2007	316A	May 31, 2007
232	September 1, 2007	317	May 22, 2007
233	September 1, 2007	318	July 1, 2007 (operative date)
236	September 1, 2007	319	July 1, 2007 (operative date)
236A	September 1, 2007	320	July 1, 2007 (operative date)
237	September 1, 2007	321	July 1, 2007
239	September 1, 2007	322	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, and 41 of this act become operative on July 1, 2007. Section 43 of this act becomes operative on August 1, 2007. The other sections of this act become operative on May 22, 2007.
247	Sections 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 90, and 91 of this act become operative on December 1, 2008. The other sections of this act become operative on June 1, 2007.	323	Sections 1, 2, 4, and 6 of this act become operative on July 1, 2007. The other sections of this act become operative on May 22, 2007.
247A	September 1, 2007	324	May 31, 2007
248	January 1, 2008 (operative date)	324A	May 31, 2007
252	September 1, 2007	328	Sections 12, 13, 14, 15, 16, 17, and 19 of this act become operative on May 31, 2007. The other sections of this act become operative on September 1, 2007.
255	April 3, 2007	328A	May 31, 2007
256	September 1, 2007	333	March 8, 2007
263	September 1, 2007	334	July 1, 2007 (operative date)
265	Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 35, and 39 of this act become operative on July 1, 2007. Sections 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, and 38 of this act become operative on January 1, 2008. Sections 1, 2, 13, 14, 15, 16, 17, 18, 19, 20, 21, 36, and 40 of this act become operative on September 1, 2007. Sections 22, 23, 33, 37, and 41 of this act become operative on June 1, 2007.	338	January 1, 2007 (operative date)
274	July 1, 2008 (operative date)	339	September 1, 2007
277	September 1, 2007	341	February 2, 2007
283	September 1, 2007	342	July 1, 2007 (operative date)
283A	September 1, 2007	342A	July 1, 2007 (operative date)
286	September 1, 2007	343	January 1, 2007 (operative date)
289	September 1, 2007	343A	September 1, 2007
290	September 1, 2007	347	September 1, 2007
292	September 1, 2007	349	September 1, 2007
292A	September 1, 2007	351	September 1, 2007
296	July 1, 2007 (operative date)	351A	September 1, 2007
298	September 1, 2007	358	September 1, 2007
299	September 1, 2007	364	September 1, 2007
304	September 1, 2007	367	Sections 5, 19, 20, 21, 22, 23, 25, 27, and 30 of this act become operative for taxable years beginning or deemed to begin on or after January 1, 2007, under the Internal Revenue Code of 1986, as
305	October 1, 2007 (operative date)		
305A	September 1, 2007		
307	September 1, 2007		
311	September 1, 2007		

CROSS REFERENCE TABLE

LB No.	Effective Date	LB No.	Effective Date
	amended. Sections 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 29, and 31 of this act become operative on October 1, 2007.		187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570,
367A	September 1, 2007		
368	January 1, 2008 (operative date)		
368A	September 1, 2007		
373	September 1, 2007		
374	July 1, 2007 (operative date)		
377	July 1, 2007		
377A	May 31, 2007		
382	September 1, 2007		
388	September 1, 2007		
389	April 3, 2007		
390	September 1, 2007		
396	May 17, 2007		
415	January 1, 2008 (operative date)		
415A	September 1, 2007		
422	March 8, 2007		
424	September 1, 2007		
425	September 1, 2007		
425A	September 1, 2007		
434	September 1, 2007		
435	May 17, 2007		
441	September 1, 2007		
441A	September 1, 2007		
445	September 1, 2007		
449	September 1, 2007		
456	September 1, 2007		
457	September 1, 2007		
463	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186,		

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LB No.	Effective Date	LB No.	Effective Date
	571, 572, 573, 574, 575, 576,		955, 956, 957, 958, 959, 960,
	577, 578, 579, 580, 581, 582,		961, 962, 963, 964, 965, 966,
	583, 584, 585, 586, 587, 588,		967, 968, 969, 970, 971, 972,
	589, 590, 591, 592, 593, 594,		973, 974, 975, 976, 977, 978,
	595, 596, 597, 598, 599, 600,		979, 980, 981, 982, 983, 984,
	601, 602, 603, 604, 605, 606,		985, 986, 987, 988, 989, 990,
	607, 608, 609, 610, 611, 612,		991, 992, 993, 994, 995, 996,
	613, 614, 615, 616, 617, 618,		997, 998, 999, 1000, 1001,
	619, 620, 621, 622, 623, 624,		1002, 1003, 1004, 1005,
	625, 626, 627, 628, 629, 630,		1006, 1007, 1008, 1009,
	631, 632, 633, 634, 635, 636,		1010, 1011, 1012, 1013,
	637, 638, 639, 640, 641, 642,		1014, 1015, 1016, 1017,
	643, 644, 645, 646, 647, 648,		1018, 1019, 1020, 1021,
	649, 650, 651, 652, 653, 654,		1022, 1023, 1024, 1025,
	655, 656, 657, 658, 659, 660,		1026, 1027, 1028, 1029,
	661, 662, 663, 664, 665, 666,		1030, 1031, 1032, 1033,
	667, 668, 669, 670, 671, 672,		1034, 1035, 1036, 1037,
	673, 674, 675, 676, 677, 678,		1038, 1039, 1040, 1041,
	679, 680, 681, 682, 683, 684,		1042, 1043, 1044, 1045,
	685, 686, 687, 688, 689, 690,		1046, 1047, 1048, 1049,
	691, 692, 693, 694, 695, 696,		1050, 1051, 1052, 1053,
	697, 698, 699, 700, 701, 702,		1054, 1055, 1056, 1057,
	703, 704, 705, 706, 707, 708,		1058, 1059, 1060, 1061,
	709, 710, 711, 712, 713, 714,		1062, 1063, 1064, 1065,
	715, 716, 717, 718, 719, 720,		1066, 1067, 1068, 1069,
	721, 722, 723, 724, 725, 726,		1070, 1071, 1072, 1073,
	727, 728, 729, 730, 731, 732,		1074, 1075, 1076, 1077,
	733, 734, 735, 736, 737, 738,		1078, 1079, 1080, 1081,
	739, 740, 741, 742, 743, 744,		1082, 1083, 1084, 1085,
	745, 746, 747, 748, 749, 750,		1086, 1087, 1088, 1089,
	751, 752, 753, 754, 755, 756,		1090, 1091, 1092, 1093,
	757, 758, 759, 760, 761, 762,		1094, 1095, 1096, 1097,
	763, 764, 765, 766, 767, 768,		1098, 1099, 1100, 1101,
	769, 770, 771, 772, 773, 774,		1102, 1103, 1104, 1105,
	775, 776, 777, 778, 779, 780,		1106, 1107, 1108, 1109,
	781, 782, 783, 784, 785, 786,		1110, 1111, 1112, 1113,
	787, 788, 789, 790, 791, 792,		1114, 1115, 1116, 1117,
	793, 794, 795, 796, 797, 798,		1118, 1119, 1120, 1121,
	799, 800, 801, 802, 803, 804,		1122, 1123, 1124, 1125,
	805, 806, 807, 808, 809, 810,		1126, 1127, 1128, 1129,
	811, 812, 813, 814, 815, 816,		1130, 1131, 1132, 1133,
	817, 818, 819, 820, 821, 822,		1134, 1135, 1136, 1137,
	823, 824, 825, 826, 827, 828,		1138, 1139, 1140, 1141,
	829, 830, 831, 832, 833, 834,		1142, 1143, 1144, 1145,
	835, 836, 837, 838, 839, 840,		1146, 1147, 1148, 1149,
	841, 842, 843, 844, 845, 846,		1150, 1151, 1152, 1153,
	847, 848, 849, 850, 851, 852,		1154, 1155, 1156, 1157,
	853, 854, 855, 856, 857, 858,		1158, 1159, 1160, 1161,
	859, 860, 861, 862, 863, 864,		1162, 1163, 1164, 1165,
	865, 866, 867, 868, 869, 870,		1166, 1167, 1168, 1169,
	871, 872, 873, 874, 875, 876,		1170, 1171, 1172, 1173,
	877, 878, 879, 880, 881, 882,		1174, 1175, 1176, 1177,
	883, 884, 885, 886, 887, 888,		1179, 1180, 1181, 1182,
	889, 890, 891, 892, 893, 894,		1183, 1184, 1185, 1186,
	895, 896, 897, 898, 899, 900,		1187, 1188, 1189, 1190,
	901, 902, 903, 904, 905, 906,		1191, 1192, 1193, 1194,
	907, 908, 909, 910, 911, 912,		1195, 1196, 1197, 1198,
	913, 914, 915, 916, 917, 918,		1199, 1200, 1201, 1202,
	919, 920, 921, 922, 923, 924,		1203, 1204, 1205, 1206,
	925, 926, 927, 928, 929, 930,		1207, 1208, 1209, 1210,
	931, 932, 933, 934, 935, 936,		1211, 1212, 1213, 1214,
	937, 938, 939, 940, 941, 942,		1215, 1216, 1217, 1218,
	943, 944, 945, 946, 947, 948,		1219, 1220, 1221, 1222,
	949, 950, 951, 952, 953, 954,		1223, 1224, 1225, 1226,

CROSS REFERENCE TABLE

LB No.	Effective Date	LB No.	Effective Date
	1227, 1228, 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1318, and 1319 of this act become operative on December 1, 2008. The other sections of this act become operative on September 1, 2007.	568	April 5, 2007
		570	January 1, 2010 (operative date)
		573	Sections 1, 2, 3, 4, 5, 6, 7, 8, and 9 of this act become operative on January 1, 2008. The other sections of this act become operative on September 1, 2007.
		578	September 1, 2007
		580	September 1, 2007
		588	Sections 1, 2, 5, 6, and 7 of this act become operative on September 1, 2007. Sections 3, 4, and 8 of this act become operative on January 1, 2008.
		588A	September 1, 2007
		596	May 17, 2007
		603	Sections 1, 16, 17, 18, 19, 20, 21, 22, 28, 31, 32, 33, 36, and 39 of this act become operative on July 1, 2008. Sections 4, 7, 8, 10, 12, 34, 35, 38, and 40 of this act become operative on May 31, 2007. The other sections of this act become operative on September 1, 2007.
464	September 1, 2007	603A	September 1, 2007
470	September 1, 2007	610	September 1, 2007
470A	September 1, 2007	629	May 22, 2007
471	May 17, 2007	629A	May 22, 2007
472	September 1, 2007	636	September 1, 2007
481	May 17, 2007	638	September 1, 2007
482	July 1, 2007 (operative date)	641	September 1, 2007
482A	May 25, 2007	641A	September 1, 2007
497	April 5, 2007	646	September 1, 2007
502	September 1, 2007	653	September 1, 2007
504	September 1, 2007	653A	September 1, 2007
508	May 17, 2007	661	Sections 16, 17, 18, 19, 20, 21, 22, 23, and 29 of this act become operative on July 1, 2007. Sections 1, 2, and 28 of this act become operative on August 1, 2007. The other sections of this act become operative on April 5, 2007.
516	May 25, 2007		
516A	May 25, 2007	664	September 1, 2007
527	September 1, 2007	674	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 17 of this act become operative on September 1, 2007. Section 16 of this act becomes operative on September 1, 2008.
530	September 1, 2007		
537	September 1, 2007	677	April 12, 2007
540	May 31, 2007	681	September 1, 2007
540A	May 31, 2007	701	May 2, 2007
542	May 25, 2007	701A	May 2, 2007
549	September 1, 2007		
549A	September 1, 2007		
551	June 1, 2007		
551A	September 1, 2007		
554	Sections 42 and 48 of this act become operative on July 1, 2008. The other sections of this act become operative on January 1, 2008.		
554A	September 1, 2007		
561	September 1, 2007		
562	September 1, 2007		
564	May 17, 2007		



APPENDIX

APPENDIX

CROSS REFERENCE TABLE

2008 Session Laws of Nebraska, Second Session
 Showing LB section number to statute section number

2008 Session Laws	2008 Cumulative Supplement	2008 Session Laws	2008 Cumulative Supplement	2008 Session Laws	2008 Cumulative Supplement
LB 39	§ 1 32-628		3 Omitted		7 23-1831
	2 32-629		4 Omitted		8 23-1832
	3 32-630		5 Omitted		9 Omitted
	4 32-1303	LB 157	§ 1 29-121	LB 268	§ 1 23-151
	5 32-1404	LB 171	§ 1 68-1017.02		2 32-528
	6 49-1455		2 Omitted		3 Omitted
	7 49-1478	LB 171A	Omitted	LB 269	§ 1 23-148
	8 Omitted	LB 177	§ 1 77-5903		2 23-149
LB 92	§ 1 43-3801		2 Omitted		3 23-151
	2 43-3802	LB 179	§ 1 29-4501		4 23-202
	3 43-3803		2 29-4502		5 23-292
	4 43-3804		3 29-4503		6 23-293
	5 43-3805		4 29-4504		7 23-294
	6 43-3806		5 29-4505		8 23-295
	7 43-3807		6 29-4506		9 23-296
	8 43-3808		7 29-4507		10 23-297
	9 43-3809		8 29-4508		11 23-299
	10 43-3810	LB 179A	Omitted		12 51-201.03
	11 Omitted	LB 195	Omitted		13 Omitted
LB 123	§ 1 76-2701	LB 196	§ 1 55-133		14 Omitted
	2 76-2702		2 60-610	LB 279	§ 1 60-4,173
	3 76-2703		3 60-6,230		2 60-4,174
	4 76-2704		4 60-6,231		3 60-4,175
	5 76-2705		5 Omitted		4 Omitted
	6 76-2706	LB 202	§ 1 13-2001	LB 280	§ 1 24-517
	7 76-2707		2 13-2020.01		2 25-2740
	8 76-2708		3 Omitted		3 43-247
	9 76-2709	LB 204	§ 1 48-2102		4 Omitted
	10 76-2710		2 48-2103	LB 308	§ 1 71-2444
	11 76-2711		3 48-2104		2 71-2445
	12 76-2712		4 48-2107		3 71-2446
	13 76-2713		5 48-2114		4 71-2447
	14 76-2714		6 48-2115		5 71-2448
	15 76-2715		7 Omitted		6 71-2449
	16 76-2716	LB 204A	Omitted		7 71-2450
	17 76-2717	LB 205	§ 1 79-2,137		8 71-2452
	18 76-2718		2 79-267		9 71-2451
	19 76-2719		3 Omitted		10 38-178
	20 76-2720		4 Omitted		11 38-2866
	21 76-2721	LB 210	§ 1 48-1623		12 71-448
	22 76-2722		2 Omitted		13 71-7454
	23 76-2723	LB 245	§ 1 71-3305		14 Omitted
	24 76-2724		2 Omitted		15 Omitted
	25 76-2725		3 Omitted		16 Omitted
	26 76-2726	LB 245A	Omitted		17 Omitted
	27 76-2727	LB 246	§ 1 23-1825		18 Omitted
	28 76-2728		2 23-1826		19 Omitted
	29 87-302		3 23-1827	LB 308A	§ 1 9-506 UCC
	30 Omitted		4 23-1828		2 Omitted
LB 151	§ 1 25-227		5 23-1829	LB 312	§ 1 32-562
	2 3-118 UCC		6 23-1830		2 32-571

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	2008 Session Laws	2008 Cumulative Supplement		2008 Session Laws	2008 Cumulative Supplement		2008 Session Laws	2008 Cumulative Supplement
		3 32-1205		13 71-5728		LB 668	§ 1 69-1305.03	
		4 32-1306		14 71-5729			2 Omitted	
		5 Omitted		15 71-5730		LB 690	§ 1 37-413	
LB 379	§ 1	21-301		16 71-5731			2 37-414	
	2	21-302		17 71-5732			3 37-452	
	3	21-304		18 71-5733			4 Omitted	
	4	21-305		19 71-5734		LB 706	§ 1 21-2970	
	5	21-1302		20 Omitted			2 Omitted	
	6	21-1403		21 Omitted			3 Omitted	
	7	21-1921		22 Omitted		LB 707	§ 1 67-294	
	8	21-1934	LB 395A	Omitted			2 67-464	
	9	21-1935	LB 465	§ 1 29-1928			3 67-465	
	10	21-19,148		2 29-1929			4 Omitted	
	11	21-19,152		3 Omitted			5 Omitted	
	12	21-19,153	LB 467	§ 1 81-8,240		LB 710	§ 1 77-3206.01	
	13	21-19,161		2 81-8,244			2 77-3206	
	14	21-19,172		3 Omitted			3 77-3207	
	15	21-2018	LB 467A	Omitted			4 77-3210	
	16	21-2032	LB 469	§ 1 71-7606			5 77-3212	
	17	21-20,170		2 Omitted			6 77-3213	
	18	21-20,175	LB 480	§ 1 71-7605			7 Omitted	
	19	21-20,181.01		2 71-7611		LB 715	§ 1 81-885.17	
	20	21-2216		3 Omitted			2 Omitted	
	21	21-2304		4 Omitted		LB 720	§ 1 49-1474.02	
	22	21-2601.01		5 Omitted			2 86-242	
	23	21-2606		6 Omitted			3 86-247	
	24	21-2610	LB 500	§ 1 48-652			4 86-250	
	25	21-2632.01		2 Omitted			5 86-256	
	26	21-2638	LB 575	§ 1 77-2704.12			6 Omitted	
	27	Omitted		2 Omitted			7 Omitted	
LB 380	§ 1	45-705		3 Omitted		LB 724	§ 1 81-15,184	
	2	45-706	LB 586	§ 1 52-401			2 Omitted	
	3	Omitted		2 Omitted		LB 726	§ 1 81-15,151	
LB 383	§ 1	67-236		3 Omitted			2 81-15,153	
	2	67-240	LB 606	§ 1 71-8801			3 Omitted	
	3	67-241		2 71-8802		LB 726A	Omitted	
	4	67-281		3 71-8803		LB 727	§ 1 61-206	
	5	67-283		4 71-8804			2 Omitted	
	6	67-415		5 71-8805		LB 728	§ 1 90-111	
	7	67-454		6 71-8806			2 Omitted	
	8	67-456		7 71-7608		LB 734	§ 1 13-1622	
	9	67-458		8 Omitted			2 Omitted	
	10	Omitted		9 Omitted		LB 736	§ 1 60-480	
LB 386	§ 1	76-2801	LB 606A	Omitted			2 60-497.01	
	2	76-2802	LB 609	§ 1 81-12,126			3 60-498.02	
	3	76-2803		2 Omitted			4 60-4,115	
	4	76-2804	LB 609A	Omitted			5 60-4,118.06	
	5	76-2805	LB 619	§ 1 84-617			6 60-601	
	6	76-2806		2 84-617.01			7 60-6,197.01	
	7	76-2807		3 Omitted			8 60-6,197.03	
LB 395	§ 1	71-5716	LB 620	§ 1 43-3342.03			9 60-6,209	
	2	71-5717		2 84-620			10 60-6,211.05	
	3	71-5718		3 Omitted			11 60-6,211.10	
	4	71-5719	LB 621	§ 1 60-4,182			12 83-1,127.02	
	5	71-5720		2 60-682.01			13 Omitted	
	6	71-5721		3 Omitted			14 Omitted	
	7	71-5722	LB 623	§ 1 29-1207		LB 736A	Omitted	
	8	71-5723		2 Omitted		LB 744	§ 1 81-1108.17	
	9	71-5724	LB 624	§ 1 28-905			2 Omitted	
	10	71-5725		2 Omitted		LB 745	§ 1 81-1316	
	11	71-5726	LB 632	§ 1 54-702			2 Omitted	
	12	71-5727		2 Omitted		LB 746	§ 1 85-505	

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	2 85-505.01	LB 764	§ 1 28-101	4	68-906
	3 Omitted		2 28-1008	5	71-409
LB 747	§ 1 66-1065		3 28-1009.02	6	71-1557
	2 79-10,105		4 28-1009.03	7	71-1558
	3 Omitted		5 28-1013	8	71-1559
LB 750	§ 1 32-302		6 28-1013.01	9	71-1563
	2 32-311.01		7 28-1013.02	10	71-1564
	3 32-321		8 28-1014	11	71-1567
	4 Omitted		9 28-1015	12	71-1901
	5 Omitted		10 28-1016	13	71-4603
LB 752	§ 1 81-1108.32		11 Omitted	14	71-4604
	2 Omitted	LB 765	§ 1 71-5829.03	15	71-4604.01
LB 754	§ 1 13-2610		2 71-5829.06	16	71-4608
	2 Omitted		3 Omitted	17	71-4623
	3 Omitted	LB 766	§ 1 69-401	18	71-4631
LB 755	§ 1 75-111		2 69-402	19	71-5662
	2 75-126		3 69-403	20	71-5663
	3 75-156		4 69-404	21	71-5665
	4 75-1011		5 69-405	22	71-5668
	5 75-1012		6 69-406	23	71-7003.01
	6 86-127		7 69-407	24	71-7010
	7 86-209		8 69-408	25	71-7012
	8 86-437		9 69-409	26	71-7013
	9 86-459		10 Omitted	27	71-8249
	10 86-465	LB 768	§ 1 31-727	28	81-671
	11 Omitted		2 31-740	29	86-570
	12 Omitted		3 Omitted	30	68-720
LB 756	§ 1 37-1282	LB 775	§ 1 24-401	31	Omitted
	2 60-141		2 Omitted	32	Omitted
	3 60-164	LB 777	§ 1 77-1359	33	Omitted
	4 60-168.02		2 Omitted	34	Omitted
	5 60-301		3 Omitted	35	Omitted
	6 60-302	LB 781	§ 1 87-302	36	Omitted
	7 60-311		2 87-303.01	LB 798	§ 1 46-283
	8 60-334.01		3 87-303.02	2	46-286
	9 60-342		4 87-303.03	3	46-287
	10 60-3,193.01		5 87-303.04	4	46-291
	11 60-365		6 87-303.05	5	46-299
	12 60-376		7 87-303.06	6	Omitted
	13 60-3,161		8 87-303.07	LB 805	§ 1 66-1618
	14 60-3,196		9 87-304	2	Omitted
	15 60-3,198		10 87-305	LB 806	§ 1 14-102
	16 60-462.01		11 Omitted	2	15-220
	17 60-4,147.02	LB 782	§ 1 81-3126	3	16-206
	18 60-601		2 28-725	4	17-526
	19 60-605		3 28-726	5	20-126.01
	20 60-624.01		4 Omitted	6	20-127
	21 60-6,265		5 Omitted	7	20-128
	22 60-6,267		6 Omitted	8	20-129
	23 60-6,288	LB 789	§ 1 2-5420	9	20-131.02
	24 60-6,289		2 Omitted	10	20-131.04
	25 60-6,290		3 Omitted	11	28-1009.01
	26 60-6,294	LB 790	§ 1 2-5109	12	49-801
	27 60-6,310		2 Omitted	13	54-603
	28 75-363	LB 791	§ 1 2-1072	14	54-614
	29 75-364		2 2-1074	15	Omitted
	30 Omitted		3 2-1075.02	LB 821	§ 1 81-8,210
	31 Omitted		4 2-10,116	2	81-8,211
	32 Omitted		5 Omitted	3	81-8,212
	33 Omitted	LB 797	§ 1 60-107	4	81-8,213
	34 Omitted		2 60-1301	5	81-8,220
	35 Omitted		3 60-1401.02	6	81-8,224

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	7 81-8,227		3 66-485	LB 851	§ 1 8-115.01
	8 81-8,228		4 66-488		2 8-116
	9 81-8,300		5 66-489		3 8-120
	10 81-8,305		6 66-489.01		4 8-122
LB 822	§ 1 50-1204		7 66-495.01		5 8-143.01
	2 50-1205.01		8 66-499		6 8-157
	3 50-1206		9 66-4,103		7 8-1,140
	4 84-304		10 66-4,105		8 8-223
LB 823	§ 1 86-501		11 66-489.02		9 8-224
	2 86-506		12 66-4,114		10 8-234
	3 86-516		13 66-4,145		11 8-355
	4 86-520		14 66-4,146		12 8-374
	5 86-521		15 66-697		13 8-910
	6 86-524.01		16 66-6,107		14 8-1510
	7 86-526		17 66-6,109.02		15 8-2102
	8 86-527		18 66-6,109		16 8-2106
	9 86-528		19 66-6,111		17 21-17,115
	10 86-529		20 66-726		18 25-202
	11 86-530		21 84-612		19 45-702
	12 86-552		22 Omitted		20 45-703
	13 86-562	LB 848	23 Omitted		21 45-704
	14 86-563		24 Omitted		22 45-722
	15 86-564		§ 1 21-2901		23 45-907
	16 86-565		2 21-2903		24 45-922
	17 86-569		3 21-2910		25 45-1006
	18 86-570		4 21-2922		26 64-214
	19 86-571		5 21-2929		27 9-324 UCC
	20 86-572		6 21-2930		28 9-506 UCC
	21 86-573		7 21-2935		29 Omitted
	22 Omitted		8 21-2939		30 Omitted
	23 Omitted		9 21-2945		31 Omitted
LB 830	§ 1 68-901		10 21-2949		32 Omitted
	2 68-950		11 21-2950	LB 853	§ 1 44-1101
	3 68-951		12 21-2951		2 44-1102
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	10 Omitted		19 21-2978		9 44-1108.01
LB 830A	Omitted		20 21-2980		10 44-1109
LB 837	§ 1 74-1334		21 21-2981.01		11 44-1110
	2 Omitted		22 21-2981.02		12 44-1117
LB 838	§ 1 32-202		23 21-2981.03		13 44-1111
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	4 32-954		26 21-29,110		16 44-1114
	5 32-957		27 21-29,117		17 44-1115
	6 Omitted		28 21-29,122		18 Omitted
	7 Omitted		29 21-29,123	LB 855	§ 1 13-206
	8 Omitted		30 21-29,124		2 28-631
LB 844	§ 1 28-416		31 21-29,125		3 44-349
	2 Omitted		32 21-29,126		4 44-356
LB 845	§ 1 75-363		33 21-29,127		5 44-789
	2 75-369.03	LB 850	34 Omitted		6 44-1521
	3 75-369.06		35 Omitted		7 44-1534.01
	4 Omitted		§ 1 79-506		8 44-1601
LB 846	§ 1 39-2215		2 79-2119		9 44-1602
	2 66-482		3 79-1232		10 44-1603
			4 Omitted		11 44-1604
			5 Omitted		

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13	44-1606.01	12	13-2912	14	60-4,118.05
14	44-1606.02	13	13-2913	15	60-4,120.01
15	44-1606.03	14	13-2914	16	60-4,122
16	44-1607	15	Omitted	17	60-4,123
17	44-1607.01	16	Omitted	18	60-4,124
18	44-1613	LB 893 § 1	77-1834	19	60-4,126
19	44-1614	2	77-1914	20	60-4,127
20	44-32,106	3	77-1917	21	60-4,144
21	44-3901	4	Omitted	22	60-4,148
22	44-3902	LB 895 § 1	18-2720	23	60-4,149
23	44-3904	2	77-27,187.01	24	60-4,150
24	44-3909	3	77-27,187.02	25	60-4,151
25	44-3910	4	77-27,188	26	60-4,181
26	44-3911	5	77-27,196.01	27	Omitted
27	44-4064	6	77-5701	LB 911A	Omitted
28	44-4521	7	77-5703	LB 912 § 1	13-2603
29	44-6009	8	77-5707.01	2	Omitted
30	44-6016	9	77-5708	LB 914 § 1	21-2612
31	44-6603	10	77-5712	2	66-720
32	44-6604	11	77-5714	3	66-722
33	44-8301	12	77-5715	4	66-723
34	44-8302	13	77-5719.01	5	66-1344
35	44-8303	14	77-5719.02	6	77-1783.01
36	44-8304	15	77-5723	7	77-2709
37	44-8305	16	77-5725	8	77-2711
38	44-8306	17	77-5726	9	77-2775
39	44-8307	18	77-5727	10	77-2777
40	44-8308	19	77-5731	11	77-2778
41	44-8309	20	77-5735	12	77-2780
42	44-8310	21	Omitted	13	77-2792
43	44-8311	22	Omitted	14	77-2793
44	44-8312	LB 896 § 1	49-801.01	15	77-2796
45	44-8313	2	Omitted	16	77-27,100
46	44-8314	3	Omitted	17	77-27,187.02
47	44-8315	LB 898 § 1	59-1502	18	77-4104
48	44-8316	2	59-1505	19	77-4928
49	44-7508.02	3	Omitted	20	77-5405
50	44-165	LB 902 § 1	28-405	21	77-5534
51	44-7613	2	28-410	22	77-5723
52	Omitted	3	Omitted	23	77-5726
53	Omitted	4	Omitted	24	72-2501
54	Omitted	5	Omitted	25	79-1034
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2	Omitted	2	Omitted	27	Omitted
LB 857 § 1	32-712	LB 907 § 1	21-1905	28	Omitted
2	Omitted	2	21-2005	29	Omitted
LB 865 § 1	37-513	3	21-2604	LB 915 § 1	77-2717
2	Omitted	4	21-2611	2	77-2727
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2	Omitted	LB 911 § 1	60-462	4	77-2769
3	Omitted	2	60-462.02	5	77-2794
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2	13-2902	4	60-465.01	7	77-5803
3	13-2903	5	60-468.01	8	Omitted
4	13-2904	6	60-475.01	9	Omitted
5	13-2905	7	60-479	10	Omitted
6	13-2906	8	60-479.01	LB 916 § 1	70-1903
7	13-2907	9	60-484	2	70-1904
8	13-2908	10	60-4,112	3	70-1905
9	13-2909	11	60-4,113	4	70-1907
10	13-2910	12	60-4,115	5	77-2701

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	7	77-2701.16	39	81-660	33	Omitted	
	8	77-2701.32	40	81-662	34	Omitted	
	9	77-2701.49	41	81-664	35	Omitted	
	10	77-2701.50	42	Omitted	36	Omitted	
	11	77-2701.51	43	Omitted	37	Omitted	
	12	77-2701.52	44	Omitted	38	Omitted	
	13	77-2701.53	45	Omitted	39	Omitted	
	14	77-2701.34	46	Omitted	40	Omitted	
	15	77-2703	47	Omitted	41	Omitted	
	16	77-2703.01	48	Omitted	42	Omitted	
	17	77-2704.09	LB 928A	Omitted	43	Omitted	
	18	77-2704.26	LB 939	§ 1	13-824.01	44	Omitted
	19	77-2704.45		2	18-2442	45	Omitted
	20	77-2704.46		3	70-637	46	Omitted
	21	77-2704.57		4	Omitted	47	Omitted
	22	77-2704.58	LB 947	§ 1	16-321	48	Omitted
	23	77-2704.59		2	17-568.01	49	Omitted
	24	77-2705		3	Omitted	50	Omitted
	25	77-2708	LB 952	§ 1	81-119	51	Omitted
	26	Omitted		2	86-2,112	52	Omitted
	27	Omitted		3	Omitted	53	Omitted
	28	Omitted	LB 953	§ 1	76-2901	54	Omitted
LB 925	§ 1	54-401		2	60-137	55	Omitted
	2	Omitted		3	60-164	56	Omitted
LB 928	§ 1	30-2483		4	Omitted	57	Omitted
	2	38-101	LB 956	§ 1	81-1201.21	58	Omitted
	3	38-1,140		2	81-1202	59	Omitted
	4	38-711		3	81-1204.01	60	Omitted
	5	38-1901		4	81-1205	61	Omitted
	6	38-1902		5	Omitted	62	Omitted
	7	38-1907	LB 959	§ 1	Omitted	63	Omitted
	8	38-1905.01		2	Omitted	64	Omitted
	9	38-1908.01		3	Omitted	65	Omitted
	10	38-1915		4	Omitted	66	Omitted
	11	38-1917.01		5	Omitted	67	Omitted
	12	38-1917.02		6	Omitted	68	Omitted
	13	38-3321		7	Omitted	69	Omitted
	14	43-4001		8	Omitted	70	Omitted
	15	68-909		9	Omitted	71	Omitted
	16	68-949		10	Omitted	72	Omitted
	17	71-810		11	Omitted	73	Omitted
	18	71-818		12	Omitted	74	Omitted
	19	71-1910		13	Omitted	75	Omitted
	20	71-2619		14	Omitted	76	Omitted
	21	71-2620		15	Omitted	77	Omitted
	22	71-2621		16	Omitted	78	Omitted
	23	71-3503		17	Omitted	79	Omitted
	24	71-3505		18	Omitted	80	Omitted
	25	71-3513.01		19	Omitted	81	Omitted
	26	71-3507		20	Omitted	82	Omitted
	27	71-3508.03		21	Omitted	83	Omitted
	28	71-3517		22	Omitted	84	Omitted
	29	71-3519		23	Omitted	85	90-531
	30	71-5306		24	Omitted	86	90-532
	31	71-5830.01		25	Omitted	87	90-533
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	33	81-653		27	Omitted	89	Omitted
	34	81-654		28	Omitted	90	Omitted
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	37	81-657		31	Omitted	93	Omitted

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	2	Omitted	64	Omitted	126	Omitted
	3	Omitted	65	Omitted	127	Omitted
	4	Omitted	66	Omitted	128	Omitted
	5	Omitted	67	Omitted	129	Omitted
	6	Omitted	68	Omitted	130	Omitted
	7	Omitted	69	Omitted	131	Omitted
	8	Omitted	70	Omitted	132	Omitted
	9	Omitted	71	Omitted	133	Omitted
	10	Omitted	72	Omitted	134	Omitted
	11	Omitted	73	Omitted	135	Omitted
	12	Omitted	74	Omitted	136	Omitted
	13	Omitted	75	Omitted	137	Omitted
	14	Omitted	76	Omitted	138	Omitted
	15	Omitted	77	Omitted	139	Omitted
	16	Omitted	78	Omitted	140	Omitted
	17	Omitted	79	Omitted	141	Omitted
	18	Omitted	80	Omitted	142	Omitted
	19	Omitted	81	Omitted	143	Omitted
	20	Omitted	82	Omitted	144	Omitted
	21	Omitted	83	Omitted	145	Omitted
	22	Omitted	84	Omitted	146	Omitted
	23	Omitted	85	Omitted	147	Omitted
	24	Omitted	86	Omitted	148	Omitted
	25	Omitted	87	Omitted	149	Omitted
	26	Omitted	88	Omitted	150	Omitted
	27	Omitted	89	Omitted	151	Omitted
	28	Omitted	90	Omitted	152	Omitted
	29	Omitted	91	Omitted	153	Omitted
	30	Omitted	92	Omitted	154	Omitted
	31	Omitted	93	Omitted	155	Omitted
	32	Omitted	94	Omitted	156	Omitted
	33	Omitted	95	Omitted	157	Omitted
	34	Omitted	96	Omitted	158	Omitted
	35	Omitted	97	Omitted	159	Omitted
	36	Omitted	98	Omitted	160	Omitted
	37	Omitted	99	Omitted	161	Omitted
	38	Omitted	100	Omitted	162	Omitted
	39	Omitted	101	Omitted	163	Omitted
	40	Omitted	102	Omitted	164	Omitted
	41	Omitted	103	Omitted	165	Omitted
	42	Omitted	104	Omitted	166	Omitted
	43	Omitted	105	Omitted	167	Omitted
	44	Omitted	106	Omitted	168	Omitted
	45	Omitted	107	Omitted	169	Omitted
	46	Omitted	108	Omitted	170	Omitted
	47	Omitted	109	Omitted	171	Omitted
	48	Omitted	110	Omitted	172	Omitted
	49	Omitted	111	Omitted	173	Omitted
	50	Omitted	112	Omitted	174	Omitted
	51	Omitted	113	Omitted	175	Omitted
	52	Omitted	114	Omitted	176	Omitted
	53	Omitted	115	Omitted	177	Omitted
	54	Omitted	116	Omitted	178	Omitted
	55	Omitted	117	Omitted	179	Omitted
	56	Omitted	118	Omitted	180	Omitted
	57	Omitted	119	Omitted	181	Omitted
	58	Omitted	120	Omitted	182	Omitted
	59	Omitted	121	Omitted	183	Omitted
	60	Omitted	122	Omitted	184	Omitted
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	188 90-533	8	85-2228		2 Omitted
	189 90-534	9	Omitted	LB 995	§ 1 12-401
	190 Omitted	10	Omitted		2 12-402
	191 Omitted	LB 988 § 1	44-4317		3 12-805
	192 Omitted	2	77-3442		4 12-806
	193 Omitted	3	79-233		5 12-807
	194 Omitted	4	79-458		6 12-808
	195 Omitted	5	79-4,108		7 12-810
	196 Omitted	6	79-4,111		8 12-1202
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	2 29-3921	8	79-1001		10 12-1401
	3 54-857	9	79-1003		11 Omitted
	4 71-7608	10	79-1003.01		12 Omitted
	5 71-7611	11	79-1005.01	LB 1001	§ 1 66-1012
	6 81-3119	12	79-1007.02		2 66-1013
	7 84-510	13	79-1007.11		3 66-1014
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	10 Omitted	16	79-1007.14		6 66-1017
	11 Omitted	17	79-1007.15		7 66-1018
	12 Omitted	18	79-1007.16		8 66-1019
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	2 Omitted	20	79-1007.18		10 77-3102
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	3 77-1201	23	79-1007.21		13 77-3106
	4 77-1202.01	24	79-1007.22		14 Omitted
	5 77-1210	25	79-1007.23		15 Omitted
	6 77-1214	26	79-1007.24	LB 1001A	Omitted
	7 77-1219	27	79-1007.04	LB 1004	§ 1 77-2753
	8 77-1230	28	79-1007.06		2 77-2790
	9 77-1233.02	29	79-1007.07		3 Omitted
	10 77-1233.03	30	79-1007.08		4 Omitted
	11 77-1233.04	31	79-1007.09	LB 1011	§ 1 76-2207
	12 77-1233.06	32	79-1007.10		2 76-2213.01
	13 77-1234	33	79-1008.01		3 76-2217.02
	14 77-1345.01	34	79-1008.02		4 76-2221
	15 77-1502	35	79-1009		5 76-2222
	16 77-1504.01	36	79-1013		6 76-2223
	17 77-1734.01	37	79-1014		7 76-2228
	18 77-1736.06	38	79-1015.01		8 76-2229
	19 77-4105	39	79-1016		9 76-2229.01
	20 77-5004	40	79-1018.01		10 76-2230
	21 77-5019	41	79-1022		11 76-2231.01
	22 77-5725	42	79-1022.02		12 76-2232
	23 81-1316	43	79-1023		13 76-2233
	24 Omitted	44	79-1024		14 76-2241
	25 Omitted	45	79-1028		15 76-2244
	26 Omitted	46	79-1028.01		16 76-2249
	27 Omitted	47	79-1029		17 Omitted
	28 Omitted	48	79-1031.01	LB 1014	§ 1 24-303
LB 972	§ 1 38-2609	49	79-1073		2 24-312
	2 38-2611	50	79-1083.03		3 24-508
	3 Omitted	51	79-1229		4 24-517
	4 Omitted	52	79-1336		5 24-730
LB 973	§ 1 85-2205	53	79-1337		6 24-1301
	2 85-2212	54	79-2102		7 24-1302
	3 85-2221	55	Omitted		8 25-534
	4 85-2223	56	Omitted		9 25-2943
	5 85-2224	57	Omitted		10 25-1129
	6 85-2225	LB 988A	Omitted		11 25-1130

CROSS REFERENCE TABLE

2008 Session Laws	2008 Cumulative Supplement	2008 Session Laws	2008 Cumulative Supplement	2008 Session Laws	2008 Cumulative Supplement
12	25-2704	74	Omitted	LB 1055	§ 1 28-101
13	25-2733	75	Omitted		2 28-1008
14	25-2740	76	Omitted		3 28-1019
15	29-2326	77	Omitted		4 28-1013
16	29-1816	78	Omitted		5 28-1014
17	29-2291	79	Omitted		6 28-1015
18	29-2246	80	Omitted		7 28-1016
19	7-201	81	Omitted		8 54-607
20	7-202	82	Omitted		9 54-608
21	7-203	83	Omitted		10 54-610
22	7-204	LB 1014A	Omitted		11 54-611
23	7-205	LB 1019	Omitted		12 54-613
24	7-206	LB 1022	§ 1 71-8901		13 54-614
25	7-207		2 71-8902		14 54-615
26	7-208		3 71-8903		15 54-616
27	7-209		4 71-8904		16 54-617
28	29-3927		5 71-8905		17 54-618
29	42-353		6 71-8906		18 54-619
30	42-357		7 71-8907		19 54-620
31	42-359		8 71-8908		20 54-623
32	42-364		9 71-8909		21 54-624
33	42-364.17		10 71-8910		22 54-623.01
34	42-364.13		11 71-8911		23 Omitted
35	42-371		12 71-8912		24 Omitted
36	42-925		13 71-8913		25 Omitted
37	43-247		14 71-8914	LB 1056	§ 1 16-1101
38	43-247.01		15 71-8915		2 16-1102
39	43-272.01		16 71-8916		3 16-1103
40	43-276		17 71-8917		4 16-1104
41	43-2,106.03		18 71-8918		5 16-1105
42	43-2,129		19 71-8919		6 16-1106
43	43-512.15		20 71-8920		7 16-1107
44	43-1311		21 71-8921		8 16-1108
45	43-1312		22 71-8922		9 16-1109
46	43-1411.01		23 71-8923		10 16-1110
47	43-1412.01		24 71-8924		11 16-1111
48	43-1608		25 71-8925		12 16-1112
49	43-1609		26 71-8926		13 16-1113
50	43-1610		27 71-8927		14 16-1114
51	43-1611		28 71-8928		15 16-1115
52	43-1612		29 71-8929	LB 1058	§ 1 71-816
53	43-1613		30 Omitted		2 71-817
54	43-2404.02	LB 1027	§ 1 77-202		3 Omitted
55	43-2922		2 77-5201		4 Omitted
56	43-2923		3 77-5203	LB 1067	§ 1 32-1203
57	43-2924		4 77-5209.02		2 70-610
58	43-2927		5 77-5204		3 Omitted
59	43-2928		6 77-5208	LB 1068	§ 1 13-1210
60	43-2929		7 77-5209		2 39-1817
61	43-2930		8 77-5211		3 39-1818
62	43-2932		9 77-5215		4 39-2103
63	43-2934		10 Omitted		5 39-2105
64	43-2936	LB 1027A	Omitted		6 39-2109
65	43-2937	LB 1045	§ 1 44-531		7 39-2110
66	43-2943		2 Omitted		8 39-2112
67	43-3001	LB 1048	§ 1 71-606		9 39-2113
68	79-215		2 Omitted		10 Omitted
69	84-917		3 Omitted	LB 1072	§ 1 66-1838
70	86-2,107	LB 1048A	Omitted		2 66-1852
71	25-1107.01	LB 1049	§ 1 37-101		3 75-130.01
72	29-2011		2 Omitted		4 Omitted
73	Omitted		3 Omitted		5 Omitted

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2008 Session Laws	2008 Cumulative Supplement	2008 Session Laws	2008 Cumulative Supplement	2008 Session Laws	2008 Cumulative Supplement
LB 1094	§ 1 2-3225		4 66-1529.02	17	79-2102.01
	2 2-3226.01		5 Omitted	18	79-2104
	3 2-3226.05	LB 1147	§ 1 23-2306	19	79-2104.01
	4 2-3226.06		2 23-2309.01	20	79-2107
	5 2-3226.07		3 23-2310.05	21	79-2110
	6 2-3226.08		4 23-2320	22	79-2111
	7 2-3226.09		5 24-708	23	79-2113
	8 84-612		6 24-710.07	24	79-2115
	9 Omitted		7 24-710.10	25	79-2117
	10 Omitted		8 79-933	26	79-2118
	11 Omitted		9 79-947.01	27	81-1203
LB 1094A	Omitted		10 79-947.04	28	81-1204
LB 1096	§ 1 16-222.01		11 81-2027.03	29	Omitted
	2 16-222.02		12 81-2027.06	LB 1157	§ 1 79-758
	3 16-222.03		13 84-1307	2	79-760.01
	4 35-901		14 84-1310.01	3	79-760.02
	5 35-1401		15 84-1311.03	4	79-760.03
	6 35-1403		16 84-1322	5	79-760.05
	7 35-1404		17 72-1277	6	Omitted
	8 35-1405		18 72-1278	LB 1157A	Omitted
	9 35-1406		19 Omitted	LB 1162	§ 1 37-415
	10 35-1407		20 Omitted	2	37-426
	11 35-1408		21 Omitted	3	37-438
	12 35-1402		22 Omitted	4	37-448
	13 Omitted	LB 1147A	Omitted	5	37-451
LB 1103	§ 1 53-103	LB 1153	§ 1 79-770	6	37-458
	2 53-123.11		2 79-1102.01	7	37-462
	3 53-123.13		3 79-1103	8	37-463
	4 Omitted		4 79-1104.01	9	37-465
LB 1108	§ 1 38-2112		5 79-1104.02	10	37-478
	2 38-2115		6 79-1104.04	11	37-479
	3 38-2116		7 79-1007.11	12	37-483
	4 38-2124		8 Omitted	13	37-484
	5 Omitted		9 Omitted	14	37-497
	6 Omitted		10 Omitted	15	37-4,104
LB 1116	§ 1 2-101		11 Omitted	16	37-4,105
	2 2-101.01		12 Omitted	17	37-4,106
	3 2-103	LB 1154	§ 1 13-508	18	37-4,108
	4 2-108		2 13-519	19	Omitted
	5 2-112		3 32-546.01	LB 1165	§ 1 82-331
	6 2-113		4 32-604	2	84-612
	7 2-258		5 77-3442	3	Omitted
	8 81-1108.33		6 79-201	LB 1172	§ 1 54-501
	9 84-612		7 79-234	2	54-502
	10 Omitted		8 79-611	3	54-503
	11 Omitted		9 79-769	4	54-504
	12 Omitted		10 79-1028.01	5	54-505
	13 Omitted		11 79-1073	6	54-506
	14 Omitted		12 79-1202	7	54-507
LB 1116A	Omitted		13 79-1210	8	54-508
LB 1145	§ 1 66-1519		14 79-1225	LB 1172A	Omitted
	2 66-1523		15 79-1241.03		
	3 66-1525		16 79-2102		

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APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, 100th Legislature
Second Session, 2008

Showing the date each act went into effect.
Convened January 9, 2008, and adjourned April 17, 2008.

LB No.	Effective Date	LB No.	Effective Date
39	July 18, 2008	500	July 18, 2008
92	July 18, 2008	575	October 1, 2008 (operative date)
123	July 18, 2008	586	March 11, 2008
151	July 1, 2008 (operative date)	606	March 26, 2008
157	July 18, 2008	606A	March 26, 2008
171	July 18, 2008	609	July 18, 2008
171A	July 18, 2008	609A	April 22, 2008
177	July 18, 2008	619	July 18, 2008
179	July 18, 2008	620	July 18, 2008
179A	July 18, 2008	621	July 18, 2008
195	July 18, 2008	623	July 18, 2008
196	July 18, 2008	624	July 18, 2008
202	July 18, 2008	632	July 18, 2008
204	July 18, 2008	668	July 18, 2008
204A	July 18, 2008	690	July 18, 2008
205	February 8, 2008	706	February 8, 2008
210	July 18, 2008	707	July 18, 2008
245	April 18, 2008	710	July 18, 2008
245A	April 18, 2008	715	July 18, 2008
246	February 8, 2008	720	January 1, 2009 (operative date)
268	July 18, 2008	724	July 18, 2008
269	July 18, 2008	726	July 18, 2008
279	July 18, 2008	726A	July 18, 2008
280	July 18, 2008	727	July 18, 2008
308	Sections 10, 11, 15, and 17 of this act become operative on December 1, 2008. The other sections of this act become operative on April 22, 2008.	728	July 18, 2008
308A	July 18, 2008	734	July 18, 2008
312	July 18, 2008	736	January 1, 2009 (operative date)
379	July 18, 2008	736A	July 18, 2008
380	July 18, 2008	744	July 18, 2008
383	July 18, 2008	745	July 18, 2008
386	July 18, 2008	746	July 18, 2008
395	June 1, 2009 (operative date)	747	July 18, 2008
395A	July 18, 2008	750	March 11, 2008
465	July 18, 2008	752	July 18, 2008
467	July 18, 2008	754	April 17, 2008
467A	July 18, 2008	755	March 20, 2008
469	July 18, 2008	756	Sections 1, 3, 11, 12, 13, 15, 18, 19, 20, 23, 24, 25, 26, 31, and 34 of this act become operative on July 18, 2008.
480	July 15, 2008 (operative date)		Sections 5, 6, 7, 8, 9, 10, 14, 16, 17, 21, 22, and 32 of this act become operative on July

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LB No.	Effective Date	LB No.	Effective Date
	1, 2008. The other sections of this act become operative on March 20, 2008.	865	July 18, 2008
764	July 18, 2008	888	January 1, 2008 (operative date)
765	July 18, 2008	889	July 18, 2008
766	September 1, 2008 (operative date)	893	July 18, 2008
768	July 18, 2008	895	April 18, 2008
775	July 18, 2008	896	March 11, 2008
777	January 1, 2009 (operative date)	898	July 18, 2008
781	July 18, 2008	902	Sections 2 and 4 of this act become operative on January 1, 2009. The other sections of this act become operative on July 18, 2008.
782	March 11, 2008	904	July 18, 2008
789	April 17, 2008	907	July 18, 2008
790	July 18, 2008	911	July 18, 2008
791	July 18, 2008	911A	July 18, 2008
797	Sections 12, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, and 35 of this act become operative on July 18, 2008. The other sections of this act become operative on April 1, 2008.	912	July 18, 2008
798	July 18, 2008	914	Sections 1, 8, 13, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, and 29 of this act become operative on July 18, 2008. Sections 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 14, 15, 16, 23, and 28 of this act become operative on January 1, 2009.
805	July 18, 2008	915	Sections 1, 2, 3, 4, 7, and 9 of this act become operative for all taxable years beginning or deemed to begin on or after January 1, 2008, under the Internal Revenue Code of 1986, as amended. Sections 5, 6, 8, and 10 of this act become operative on July 18, 2008.
806	July 18, 2008	916	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, and 27 of this act become operative on October 1, 2008. Sections 17 and 28 of this act become operative on December 1, 2008. The other section of this act becomes operative on July 18, 2008.
821	July 18, 2008		
822	July 18, 2008		
823	July 18, 2008		
830	July 18, 2008		
830A	July 18, 2008		
837	July 18, 2008		
838	January 1, 2009 (operative date)	925	July 18, 2008
844	July 18, 2008	928	Sections 1, 15, 16, 19, 20, 21, 22, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, 45, and 47 of this act become operative on July 18, 2008. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 23, 24, 26, 27, 28, and 43 of this act become operative on December 1, 2008. Sections 14 and 46 of this act become operative on July 1, 2008.
845	July 18, 2008		
846	Sections 5, 8, 10, 13, 14, 16, 18, and 23 of this act become operative on July 1, 2009. The other sections of this act become operative on July 18, 2008.		
848	July 18, 2008		
850	July 18, 2008		
851	Sections 2, 3, 4, 8, 9, 19, 20, 21, 23, 24, 25, 28, and 30 of this act become operative on July 18, 2008. The other sections of this act become operative on March 20, 2008.		
853	July 18, 2008		
855	Sections 5 and 53 of this act become operative on January 1, 2009. The other sections of this act become operative on July 18, 2008.		
856	July 18, 2008		
857	July 18, 2008		

CROSS REFERENCE TABLE

LB No.	Effective Date	LB No.	Effective Date
	The other sections of this act become operative on April 22, 2008.	1022	December 1, 2008 (operative date)
928A	July 18, 2008	1027	July 18, 2008
939	July 18, 2008	1027A	July 18, 2008
947	July 18, 2008	1045	July 18, 2008
952	July 18, 2008	1048	April 17, 2008
953	July 18, 2008	1048A	July 18, 2008
956	July 18, 2008	1049	January 1, 2009 (operative date)
959	Provisions line-item vetoed by the Governor and overridden by the Legislature became effective April 8, 2008. All other provisions became effective April 3, 2008.	1055	April 22, 2008
		1056	July 18, 2008
		1058	April 15, 2008
		1067	July 18, 2008
		1068	July 18, 2008
		1072	April 18, 2008
		1094	April 2, 2008
960	April 3, 2008	1094A	April 2, 2008
961	Section 9 of this act becomes operative on July 1, 2008. The other sections of this act become operative on April 3, 2008.	1096	July 18, 2008
		1103	July 18, 2008
		1108	December 1, 2008 (operative date)
962	July 18, 2008	1116	Sections 3 and 12 of this act become operative on January 1, 2009. Sections 8, 13, and 14 of this act become operative on December 31, 2009. The other sections of this act become operative on July 18, 2008.
965	Sections 1 and 25 of this act become operative on January 1, 2009. The other sections of this act become operative on April 15, 2008.		
		1116A	July 18, 2008
972	December 1, 2008 (operative date)	1145	July 18, 2008
973	July 18, 2008	1147	Sections 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 20 of this act become operative on July 18, 2008. The other sections of this act become operative on April 22, 2008.
988	April 3, 2008		
988A	April 3, 2008	1147A	July 18, 2008
993	July 18, 2008	1153	Sections 7, 9, 11, and 12 of this act become operative on April 18, 2008. The other sections of this act become operative on July 18, 2008.
995	July 18, 2008		
1001	January 1, 2009 (operative date)	1154	July 18, 2008
1001A	July 18, 2008	1157	July 18, 2008
1004	April 17, 2008	1157A	July 18, 2008
1011	July 18, 2008	1162	July 18, 2008
1014	Sections 1, 2, 4, 5, 10, 11, 12, 13, 14, 15, 48, 49, 50, 51, 52, 53, 76, and 80 of this act become operative on January 1, 2009. Sections 3, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 36, 37, 38, 39, 40, 41, 42, 44, 45, 54, 67, 68, 69, 70, 79, and 82 of this act become operative on July 18, 2008. Sections 43 and 77 of this act become operative on July 1, 2008. The other sections of this act become operative on April 17, 2008.	1165	July 18, 2008
		1172	July 18, 2008
		1172A	July 18, 2008
1014A	April 17, 2008		
1019	April 3, 2008		



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APPENDIX

CROSS REFERENCE TABLE

2008 Session Laws of Nebraska, First Special Session
Showing LB section number to statute section number

2008 First Special Session		2008 Cumulative Supplement
LB 1	§ 1	29-121
	2	Omitted
	3	Omitted
LB 2		Omitted



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CROSS REFERENCE TABLE

Legislative Bills, 100th Legislature
First Special Session, 2008

Showing the date each act went into effect.
Convened November 14, 2008, and adjourned November 21, 2008.

LB No.	Effective Date
1	November 22, 2008
2	November 22, 2008



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CROSS REFERENCE TABLE

2009 Session Laws of Nebraska, First Session
Showing LB section number to statute section number

2009 Session Laws	2009 Supplement	2009 Session Laws	2009 Supplement	2009 Session Laws	2009 Supplement
LB 1	Omitted		8 81-885.25	LB 32	§ 1 8-113
LB 2	Omitted		9 81-885.29		2 Omitted
LB 3	Omitted		10 81-885.31		3 Omitted
LB 5	§ 1 37-513		11 81-885.43	LB 35	§ 1 21-2654
	2 37-614		12 81-885.44		2 21-2601
	3 Omitted		13 81-885.46		3 23-1205
LB 7	§ 1 24-337.04		14 81-885.48		4 24-301.02
	2 32-524		15 81-887.03		5 24-517
	3 Omitted		16 Omitted		6 25-505.01
LB 9	§ 1 77-2704.60		17 Omitted		7 25-506.01
	2 77-2701	LB 31	§ 1 1-105		8 25-507.01
	3 77-2701.04		2 1-106		9 25-1144
	4 77-2704.13		3 1-109		10 25-1628
	5 Omitted		4 1-110		11 25-1708
	6 Omitted		5 1-111		12 25-2240
	7 Omitted		6 1-114		13 25-1801
	8 Omitted		7 1-116		14 25-2405
LB 11	§ 1 81-885.14		8 1-118		15 25-2721
	2 Omitted		9 1-119		16 25-3007
LB 16	§ 1 84-602.01		10 1-120		17 25-3008
	2 84-602		11 1-122		18 27-1201
	3 84-602.02		12 1-125.01		19 30-2302
	4 Omitted		13 1-125.02		20 30-2485
LB 20	§ 1 85-2105		14 1-126		21 30-2487
	2 85-2106		15 1-134		22 30-24,125
	3 Omitted		16 1-135		23 30-24,129
	4 Omitted		17 1-136		24 33-107.03
LB 24	§ 1 71-3531		18 1-136.01		25 33-117
	2 71-3534		19 1-136.02		26 34-301
	3 71-3535		20 1-136.04		27 43-103
	4 Omitted		21 1-137		28 43-1314.02
LB 27	§ 1 68-901		22 1-138		29 43-3001
	2 68-962		23 1-137.01		30 43-3713
	3 68-963		24 1-148		31 81-1429
	4 68-964		25 1-151		32 84-917
	5 68-965		26 1-152		33 Omitted
	6 68-966		27 1-155		34 Omitted
	7 71-7611		28 1-156		35 Omitted
	8 Omitted		29 1-157		36 Omitted
	9 Omitted		30 1-158	LB 35A	Omitted
LB 27A	Omitted		31 1-159	LB 36	§ 1 29-2537
LB 28	§ 1 60-3,135		32 1-161		2 29-2538
	2 60-480.01		33 1-162		3 29-2539
	3 Omitted		34 1-162.01		4 29-2540
LB 29	§ 1 81-885.19		35 1-164.01		5 29-2541
	2 Omitted		36 1-164.02		6 29-2542
LB 30	§ 1 81-885		37 1-167		7 29-2543
	2 81-885.02		38 1-168		8 29-2546
	3 81-885.05		39 1-170		9 83-964
	4 81-885.09		40 1-171		10 83-965
	5 81-885.10		41 Omitted		11 83-966
	6 81-885.15		42 Omitted		12 83-967
	7 81-885.24		43 Omitted		13 83-968

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2009 Session Laws	2009 Supplement	2009 Session Laws	2009 Supplement	2009 Session Laws	2009 Supplement
	14 83-969		2 28-101	LB 84	§ 1 71-702
	15 83-970		3 28-111		2 Omitted
	16 83-971		4 28-308	LB 85	§ 1 18-2901
	17 83-972		5 28-309	LB 87	§ 1 9-506 UCC
	18 Omitted		6 28-524		2 Omitted
	19 Omitted		7 28-929		3 Omitted
	20 Omitted		8 28-930	LB 89	§ 1 77-4001
	21 Omitted		9 28-1201		2 77-4002
LB 48	§ 1 75-363		10 28-1202		3 77-4005.01
	2 75-364		11 28-1204		4 77-4008
	3 Omitted		12 28-1204.01		5 77-4014
	4 Omitted		13 28-1204.04		6 77-4017
LB 49	§ 1 18-1214		14 28-1205		7 77-4025
	2 23-186		15 28-1206		8 Omitted
	3 37-1201		16 28-1207		9 Omitted
	4 37-1280.01		17 28-1208	LB 90	§ 1 29-4204
	5 60-101		18 28-1212.02		2 Omitted
	6 60-111		19 28-1212.03		3 Omitted
	7 60-162.01		20 28-1212.04	LB 91	§ 1 43-117
	8 60-320		21 28-1351		2 Omitted
	9 83-123		22 29-401	LB 92	§ 1 60-601
	10 Omitted		23 29-901		2 60-6,378
LB 49A	Omitted		24 29-901.01		3 Omitted
LB 50	§ 1 60-1401.02		25 29-1912	LB 94	§ 1 77-3501
	2 Omitted		26 29-2320		2 77-3505.05
LB 52	§ 1 80-410		27 29-2321		3 77-3512
	2 Omitted		28 43-245		4 77-3513
LB 53	§ 1 70-603		29 43-250		5 77-3514
	2 70-604.01		30 43-276		6 77-3516
	3 70-604.02		31 47-632		7 77-3514.01
	4 70-604.05		32 60-497.01		8 Omitted
	5 70-681		33 69-2404		9 Omitted
	6 Omitted		34 69-2407	LB 97	§ 1 21-20,177
LB 54	§ 1 46-713		35 69-2410		2 21-20,179
	2 46-714		36 69-2430		3 27-412
	3 46-715		37 81-1447		4 27-413
	4 46-719		38 81-1448		5 27-414
	5 Omitted		39 81-1449		6 27-415
LB 55	§ 1 23-1201.02		40 81-1450		7 27-404
	2 Omitted		41 81-1451		8 27-1103
LB 56	§ 1 54-2417		42 83-183		9 28-101
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	3 54-2431		44 79-2,139		11 28-318
	4 54-2435		45 79-2,140		12 28-319.01
	5 Omitted		46 79-2,141		13 28-320.02
LB 60	§ 1 60-1901		47 79-2,142		14 28-322.05
	2 Omitted		48 Omitted		15 28-813.01
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	3 79-1026.01		51 Omitted		18 28-1463.03
	4 79-1027	LB 63A	Omitted		19 28-1463.04
	5 79-1031.01	LB 74	§ 1 8-133		20 28-1463.05
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	3 79-238		3 Omitted		25 29-4003
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	5 79-2120		2 30-3135		27 29-4007
	6 79-2110		3 30-3146		28 29-4008
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	35 Omitted		16 37-449		10 77-1340.06
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	37 Omitted		18 37-451		12 Omitted
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	9 54-772		36 37-1241.07	LB 135	Omitted
	10 54-773		37 37-1241.08	LB 137	§ 1 53-103
	11 54-774		38 54-2313		2 Omitted
	12 54-775		39 Omitted	LB 142	§ 1 54-1,100
	13 54-776	LB 105A	Omitted		2 Omitted
	14 54-777	LB 110	§ 1 60-301	LB 151	§ 1 28-405
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	5 2-2641		14 Omitted		6 38-2888
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	7 37-411	LB 121	§ 1 13-519		22 86-593
	8 37-415		2 13-520		23 86-597
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	3 28-1353		14 Omitted		2 81-15,160
	4 28-1354		15 Omitted		3 Omitted
	5 28-1355		16 Omitted	LB 184	§ 1 46-226
	6 28-1356	LB 165	§ 1 66-1521		2 Omitted
	7 28-518		2 77-1783.01	LB 187	§ 1 79-958
	8 28-636		3 77-1784		2 79-966
	9 28-637		4 77-2701.03		3 79-9,113
	10 28-638		5 77-2701.16		4 Omitted
	11 28-639		6 77-2701.24		5 Omitted
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	13 28-603		8 77-2704.09	LB 188	§ 1 23-2306
	14 28-604		9 77-2704.52		2 23-2308.01
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	4 48-2105		16 77-1507.01		5 44-5223
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26	38-1508		89 71-8207	LB 202A	Omitted
27	38-1509		90 71-8208	LB 204	§ 1 60-4,141.01
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29	38-1511		92 71-8216		3 Omitted
30	38-1512		93 71-8218	LB 206	§ 1 85-2301
31	38-1513		94 71-8222		2 85-2302
32	38-1514		95 71-8230		3 85-2303
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34	38-1516		97 71-8234		5 85-2305
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59	71-219.02		7 69-507		12 Omitted
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70	71-2412		2 37-1211		2 2-109
71	71-2413		3 37-1277		3 2-110
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	5 70-2103		32 77-23,100		9 43-512.07
	6 70-2104		33 77-23,101		10 43-512.12
	7 70-2105		34 77-23,102		11 43-512.15
	8 70-301		35 77-23,105		12 43-512.16
	9 Omitted		36 Omitted		13 43-512.17
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	4 48-2604		28 Omitted		26 45-741
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	2 77-3509.02		14 8-1019		54 Omitted
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	4 90-504		2 8-702		10 60-4,147.02
	5 90-505		3 45-701		11 60-6,265
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	7 Omitted	LB 396	§ 1 68-901	LB 436	§ 1 70-2001
	8 Omitted		2 68-957		2 70-2002
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	4 44-4221		6 68-961		6 70-1012
	5 44-4222		7 Omitted		7 Omitted
	6 44-4222.01	LB 402	§ 1 13-2611		8 Omitted
	7 44-4226		2 13-2612	LB 440	§ 1 85-9,178
	8 44-4227		3 19-5101		2 85-9,182
	9 Omitted		4 Omitted		3 85-1402
LB 360	§ 1 77-3201		5 Omitted		4 Omitted
	2 77-3203		6 Omitted	LB 441	§ 1 14-813
	3 77-3204	LB 403	§ 1 4-108		2 15-1202
	4 77-3205		2 4-109		3 15-1203
	5 77-3207		3 4-110		4 15-1204
	6 77-3211		4 4-111		5 19-2424
	7 Omitted		5 4-112		6 Omitted
LB 361	§ 1 79-1218		6 4-113	LB 445	§ 1 44-5302
	2 84-1411		7 4-114		2 44-5303
	3 84-1413		8 77-27,187		3 44-5305
	4 Omitted		9 77-27,188.03		4 44-5306
LB 372	§ 1 60-484.02		10 77-5701		5 44-5307
	2 Omitted		11 77-5722.01		6 Omitted
LB 377	§ 1 10-1201		12 77-5801	LB 446	§ 1 81-3401
	2 10-1202		13 77-5808		2 81-3432
	3 10-1203		14 77-5901		3 81-3432.01
	4 10-1204		15 77-5908		4 Omitted
	5 10-1205		16 Omitted	LB 447	§ 1 77-5209
	6 10-1206		17 Omitted		2 Omitted
	7 Omitted		18 Omitted	LB 449	§ 1 79-954
	8 Omitted	LB 412	§ 1 31-735		2 Omitted
LB 379	§ 1 81-15,160		2 Omitted	LB 450	§ 1 90-303
	2 Omitted	LB 414	§ 1 24-201.01		2 Omitted
	3 Omitted		2 24-703	LB 456	§ 1 79-1104.01
LB 389	§ 1 2-4901		3 Omitted		2 79-1104.05
	2 Omitted		4 Omitted		3 84-612
	3 Omitted		5 Omitted		4 84-613
LB 392	§ 1 11-119		6 Omitted		5 Omitted
	2 13-503		7 Omitted		6 Omitted
	3 13-903	LB 414A	Omitted	LB 458	§ 1 68-1721

CROSS REFERENCE TABLE

2009 Session Laws	2009 Supplement	2009 Session Laws	2009 Supplement	2009 Session Laws	2009 Supplement
	2 Omitted		2 15-268		4 21-2060
LB 463	§ 1 38-1,140		3 16-117		5 21-20,186
	2 38-3301		4 16-130		6 Omitted
	3 38-3302		5 16-230	LB 531	§ 1 77-5903
	4 38-3307.01		6 17-405.01		2 Omitted
	5 38-3309.01		7 17-407	LB 532	§ 1 23-187
	6 38-3314		8 17-563		2 23-188
	7 38-3321		9 19-916		3 23-189
	8 38-3331		10 Omitted		4 23-190
	9 38-3332	LB 497	§ 1 29-2259.01		5 23-191
	10 38-3333		2 60-498.02		6 23-192
	11 38-3334		3 60-4,115		7 23-193
	12 71-8909		4 60-4,118.06	LB 533	§ 1 81-1174
	13 71-8910		5 60-6,197.01		2 Omitted
	14 71-8922		6 60-6,197.02		3 Omitted
	15 Omitted		7 60-6,197.03	LB 537	§ 1 35-302
LB 463A	Omitted		8 60-6,197.05		2 Omitted
LB 464	§ 1 79-217		9 60-6,197.06	LB 540	§ 1 43-4001
	2 Omitted		10 60-6,211.05		2 Omitted
LB 464A	Omitted		11 Omitted		3 Omitted
LB 476	§ 1 79-772		12 Omitted	LB 545	§ 1 9-812
	2 79-773		13 Omitted		2 77-3446
	3 79-774	LB 497A	Omitted		3 79-1001
	4 79-775	LB 498	§ 1 12-101		4 79-1003
	5 Omitted		2 12-101.01		5 79-1007.07
	6 Omitted		3 Omitted		6 79-1007.09
	7 Omitted		4 Omitted		7 79-1007.10
LB 476A	Omitted	LB 500	§ 1 12-402		8 79-1007.11
LB 477	§ 1 46-290		2 16-242		9 79-1007.18
	2 46-291		3 17-936		10 79-1007.23
	3 46-701		4 Omitted		11 79-1007.24
	4 46-706	LB 501	§ 1 13-519		12 79-1011
	5 46-707		2 32-607		13 79-1012
	6 46-739		3 32-960		14 79-1017.01
	7 46-739.01		4 77-27,142.01		15 79-1022
	8 46-739.02		5 77-27,142.02		16 79-1023
	9 46-739.03		6 77-27,142.03		17 79-1026.01
	10 Omitted		7 Omitted		18 79-1027
LB 483	§ 1 2-32,115	LB 503	§ 1 37-1301		19 79-1028.01
	2 46-706		2 37-1302		20 79-1028.02
	3 46-713		3 37-1303		21 79-1028.03
	4 46-714		4 37-1304		22 79-1031.01
	5 46-720		5 37-1305		23 79-1073
	6 Omitted		6 37-1306		24 79-10,110
	7 Omitted		7 37-1307		25 Omitted
LB 488	§ 1 80-316		8 37-1308		26 Omitted
	2 Omitted		9 37-1309		27 Omitted
LB 494	§ 1 28-1008		10 37-1310	LB 545A	Omitted
	2 28-1013		11 14-102	LB 547	§ 1 9-812
	3 28-1014		12 15-258		2 79-808
	4 28-1015		13 16-226		3 79-8,132
	5 28-1016		14 Omitted		4 79-8,133
	6 28-1017	LB 511	§ 1 71-5803.09		5 79-8,134
	7 28-1020		2 Omitted		6 79-8,135
	8 54-617		3 Omitted		7 79-8,137
	9 54-620	LB 517	§ 1 43-283.01		8 79-8,137.01
	10 54-622		2 43-292		9 79-8,137.02
	11 54-623		3 Omitted		10 79-8,137.03
	12 54-623.01	LB 524	§ 1 18-1741.02		11 79-8,137.04
	13 54-622.01		2 Omitted		12 79-8,137.05
	14 54-624	LB 528	§ 1 21-2003		13 79-8,138
	15 Omitted		2 21-2014		14 79-8,139
LB 495	§ 1 19-5001		3 21-2015		15 79-8,140

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2009 Session Laws	2009 Supplement	2009 Session Laws	2009 Supplement	2009 Session Laws	2009 Supplement
	16 Omitted		52 Omitted	LB 603A	Omitted
	17 Omitted		53 Omitted	LB 604	§ 1 38-2801
	18 Omitted	LB 551	§ 1 44-710.01		2 38-2802
	19 Omitted		2 44-761		3 38-2805.01
LB 547A	Omitted		3 44-7,103		4 38-2826.02
LB 548	§ 1 79-1022		4 Omitted		5 38-2826.03
	2 79-1023		5 Omitted		6 38-2826
	3 79-1026.01	LB 555	§ 1 77-5803		7 38-2850
	4 79-1027		2 Omitted		8 38-2867
	5 79-1031.01		3 Omitted		9 38-2869
	6 Omitted	LB 561	§ 1 70-670		10 38-2873
	7 Omitted		2 70-1014.01		11 Omitted
LB 549	§ 1 13-518		3 70-1903		12 Omitted
	2 43-2007		4 70-1904		13 Omitted
	3 60-658		5 77-2704.57	LB 620	§ 1 50-421
	4 79-233		6 Omitted		2 50-416
	5 79-234	LB 562	§ 1 14-2102		3 Omitted
	6 79-237		2 Omitted	LB 626	§ 1 49-1401
	7 79-238	LB 568	§ 1 76-3001		2 49-1405
	8 79-239		2 76-3002		3 49-14,101.03
	9 79-240		3 76-3003		4 49-14,101.01
	10 79-2,104		4 76-3004		5 49-14,101.02
	11 79-2,105		5 66-911.01		6 81-1120.27
	12 79-304		6 Omitted		7 Omitted
	13 79-305	LB 587	§ 1 77-2701.16	LB 627	§ 1 48-722
	14 79-306		2 Omitted		2 Omitted
	15 79-310		3 Omitted	LB 628	Omitted
	16 79-313	LB 598	§ 1 81-1801.02	LB 629	Omitted
	17 79-317		2 81-1801	LB 630	§ 1 48-106
	18 79-318		3 81-1802		2 48-120.04
	19 79-319		4 81-1803		3 48-125
	20 79-528		5 81-1805		4 48-136
	21 79-569		6 81-1813		5 48-138
	22 79-598		7 81-1818		6 48-139
	23 79-606		8 81-1820		7 48-140
	24 79-608		9 81-1822		8 48-141
	25 79-611		10 81-1823		9 48-144.03
	26 79-1003		11 81-1825		10 48-168
	27 79-1007.06		12 81-1833		11 Omitted
	28 79-1007.08		13 81-1834		12 Omitted
	29 79-1007.16		14 81-1835	LB 631	§ 1 48-612.01
	30 79-1007.20		15 81-1839		2 48-622.01
	31 79-1007.21		16 81-1840		3 48-622.02
	32 79-1007.22		17 81-1841		4 48-622.03
	33 79-1014		18 Omitted		5 48-648
	34 79-1065.01	LB 603	§ 1 68-911		6 48-648.01
	35 79-1084		2 68-915		7 48-649
	36 79-1086		3 71-801		8 48-652
	37 79-10,110		4 71-808		9 48-654
	38 79-1102.01		5 71-821		10 48-655
	39 79-1110		6 71-822		11 48-665
	40 79-1127		7 71-823		12 48-668
	41 79-1148		8 71-824		13 48-668.02
	42 79-1149		9 71-825		14 Omitted
	43 79-1150		10 71-826		15 Omitted
	44 79-1161		11 71-827		16 Omitted
	45 79-1204		12 71-828	LB 653	§ 1 50-1401
	46 79-1212		13 71-829		2 50-1402
	47 79-1241.01		14 71-830		3 50-1403
	48 79-1241.03		15 Omitted		4 50-1404
	49 79-1601		16 Omitted		5 Omitted
	50 79-1606		17 Omitted	LB 658	§ 1 66-1801
	51 85-607		18 Omitted		2 66-1802

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2009 Session Laws	2009 Supplement
	3 66-1839
	4 66-1865
	5 66-1866
	6 66-1867
	7 84-712.05
	8 Omitted
LB 671	§ 1 23-1212
	2 23-1213
	3 23-1213.01
	4 23-1213.02
	5 23-1213.03
	6 23-1218
	7 Omitted
LB 671A	Omitted
LB 675	§ 1 28-326
	2 28-327
	3 28-327.01
	4 28-327.03
	5 28-327.04
	6 Omitted
	7 Omitted
LB 679	§ 1 43-1302
	2 Omitted



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APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, One Hundred First Legislature
First Session, 2009

Showing the date each act went into effect.
Convened January 7, 2009, and adjourned May 29, 2009.

LB No.	Effective Date	LB No.	Effective Date
1	August 30, 2009	85	August 30, 2009
2	August 30, 2009	87	February 27, 2009
3	August 30, 2009	89	October 1, 2009 (operative date)
5	August 30, 2009	90	August 30, 2009
7	August 30, 2009	91	August 30, 2009
9	Sections 4, 5, 7, and 8 of this act become operative on April 1, 2009. The other sections of this act become operative on October 1, 2009.	92	August 30, 2009
11	August 30, 2009	94	May 27, 2009
16	August 30, 2009	97	Sections 3, 4, 5, 6, 7, 8, 11, 29, 31, 34, and 36 of this act become operative on January 1, 2010. Section 30 of this act becomes operative on August 30, 2009. The other sections of this act become operative on May 21, 2009.
20	March 6, 2009	97A	August 30, 2009
24	August 30, 2009	98	May 14, 2009
27	May 27, 2009	98A	May 14, 2009
27A	May 27, 2009	99	February 27, 2009
28	August 30, 2009	100	August 30, 2009
29	August 30, 2009	101	February 27, 2009
30	August 30, 2009	102	August 30, 2009
31	September 1, 2010 (operative date)	105	August 30, 2009
32	March 6, 2009	105A	August 30, 2009
35	Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, and 35 of this act become operative on August 30, 2009. The other sections of this act become operative on May 30, 2009.	110	January 1, 2010 (operative date)
35A	July 1, 2009 (operative date)	110A	August 30, 2009
36	August 30, 2009	111	April 23, 2009
48	March 6, 2009	113	May 27, 2009
49	August 30, 2009	120	August 30, 2009
49A	August 30, 2009	121	Sections 3, 4, 5, 13, and 15 of this act become operative on July 1, 2013. The other sections of this act become operative on August 30, 2009.
50	August 30, 2009	121A	August 30, 2009
52	August 30, 2009	122	August 30, 2009
53	August 30, 2009	123	August 30, 2009
54	August 30, 2009	129	August 30, 2009
55	August 30, 2009	131	August 30, 2009
56	August 30, 2009	133	August 30, 2009
60	August 30, 2009	135	March 6, 2009
61	January 30, 2009	137	August 30, 2009
62	February 13, 2009	142	August 30, 2009
63	May 28, 2009	151	March 19, 2009
63A	May 28, 2009	152	August 30, 2009
74	March 6, 2009	154	August 30, 2009
75	February 27, 2009	155	August 30, 2009
80	February 27, 2009	158	August 30, 2009
84	August 30, 2009	160	August 30, 2009

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LB No.	Effective Date	LB No.	Effective Date
162	January 1, 2010 (operative date)	238	May 27, 2009
163	August 30, 2009	241	Sections 11, 12, 13, 14, 15, 16, and 17 of this act become operative on January 1, 2010. The other sections of this act become operative on August 30, 2009.
164	Sections 6, 7, and 15 of this act become operative on January 1, 2009. The other sections of this act become operative on August 30, 2009.	246	August 30, 2009
165	Sections 1 and 17 of this act become operative on July 1, 2009. Sections 2, 4, 5, 6, 7, 8, 9, 10, 11, 14, and 20 of this act become operative on October 1, 2009. Sections 3 and 18 of this act become operative on January 1, 2010. The other sections of this act become operative on April 9, 2009.	246A	August 30, 2009
166	February 27, 2009	251	February 27, 2009
167	August 30, 2009	259	March 6, 2009
168	August 30, 2009	260	August 30, 2009
175	August 30, 2009	263	August 30, 2009
177	August 30, 2009	274	August 30, 2009
179	February 13, 2009	278	August 30, 2009
180	August 30, 2009	285	Sections 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, and 17 of this act become operative on January 1, 2010. The other sections of this act become operative on May 30, 2009.
184	August 30, 2009	286	Sections 1, 2, 3, and 7 of this act become operative on August 30, 2009. Sections 4 and 6 of this act become operative on June 30, 2009. The other sections of this act become operative on May 14, 2009.
187	July 1, 2009 (operative date)	288	Sections 18, 19, 20, 21, 22, 23, 33, 39, 43, 47, 48, and 55 of this act become operative on May 30, 2009. Sections 5, 6, 7, 8, 10, 12, 13, 14, and 50 of this act become operative on September 30, 2009. Sections 9 and 51 of this act become operative on October 1, 2009. Sections 16, 36, and 52 of this act become operative on January 1, 2010. Sections 4 and 53 of this act become operative on October 1, 2010. The other sections of this act become operative on August 30, 2009.
188	July 1, 2009 (operative date)	288A	May 30, 2009
189	August 30, 2009	292	January 1, 2010 (operative date)
192	August 30, 2009	292A	August 30, 2009
195	August 30, 2009	294	August 30, 2009
196	August 30, 2009	299	August 30, 2009
198	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of this act become operative on January 1, 2010. The other sections of this act become operative on August 30, 2009.	300	August 30, 2009
198A	August 30, 2009	302	May 27, 2009
201	March 6, 2009	311	May 20, 2009
202	August 30, 2009	312	July 1, 2009 (operative date)
202A	August 30, 2009	313	July 1, 2009 (operative date)
204	August 30, 2009	314	July 1, 2009 (operative date)
206	April 23, 2009	315	July 1, 2009 (operative date)
207	August 30, 2009	316	May 20, 2009
208	August 30, 2009	318	July 1, 2009 (operative date)
209	August 30, 2009		
218	July 1, 2011 (operative date)		
219	July 1, 2009 (operative date)		
219A	July 1, 2009 (operative date)		
224	Sections 6 and 9 of this act become operative on January 1, 2010. The other sections of this act become operative on May 23, 2009.		
231	August 30, 2009		
232	August 30, 2009		
237	August 30, 2009		
237A	August 30, 2009		

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LB No.	Effective Date	LB No.	Effective Date
322	August 30, 2009	456	May 20, 2009
327	Sections 1, 2, 3, 7, 8, 10, 11, 12, 13, 14, 16, 17, 18, 19, and 21 of this act become operative on August 30, 2009. The other sections of this act become operative on April 9, 2009.	458	August 30, 2009
328	April 23, 2009	463	August 30, 2009
328A	April 23, 2009	463A	August 30, 2009
331	Sections 2 and 25 of this act become operative on January 1, 2010. Sections 1, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, and 28 of this act become operative on August 30, 2009. The other sections of this act become operative on March 6, 2009.	464	August 30, 2009
339	August 30, 2009	464A	August 30, 2009
340	April 23, 2009	476	July 1, 2009 (operative date)
342	August 30, 2009	476A	May 23, 2009
342A	August 30, 2009	477	August 30, 2009
343	August 30, 2009	483	April 7, 2009
347	August 30, 2009	488	August 30, 2009
348	August 30, 2009	494	August 30, 2009
355	August 30, 2009	495	August 30, 2009
358	August 30, 2009	497	May 14, 2009
360	August 30, 2009	497A	May 14, 2009
361	August 30, 2009	498	May 27, 2009
372	August 30, 2009	500	August 30, 2009
377	April 9, 2009	501	August 30, 2009
379	March 19, 2009	503	August 30, 2009
389	May 27, 2009	511	April 23, 2009
392	May 27, 2009	517	August 30, 2009
394	January 1, 2010 (operative date)	524	August 30, 2009
396	August 30, 2009	528	August 30, 2009
402	Sections 1, 2, and 5 of this act become operative on August 30, 2009. The other sections of this act become operative on May 23, 2009.	531	August 30, 2009
403	October 1, 2009 (operative date)	532	August 30, 2009
412	August 30, 2009	533	May 27, 2009
414	Sections 2 and 6 of this act become operative on July 1, 2009. The other sections of this act become operative on May 20, 2009.	537	August 30, 2009
414A	July 1, 2009 (operative date)	540	May 27, 2009
422	August 30, 2009	545	May 20, 2009
430	August 30, 2009	545A	July 1, 2009 (operative date)
432	August 30, 2009	547	Sections 1, 12, and 17 of this act become operative on July 1, 2009. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 18, and 19 of this act become operative on April 23, 2009.
434	August 30, 2009	547A	April 23, 2009
436	August 30, 2009	548	March 27, 2009
440	August 30, 2009	549	August 30, 2009
441	August 30, 2009	551	January 1, 2010 (operative date)
445	August 30, 2009	555	January 1, 2009 (operative date)
446	August 30, 2009	561	August 30, 2009
447	August 30, 2009	562	August 30, 2009
449	August 30, 2009	568	August 30, 2009
450	August 30, 2009	587	October 1, 2009 (operative date)
		598	August 30, 2009
		603	Sections 2 and 16 of this act become operative on August 30, 2009. The other sections of this act become operative on May 23, 2009.
		603A	August 30, 2009
		604	May 27, 2009
		620	August 30, 2009
		626	August 30, 2009
		627	August 30, 2009
		628	May 20, 2009
		629	August 30, 2009
		630	May 27, 2009

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LB No.	Effective Date
631	May 27, 2009
653	May 14, 2009
658	August 30, 2009
671	August 30, 2009
671A	August 30, 2009
675	August 30, 2009
679	August 30, 2009

APPENDIX

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CROSS REFERENCE TABLE

2009 Session Laws of Nebraska, First Special Session
 Showing LB section number to statute section number

	2009 First Special Session	2010 Cumulative Supplement	2009 First Special Session	2010 Cumulative Supplement	2009 First Special Session	2010 Cumulative Supplement
LB 1	§ 1	Omitted	52	Omitted	103	Omitted
		2 Omitted	53	Omitted	104	Omitted
		3 Omitted	54	Omitted	105	Omitted
		4 Omitted	55	Omitted	106	Omitted
		5 Omitted	56	Omitted	107	Omitted
		6 Omitted	57	Omitted	108	Omitted
		7 Omitted	58	Omitted	109	Omitted
		8 Omitted	59	Omitted	110	Omitted
		9 Omitted	60	Omitted	111	Omitted
		10 Omitted	61	Omitted	112	Omitted
		11 Omitted	62	Omitted	113	Omitted
		12 Omitted	63	Omitted	114	Omitted
		13 Omitted	64	Omitted	115	Omitted
		14 Omitted	65	Omitted	116	Omitted
		15 Omitted	66	Omitted	117	Omitted
		16 Omitted	67	Omitted	118	Omitted
		17 Omitted	68	Omitted	119	Omitted
		18 Omitted	69	Omitted	120	Omitted
		19 Omitted	70	Omitted	121	Omitted
		20 Omitted	71	Omitted	122	Omitted
		21 Omitted	72	Omitted	123	Omitted
		22 Omitted	73	Omitted	124	Omitted
		23 Omitted	74	Omitted	125	Omitted
		24 Omitted	75	Omitted	126	Omitted
		25 Omitted	76	Omitted	127	Omitted
		26 Omitted	77	Omitted	128	Omitted
		27 Omitted	78	Omitted	129	Omitted
		28 Omitted	79	Omitted	130	Omitted
		29 Omitted	80	Omitted	131	Omitted
		30 Omitted	81	Omitted	132	Omitted
		31 Omitted	82	Omitted	133	Omitted
		32 Omitted	83	Omitted	134	Omitted
		33 Omitted	84	Omitted	135	Omitted
		34 Omitted	85	Omitted	136	Omitted
		35 Omitted	86	Omitted	137	Omitted
		36 Omitted	87	Omitted	138	Omitted
		37 Omitted	88	Omitted	139	Omitted
		38 Omitted	89	Omitted	140	Omitted
		39 Omitted	90	Omitted	141	Omitted
		40 Omitted	91	Omitted	142	Omitted
		41 Omitted	92	Omitted	143	Omitted
		42 Omitted	93	Omitted	144	Omitted
		43 Omitted	94	Omitted	145	Omitted
		44 Omitted	95	Omitted	146	Omitted
		45 Omitted	96	Omitted	147	Omitted
		46 Omitted	97	Omitted	148	Omitted
		47 Omitted	98	Omitted	149	Omitted
		48 Omitted	99	Omitted	150	Omitted
		49 Omitted	100	Omitted	151	Omitted
		50 Omitted	101	Omitted	152	Omitted
		51 Omitted	102	Omitted	153	Omitted

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2009 First Special Session	2010 Cumulative Supplement	2009 First Special Session	2010 Cumulative Supplement	2009 First Special Session	2010 Cumulative Supplement
154	Omitted	216	Omitted	37	60-2132
155	Omitted	217	Omitted	38	61-210
156	Omitted	218	Omitted	39	61-218
157	Omitted	219	Omitted	40	66-739
158	Omitted	220	Omitted	41	66-1521
159	Omitted	221	Omitted	42	66-1839
160	Omitted	222	Omitted	43	70-1020
161	Omitted	223	Omitted	44	71-222.02
162	Omitted	224	Omitted	45	71-4732
163	Omitted	225	Omitted	46	71-5661
164	Omitted	226	Omitted	47	71-5714
165	Omitted	227	Omitted	48	71-8612
166	Omitted	228	Omitted	49	72-2009
167	Omitted	229	Omitted	50	72-2211
168	Omitted	230	Omitted	51	72-2501
169	Omitted	231	Omitted	52	76-549
170	Omitted	LB 2	§ 1 9-812	53	76-2226
171	Omitted		2 71-5714	54	77-3,110
172	Omitted		3 72-1001	55	77-1342
173	Omitted		4 77-3,111	56	77-4310.03
174	Omitted		5 90-515	57	77-5031
175	Omitted		6 90-516	58	77-5601
176	Omitted		7 84-612	59	79-810
177	Omitted		8 Omitted	60	79-1320
178	Omitted		9 Omitted	61	81-188.01
179	Omitted		10 Omitted	62	81-201.05
180	Omitted	LB 3	§ 1 1-111	63	81-2,147.11
181	Omitted		2 2-1503.01	64	81-2,291
182	Omitted		3 2-1577	65	81-528
183	Omitted		4 2-1587	66	81-550
184	Omitted		5 2-15,122	67	81-5,153
185	Omitted		6 2-5106	68	81-885.15
186	Omitted		7 3-126	69	81-8,110.07
187	Omitted		8 13-2704	70	81-8,194
188	Omitted		9 24-205	71	81-1120.23
189	Omitted		10 24-227.01	72	81-1201.21
190	Omitted		11 24-229	73	81-1201.22
191	Omitted		12 25-2921	74	81-1278
192	Omitted		13 28-429	75	81-1413.01
193	Omitted		14 29-2259.02	76	81-1428
194	Omitted		15 29-2262.07	77	81-15,121
195	Omitted		16 29-3921	78	81-15,160
196	Omitted		17 33-102	79	81-15,165
197	Omitted		18 37-351	80	81-15,180
198	Omitted		19 38-157	81	81-1607.01
199	Omitted		20 39-1390	82	81-1634
200	Omitted		21 46-1121	83	81-2004.01
201	Omitted		22 46-1403	84	81-2105
202	Omitted		23 47-632	85	81-3119
203	Omitted		24 48-1,116	86	81-3432
204	Omitted		25 49-14,140	87	81-3524
205	Omitted		26 50-114.05	88	82-108.02
206	Omitted		27 50-437	89	83-913.01
207	Omitted		28 53-117.06	90	84-409
208	Omitted		29 54-857	91	84-414
209	Omitted		30 54-2428	92	84-510
210	Omitted		31 55-131	93	84-1227
211	Omitted		32 57-705	94	85-1419
212	Omitted		33 57-919	95	85-1803
213	Omitted		34 59-1608.04	96	86-127
214	Omitted		35 60-3,218	97	86-312
215	Omitted		36 60-1409	98	86-463

CROSS REFERENCE TABLE

2009 First Special Session	2010 Cumulative Supplement	2009 First Special Session	2010 Cumulative Supplement	2009 First Special Session	2010 Cumulative Supplement
	99 88-545.01		4 Omitted	8	79-1007.25
	100 88-552	LB 5	§ 1 77-3446	9	79-1007.23
	101 89-1,100		2 79-1001	10	79-1008.01
	102 Omitted		3 79-1003	11	79-1023
	103 Omitted		4 79-1005.01	12	Omitted
LB 4	§ 1 Omitted		5 79-1007.11	13	Omitted
	2 Omitted		6 79-1007.15		
	3 Omitted		7 79-1007.19		



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CROSS REFERENCE TABLE

Legislative Bills, One Hundred First Legislature
First Special Session, 2009

Showing the date each act went into effect.
Convened November 4, 2009, and adjourned November 20, 2009.

LB No.	Effective Date
1	November 21, 2009
2	November 21, 2009
3	November 21, 2009
4	November 21, 2009
5	November 21, 2009



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CROSS REFERENCE TABLE

2010 Session Laws of Nebraska, Second Session
Showing LB section number to statute section number

2010 Session	Laws	2010 Cumulative Supplement	2010 Session	Laws	2010 Cumulative Supplement	2010 Session	Laws	2010 Cumulative Supplement
LB 139	§ 1	81-8,262		5	72-274		3	28-707
	2	81-8,265		6	Omitted		4	Omitted
	3	81-8,270	LB 252	§ 1	28-101		5	Omitted
	4	81-8,271.01		2	28-1005.01		6	Omitted
	5	Omitted		3	28-1006	LB 507A		Omitted
LB 147	§ 1	25-21,271		4	28-1007	LB 510	§ 1	33-157
	2	28-376		5	28-1019		2	29-2207
	3	28-718		6	Omitted		3	29-2327
	4	29-4004	LB 254	§ 1	2-2622		4	81-1835
	5	Omitted		2	2-2655		5	83-184
	6	Omitted		3	2-2656		6	83-917
LB 181	§ 1	86-101		4	2-2657		7	Omitted
	2	86-164		5	2-2658		8	Omitted
	3	Omitted		6	2-2659	LB 510A		Omitted
LB 183	§ 1	86-101		7	2-2626	LB 512	§ 1	3-303
	2	86-165		8	2-2646		2	3-304
	3	Omitted		9	Omitted		3	Omitted
LB 190	§ 1	29-2262		10	Omitted	LB 522	§ 1	35-901
	2	29-4101		11	Omitted		2	Omitted
	3	29-4102	LB 258	§ 1	53-101	LB 550	§ 1	55-101
	4	29-4103		2	53-180.05		2	55-120
	5	29-4106		3	53-181		3	55-121
	6	29-4115.01		4	Omitted		4	55-125
	7	59-1608.04	LB 261	§ 1	60-4,111.01		5	55-126
	8	Omitted		2	Omitted		6	55-135
LB 190A		Omitted	LB 279	§ 1	14-407		7	55-139.01
LB 197	§ 1	77-2716		2	15-1103		8	Omitted
	2	85-1801		3	19-923	LB 552	§ 1	45-1201
	3	85-1802		4	23-114.06		2	45-1202
	4	85-1804		5	Omitted		3	45-1203
	5	85-1807	LB 317	§ 1	84-612		4	45-1204
	6	85-1808		2	Omitted		5	45-1205
	7	85-1813	LB 325	§ 1	32-328		6	45-1206
	8	90-520		2	32-329		7	45-1207
	9	Omitted		3	32-607		8	45-1208
	10	Omitted		4	32-914.02		9	45-1209
	11	Omitted		5	32-915		10	45-1210
	12	Omitted		6	32-930		11	81-2402
LB 210	§ 1	77-27,137.02		7	32-1002		12	Omitted
	2	Omitted		8	Omitted		13	Omitted
	3	Omitted	LB 373	§ 1	18-1723	LB 563	§ 1	48-2901
	4	Omitted		2	35-1001		2	48-2902
LB 216	§ 1	Omitted		3	Omitted		3	48-2903
LB 226	§ 1	30-2604	LB 411	§ 1	81-2104		4	48-2904
	2	43-2101		2	Omitted		5	48-2905
	3	Omitted	LB 475	§ 1	23-1401		6	48-2906
	4	Omitted		2	23-3701		7	48-2907
LB 235	§ 1	72-270		3	Omitted		8	48-2908
	2	72-271		4	Omitted		9	48-2909
	3	72-272	LB 507	§ 1	68-721		10	48-2910
	4	72-273		2	28-323		11	48-2911

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2010		2010		2010		2010		2010	
Session	Laws	Session	Laws	Session	Laws	Session	Laws	Session	Laws
	Cumulative Supplement		Cumulative Supplement		Cumulative Supplement		Cumulative Supplement		Cumulative Supplement
	12 48-2912	LB 650	§ 1 23-186		9 68-621				
	13 48-2115		2 30-24,125		10 68-622				
	14 77-2711		3 60-101		11 68-631				
	15 77-27,119		4 60-102		12 Omitted				
	16 Omitted		5 60-121.01		13 Omitted				
LB 563A	Omitted		6 60-123	LB 689	§ 1 61-218				
LB 571	§ 1 45-1101		7 60-135.01		2 66-1345				
	2 45-1102		8 60-136		3 66-1345.01				
	3 45-1103		9 60-137		4 66-1345.02				
	4 45-1104		10 60-142.07		5 Omitted				
	5 45-1105		11 60-144	LB 690	§ 1 87-214				
	6 45-1106		12 60-148		2 87-219				
	7 45-1107		13 60-149		3 Omitted				
	8 45-335		14 60-153	LB 691	§ 1 81-885.03				
	9 45-336		15 60-154		2 81-885.10				
	10 45-1002		16 60-154.01		3 81-885.25				
	11 45-1024		17 60-164		4 81-885.29				
	12 60-1411.02		18 60-165		5 Omitted				
	13 Omitted		19 60-171	LB 695	§ 1 25-2802				
LB 579	§ 1 48-2701		20 60-301		2 Omitted				
	2 48-2702		21 60-302		3 Omitted				
	3 48-2703		22 60-337.01		4 Omitted				
	4 48-2704		23 60-339	LB 696	§ 1 13-2042				
	5 48-2705		24 60-358.01		2 13-2042.01				
	6 48-2706		25 60-3,100		3 Omitted				
	7 48-2707		26 60-3,104	LB 698	§ 1 44-32,180				
	8 48-2708		27 60-383.01		2 44-4726				
	9 48-2709		28 60-3,187		3 77-908				
	10 48-2710		29 60-3,190		4 77-912				
	11 48-2711		30 60-471		5 Omitted				
	12 44-7504		31 60-4,126		6 Omitted				
	13 44-7515		32 60-501	LB 701	§ 1 68-1804				
	14 48-115		33 60-520		2 Omitted				
	15 48-144.03		34 60-547		3 Omitted				
	16 48-145		35 60-601	LB 705	§ 1 60-3,122				
	17 48-146		36 60-605		2 60-3,123				
	18 48-151		37 60-636.01		3 60-3,124				
	19 48-443		38 60-6,379		4 Omitted				
	20 48-602		39 60-6,355	LB 706	§ 1 20-156				
	21 Omitted		40 60-6,356		2 Omitted				
	22 Omitted		41 60-6,357	LB 708	§ 1 77-202.03				
	23 Omitted		42 60-6,358		2 77-202.09				
LB 594	§ 1 28-101		43 60-6,359		3 Omitted				
	2 28-325		44 60-6,360		4 Omitted				
	3 28-326		45 60-6,361	LB 711	§ 1 79-4,108				
	4 28-327		46 60-1901		2 79-1022				
	5 28-327.06		47 Omitted		3 79-1023				
	6 28-327.07		48 Omitted		4 79-1026.01				
	7 28-327.08	LB 650A	Omitted		5 79-1027				
	8 28-327.09	LB 667	§ 1 34-101		6 79-1031.01				
	9 28-327.10		2 34-102		7 Omitted				
	10 28-327.11		3 Omitted		8 Omitted				
	11 28-327.12	LB 682	§ 1 Omitted	LB 712	§ 1 25-410				
	12 28-327.01	LB 683	§ 1 Omitted		2 25-1625				
	13 28-327.03	LB 684	§ 1 68-601		3 25-1628				
	14 28-327.04		2 68-602		4 25-2720.01				
	15 28-340		3 68-603		5 25-2803				
	16 38-2021		4 68-604		6 25-2804				
	17 Omitted		5 68-605		7 28-201				
	18 Omitted		6 68-608		8 28-502				
LB 643	§ 1 70-311		7 68-610		9 28-503				
	2 Omitted		8 68-620		10 28-504				

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2010 Session	2010 Laws	2010 Cumulative Supplement	2010 Session	2010 Laws	2010 Cumulative Supplement	2010 Session	2010 Laws	2010 Cumulative Supplement
	11	28-1006		5	25-21,294	LB 764	§ 1	46-715
	12	28-1012		6	25-21,295		2	46-717
	13	28-1019		7	25-21,296		3	Omitted
	14	29-818		8	29-119	LB 768	§ 1	23-2,100
	15	29-1207		9	Omitted	LB 770	§ 1	49-501.01
	16	29-1208	LB 731	§ 1	2-954		2	49-508
	17	29-2412		2	2-955		3	49-617
	18	30-2322		3	2-959		4	Omitted
	19	30-2323		4	Omitted		5	Omitted
	20	30-2325	LB 732	§ 1	25-1326	LB 771	§ 1	28-115
	21	30-2664		2	25-1327		2	28-201
	22	30-2665.01		3	25-2144		3	28-309
	23	30-2715.01		4	76-1009		4	28-929
	24	30-2715		5	77-1912		5	28-930
	25	43-512.12		6	Omitted		6	28-931
	26	43-512.15	LB 735	§ 1	86-801		7	28-931.01
	27	43-1701		2	86-802		8	28-932
	28	43-1702		3	86-803		9	28-933
	29	43-1703		4	86-804		10	28-1206
	30	43-1712.02		5	86-805		11	28-1212.01
	31	43-1717		6	86-806		12	28-1212.04
	32	43-1718.02		7	86-807		13	28-1354
	33	43-1720	LB 736	§ 1	52-2001		14	29-401
	34	43-1722		2	Omitted		15	29-901
	35	43-1723	LB 738	§ 1	76-1004		16	29-901.01
	36	43-1724		2	Omitted		17	29-1912
	37	43-1726		3	Omitted		18	43-250
	38	43-1727	LB 742	§ 1	84-713		19	Omitted
	39	43-3330	LB 743	§ 1	90-272	LB 779	§ 1	13-503
	40	47-502		2	90-273		2	13-2601
	41	49-1501		3	37-201		3	13-2604
	42	49-1562		4	37-354		4	13-2613
	43	49-807		5	Omitted		5	13-2704
	44	69-2304		6	Omitted		6	13-2706
	45	69-2308		7	Omitted		7	13-3101
	46	Omitted	LB 746	§ 1	20-504		8	13-3102
	47	Omitted		2	20-506		9	13-3103
	48	Omitted		3	Omitted		10	13-3104
	49	Omitted	LB 749	§ 1	39-1390		11	13-3105
LB 713	§ 1	79-248		2	Omitted		12	13-3106
	2	79-249	LB 751	§ 1	9-506 UCC		13	13-3107
	3	79-250		2	Omitted		14	13-3108
	4	79-252		3	Omitted		15	13-3109
	5	Omitted	LB 758	§ 1	30-2201		16	14-501.01
LB 721	§ 1	81-1108.12		2	30-2342.01		17	15-801
	2	Omitted		3	30-2476		18	77-5601
LB 722	§ 1	11-201		4	30-3839		19	Omitted
	2	72-815		5	Omitted		20	Omitted
	3	81-1017	LB 759	§ 1	21-2212		21	Omitted
	4	Omitted		2	Omitted	LB 779A		Omitted
LB 723	§ 1	86-313	LB 760	§ 1	30-3119.01	LB 780	§ 1	48-101.01
	2	Omitted		2	Omitted		2	48-151
LB 725	§ 1	60-363	LB 762	§ 1	8-113		3	48-1,110
	2	75-362		2	Omitted		4	48-1,111
	3	75-363		3	Omitted		5	Omitted
	4	Omitted	LB 763	§ 1	25-21,283	LB 787	§ 1	86-515
LB 727	§ 1	24-730		2	25-21,284		2	Omitted
	2	Omitted		3	25-21,285	LB 788	§ 1	53-103
LB 728	§ 1	25-21,290		4	25-21,286		2	53-125
	2	25-21,291		5	25-21,287		3	Omitted
	3	25-21,292		6	25-21,288	LB 789	§ 1	13-2705
	4	25-21,293		7	25-21,289		2	Omitted

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2010 Session	Laws	2010 Cumulative Supplement	2010 Session	Laws	2010 Cumulative Supplement	2010 Session	Laws	2010 Cumulative Supplement
LB 791	§ 1	84-511			8 Omitted			38 60-1401.26
	2	21-2003	LB 805	§ 1	18-1739			39 60-1401.27
	3	Omitted		2	60-3,193.01			40 60-1401.28
LB 792	§ 1	28-405		3	60-462.01			41 60-1401.29
	2	Omitted		4	60-465			42 60-1401.30
LB 797	§ 1	70-1003		5	60-484.02			43 60-1401.31
	2	Omitted		6	60-4,129			44 60-1401.32
LB 798	§ 1	81-1566		7	60-4,147.02			45 60-1401.33
	2	Omitted		8	60-4,150			46 60-1401.34
LB 799	§ 1	71-6403		9	60-4,169			47 60-1401.35
	2	71-6404		10	60-6,123			48 60-1401.36
	3	71-6405		11	60-6,190			49 60-1401.37
	4	71-6406		12	75-362			50 60-1401.38
	5	Omitted		13	75-363			51 60-1401.39
LB 800	§ 1	24-313		14	75-364			52 60-1401.40
	2	25-2701		15	Omitted			53 60-1401.41
	3	25-2728	LB 806	§ 1	77-1347			54 60-1402
	4	28-416		2	Omitted			55 60-1403
	5	29-1816	LB 809	§ 1	29-110			56 60-1403.01
	6	29-2258		2	Omitted			57 60-1404
	7	29-2262.08	LB 813	§ 1	44-3802			58 60-1405
	8	29-2262.07		2	44-3805			59 60-1406
	9	29-2269		3	Omitted			60 60-1407
	10	43-248.02	LB 814	§ 1	8-1111			61 60-1407.01
	11	43-248.03		2	Omitted			62 60-1407.02
	12	43-245	LB 816	§ 1	25-2602.01			63 60-1407.03
	13	43-246		2	28-1316			64 60-1407.04
	14	43-248		3	44-3526			65 60-1409
	15	43-250		4	60-144			66 60-1411.01
	16	43-253		5	60-164			67 60-1411.02
	17	43-254		6	60-194			68 60-1411.03
	18	43-254.01		7	60-373			69 60-1415
	19	43-256		8	60-375			70 60-1415.01
	20	43-258		9	60-380			71 60-1417.02
	21	43-272.01		10	60-381			72 60-1420
	22	43-278		11	60-3,116			73 60-1421
	23	43-285		12	60-1401			74 60-1422
	24	43-287		13	60-1401.01			75 60-1427
	25	43-2,106.01		14	60-1401.02			76 60-1428
	26	43-2,108.01		15	60-1401.03			77 60-1430
	27	43-2,108.02		16	60-1401.04			78 60-1430.01
	28	43-2,108.03		17	60-1401.05			79 60-1430.02
	29	43-2,108.04		18	60-1401.06			80 60-1432
	30	43-2,108.05		19	60-1401.07			81 60-1436
	31	43-2,129		20	60-1401.08			82 60-1437
	32	43-415		21	60-1401.09			83 60-1438
	33	43-2404.02		22	60-1401.10			84 60-1438.01
	34	60-4,108		23	60-1401.11			85 60-1440
	35	79-209		24	60-1401.12			86 60-2602
	36	79-527		25	60-1401.13			87 60-2603
	37	79-527.01		26	60-1401.14			88 60-2604
	38	Omitted		27	60-1401.15			89 60-2701
	39	Omitted		28	60-1401.16			90 71-4603
	40	Omitted		29	60-1401.17			91 Omitted
LB 800A		Omitted		30	60-1401.18			92 Omitted
LB 801	§ 1	87-301		31	60-1401.19	LB 817	§ 1	2-32,101
	2	87-302		32	60-1401.20		2	18-1703
	3	87-303		33	60-1401.21		3	28-1212.04
	4	87-303.12		34	60-1401.22		4	69-2403
	5	87-303.02		35	60-1401.23		5	69-2427
	6	87-303.03		36	60-1401.24		6	69-2449
	7	87-306		37	60-1401.25		7	69-2431

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2010 Session	2010 Laws	2010 Cumulative Supplement	2010 Session	2010 Laws	2010 Cumulative Supplement	2010 Session	2010 Laws	2010 Cumulative Supplement
		8 69-2433		38	Omitted		55	53-123.15
		9 Omitted		39	Omitted		56	53-124
LB 820	§ 1	60-6,289		40	Omitted		57	53-124.01
	2	60-6,298		41	Omitted		58	53-124.11
	3	Omitted		42	Omitted		59	53-124.12
LB 821	§ 1	39-1365.01	LB 852	§ 1	32-816		60	53-124.13
	2	Omitted		2	Omitted		61	53-124.14
LB 829	§ 1	48-106		3	Omitted		62	53-125
	2	Omitted	LB 861	§ 1	2-1201		63	53-129
	3	Omitted		2	2-1219		64	53-130
LB 832	§ 1	66-1501		3	9-647		65	53-131
	2	Omitted		4	9-823		66	53-132
	3	Omitted		5	28-421		67	53-133
LB 836	§ 1	37-201		6	48-1902		68	53-134
	2	37-448		7	53-101		69	53-135
	3	37-523		8	53-103		70	53-138.01
	4	37-559		9	53-103.01		71	53-139
	5	37-472		10	53-103.02		72	53-149
	6	Omitted		11	53-103.03		73	53-164.01
LB 842	§ 1	29-1401		12	53-103.04		74	53-169.01
	2	Omitted		13	53-103.05		75	53-172
LB 844	§ 1	81-1413		14	53-103.06		76	53-177
	2	Omitted		15	53-103.07		77	53-179
LB 848	§ 1	16-707		16	53-103.08		78	53-1,104
	2	Omitted		17	53-103.09		79	53-403
LB 849	§ 1	38-1901		18	53-103.10		80	60-4,119
	2	38-1902		19	53-103.11		81	60-4,152
	3	38-1908		20	53-103.12		82	71-5730
	4	38-1908.02		21	53-103.13		83	79-267
	5	38-1918		22	53-103.14		84	Omitted
	6	38-2605		23	53-103.15		85	Omitted
	7	38-2617		24	53-103.16	LB 862	§ 1	2-3226.01
	8	38-2826		25	53-103.17		2	2-3226.05
	9	38-2841		26	53-103.18		3	46-739.01
	10	38-2850		27	53-103.19		4	Omitted
	11	38-2867		28	53-103.20	LB 864	§ 1	47-619
	12	38-2869		29	53-103.21		2	47-624
	13	68-906		30	53-103.22		3	47-624.01
	14	68-1017		31	53-103.23		4	Omitted
	15	68-1017.01		32	53-103.24	LB 865	§ 1	54-901
	16	68-1070		33	53-103.25		2	54-902
	17	70-1603		34	53-103.26		3	54-903
	18	70-1605		35	53-103.27		4	54-904
	19	71-401		36	53-103.28		5	54-905
	20	71-403		37	53-103.29		6	54-906
	21	71-408.01		38	53-103.30		7	54-907
	22	71-415		39	53-103.31		8	54-908
	23	71-516.04		40	53-103.32		9	54-909
	24	71-1559		41	53-103.33		10	54-910
	25	71-1796		42	53-103.34		11	54-911
	26	71-4604.01		43	53-103.35		12	54-912
	27	71-7447		44	53-103.36		13	28-1008
	28	71-8403		45	53-103.37		14	28-1013
	29	77-27,165		46	53-103.38		15	Omitted
	30	83-1217		47	53-103.39		16	Omitted
	31	83-1220		48	53-103.40		17	Omitted
	32	83-1221		49	53-103.41	LB 867	§ 1	53-123.15
	33	83-1222		50	53-103.42		2	53-124
	34	83-1223		51	53-122		3	53-138.01
	35	83-1224		52	53-123.11		4	Omitted
	36	75-159		53	53-123.12	LB 871	§ 1	37-413
	37	Omitted		54	53-123.13		2	Omitted

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	2	Omitted		3	Omitted		57	21-157
LB 873	§ 1	77-1716	LB 884	§ 1	29-431		58	21-158
	2	Omitted		2	48-1230		59	21-159
LB 877	§ 1	77-202.04		3	48-1231		60	21-160
	2	77-701		4	48-1232		61	21-161
	3	77-1363		5	Omitted		62	21-162
	4	77-1502	LB 888	§ 1	21-101		63	21-163
	5	77-1507		2	21-102		64	21-164
	6	77-3517		3	21-103		65	21-165
	7	77-5007		4	21-104		66	21-166
	8	77-5013		5	21-105		67	21-167
	9	77-5016		6	21-106		68	21-168
	10	77-5018		7	21-107		69	21-169
	11	77-5019		8	21-108		70	21-170
	12	Omitted		9	21-109		71	21-171
	13	Omitted		10	21-110		72	21-172
LB 879	§ 1	9-1,101		11	21-111		73	21-173
	2	49-801.01		12	21-112		74	21-174
	3	60-484		13	21-113		75	21-175
	4	66-719		14	21-114		76	21-176
	5	77-362.02		15	21-115		77	21-177
	6	77-378		16	21-116		78	21-178
	7	77-1784		17	21-117		79	21-179
	8	77-2701.38		18	21-118		80	21-180
	9	77-2711		19	21-119		81	21-181
	10	77-2712.03		20	21-120		82	21-182
	11	77-2756		21	21-121		83	21-183
	12	77-2789		22	21-122		84	21-184
	13	77-2790		23	21-123		85	21-185
	14	77-2794		24	21-124		86	21-186
	15	77-2796		25	21-125		87	21-187
	16	77-27,100		26	21-126		88	21-188
	17	77-27,119		27	21-127		89	21-189
	18	77-5725		28	21-128		90	21-190
	19	77-5726		29	21-129		91	21-191
	20	77-5735		30	21-130		92	21-192
	21	81-8,128		31	21-131		93	21-193
	22	Omitted		32	21-132		94	21-194
	23	Omitted		33	21-133		95	21-195
	24	Omitted		34	21-134		96	21-196
	25	Omitted		35	21-135		97	21-197
	26	Omitted		36	21-136		98	9-614
	27	Omitted		37	21-137		99	21-2601
	28	Omitted		38	21-138		100	21-2654
	29	Omitted		39	21-139		101	67-248.02
	30	Omitted		40	21-140		102	70-1903
LB 880	§ 1	28-1213		41	21-141		103	77-2704.57
	2	28-1239.01		42	21-142		104	77-2716
	3	28-1241		43	21-143		105	77-2734.01
	4	28-1243		44	21-144		106	Omitted
	5	28-1244		45	21-145		107	Omitted
	6	28-1246		46	21-146		108	Omitted
	7	28-1248		47	21-147	LB 888A		Omitted
	8	28-1249		48	21-148	LB 890	§ 1	8-115.01
	9	28-1250		49	21-149		2	8-142
	10	28-1252		50	21-150		3	8-143
	11	Omitted		51	21-151		4	8-157
	12	Omitted		52	21-152		5	8-183.04
	13	Omitted		53	21-153		6	8-1,140
LB 880A		Omitted		54	21-154		7	8-234
LB 882	§ 1	54-744		55	21-155		8	8-355

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		9 8-374		7	54-627.01		31	Omitted
		10 8-908		8	54-637	LB 933	§ 1	60-149
		11 8-918		9	54-638		2	Omitted
		12 8-1502		10	54-645	LB 934	§ 1	35-1402
		13 21-1725.01		11	Omitted		2	Omitted
		14 21-17,115	LB 910A		Omitted	LB 935	§ 1	Omitted
		15 Omitted	LB 911	§ 1	50-501		2	Omitted
		16 Omitted		2	Omitted		3	Omitted
		17 Omitted		3	Omitted		4	Omitted
		18 Omitted	LB 914	§ 1	60-696		5	Omitted
LB 891	§ 1	8-101.01		2	Omitted		6	Omitted
		2 8-117	LB 918	§ 1	77-5707		7	Omitted
		3 8-602		2	77-5715		8	Omitted
		4 Omitted		3	77-5719		9	Omitted
		5 Omitted		4	77-5725		10	Omitted
LB 892	§ 1	8-702		5	77-5735		11	Omitted
		2 45-101.04		6	Omitted		12	Omitted
		3 45-701	LB 918A		Omitted		13	Omitted
		4 45-702	LB 919	§ 1	17-301		14	Omitted
		5 45-702.01		2	Omitted		15	Omitted
		6 45-704		3	Omitted		16	Omitted
		7 45-705		4	Omitted		17	Omitted
		8 45-724	LB 924	§ 1	60-498.02		18	Omitted
		9 45-725		2	60-4,118.06		19	Omitted
		10 45-726		3	60-6,197.01		20	90-518
		11 45-728		4	60-6,197.03		21	Omitted
		12 45-730		5	60-6,211.05		22	Omitted
		13 45-733		6	Omitted		23	Omitted
		14 45-737	LB 926	§ 1	39-204		24	Omitted
		15 45-741		2	39-205		25	Omitted
		16 45-742		3	39-210		26	Omitted
		17 45-748		4	Omitted		27	Omitted
		18 45-749	LB 931	§ 1	76-2202		28	Omitted
		19 45-1002		2	76-2206		29	Omitted
		20 45-1005		3	76-2213		30	Omitted
		21 45-1018		4	76-2213.01		31	Omitted
		22 45-1033.01		5	76-2216		32	Omitted
		23 45-1033.02		6	76-2221		33	Omitted
		24 45-1068		7	76-2223		34	Omitted
		25 Omitted		8	76-2225		35	Omitted
		26 Omitted		9	76-2228		36	Omitted
LB 894	§ 1	28-101		10	76-2228.01		37	Omitted
		2 28-511.01		11	76-2229		38	Omitted
		3 28-511.03		12	76-2229.01		39	Omitted
		4 Omitted		13	76-2230		40	Omitted
LB 901	§ 1	42-364		14	76-2231.01		41	Omitted
		2 43-2923		15	76-2232		42	Omitted
		3 43-2937		16	76-2233		43	Omitted
		4 Omitted		17	76-2233.01		44	Omitted
		5 Omitted		18	76-2233.02		45	Omitted
		6 Omitted		19	76-2236		46	Omitted
LB 907	§ 1	40-102		20	76-2237		47	Omitted
		2 40-105		21	76-2238		48	Omitted
		3 Omitted		22	76-2240		49	Omitted
LB 908	§ 1	48-108		23	76-2241		50	Omitted
		2 Omitted		24	76-2249		51	Omitted
LB 910	§ 1	28-1018		25	77-5004		52	Omitted
		2 37-528		26	81-885		53	Omitted
		3 54-603		27	81-885.01		54	Omitted
		4 54-611		28	81-885.16		55	Omitted
		5 54-626		29	Omitted		56	Omitted
		6 54-627		30	Omitted		57	Omitted

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	58	Omitted		120	Omitted	LB 951	§ 1	32-101
	59	Omitted		121	Omitted		2	32-604
	60	Omitted		122	Omitted		3	32-808
	61	Omitted		123	Omitted		4	32-915
	62	Omitted		124	Omitted		5	32-939
	63	Omitted		125	Omitted		6	32-939.02
	64	Omitted		126	Omitted		7	85-903
	65	Omitted		127	Omitted		8	Omitted
	66	Omitted		128	90-519		9	Omitted
	67	Omitted		129	90-520	LB 951A		Omitted
	68	Omitted		130	Omitted	LB 956	§ 1	9-812
	69	Omitted		131	Omitted		2	9-836.01
	70	Omitted	LB 937	§ 1	32-546.01		3	85-1412
	71	Omitted		2	Omitted		4	85-1901
	72	Omitted		3	Omitted		5	85-1902
	73	Omitted	LB 937A	§ 1	90-519		6	85-1903
	74	Omitted		2	Omitted		7	85-1907
	75	Omitted		3	Omitted		8	85-1908
	76	Omitted	LB 943	§ 1	19-1825		9	85-1909
	77	Omitted		2	19-1826		10	85-1911
	78	Omitted		3	19-1848		11	85-1912
	79	Omitted		4	Omitted		12	85-1913
	80	Omitted		5	Omitted		13	85-1914
	81	Omitted	LB 945	§ 1	60-4,182		14	85-1915
	82	Omitted		2	60-601		15	85-1917
	83	Omitted		3	60-6,179.01		16	85-1918
	84	Omitted		4	Omitted		17	85-1919
	85	Omitted	LB 947	§ 1	81-1201.04		18	85-1920
	86	Omitted		2	81-1201.18		19	Omitted
	87	Omitted		3	Omitted		20	Omitted
	88	Omitted		4	Omitted		21	Omitted
	89	Omitted	LB 950	§ 1	23-2306	LB 961	§ 1	81-1201.21
	90	Omitted		2	23-2308.01		2	81-1203
	91	Omitted		3	23-2309.01		3	81-1205
	92	Omitted		4	23-2310.04		4	81-1207
	93	Omitted		5	23-2310.05		5	Omitted
	94	Omitted		6	23-2315.01	LB 965	§ 1	32-570
	95	Omitted		7	23-2319.02		2	79-1217
	96	Omitted		8	24-701.01		3	Omitted
	97	Omitted		9	24-703.01	LB 970	§ 1	23-114.01
	98	Omitted		10	24-710.07		2	Omitted
	99	Omitted		11	79-902	LB 975	§ 1	13-2610
	100	Omitted		12	79-910.01		2	Omitted
	101	Omitted		13	79-915	LB 978	§ 1	81-161
	102	Omitted		14	79-920		2	Omitted
	103	Omitted		15	79-947.01	LB 986	§ 1	2-5414
	104	Omitted		16	79-951		2	2-5416
	105	Omitted		17	79-978		3	2-5419
	106	Omitted		18	79-990		4	Omitted
	107	Omitted		19	81-2016	LB 987	§ 1	81-1212
	108	Omitted		20	81-2027.03	LB 987A	§ 1	Omitted
	109	Omitted		21	84-1307		2	90-518
	110	Omitted		22	84-1309.02		3	Omitted
	111	Omitted		23	84-1310.01		4	Omitted
	112	Omitted		24	84-1311.03	LB 993	§ 1	61-218
	113	Omitted		25	84-1314		2	Omitted
	114	Omitted		26	84-1321.01	LB 997	§ 1	14-403.01
	115	Omitted		27	84-1323.01		2	15-1102
	116	Omitted		28	84-1504		3	19-903
	117	Omitted		29	Omitted		4	23-114.02
	118	Omitted		30	Omitted		5	Omitted
	119	Omitted		31	Omitted	LB 999	§ 1	71-401

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		2 71-465		29	77-1029		2	70-1001
		3 Omitted		30	77-1030		3	70-1001.01
		4 Omitted		31	77-1031		4	70-1013
LB 1002	§ 1	81-2509		32	77-1032		5	70-1014
		2 81-2510		33	77-1033		6	70-1014.02
		3 81-2511		34	77-1034		7	70-1014.01
		4 81-2512		35	77-1035		8	66-1901
		5 81-2513		36	18-2506		9	76-710.04
		6 81-2514		37	Omitted		10	77-105
		7 81-2515	LB 1020	§ 1	48-601		11	77-202
		8 81-2504		2	48-602		12	77-6201
		9 Omitted		3	48-627		13	77-6202
LB 1002A		Omitted		4	48-628		14	77-6203
LB 1006	§ 1	79-101		5	48-628.05		15	77-6204
		2 79-214		6	48-652		16	79-1018.01
		3 Omitted		7	Omitted		17	Omitted
LB 1010	§ 1	2-3234.02		8	Omitted		18	Omitted
		2 2-3234.03	LB 1036	§ 1	71-4824	LB 1048A		Omitted
		3 2-3234.04		2	71-4825	LB 1051	§ 1	76-545
		4 2-3234.05		3	71-4826		2	76-547
		5 2-3234.06		4	71-4827		3	76-550
		6 2-3234.07		5	71-4828		4	Omitted
		7 2-3234.08		6	71-4829		5	Omitted
		8 2-3234.09		7	71-4830	LB 1055	§ 1	48-628.02
		9 2-3234		8	71-4831		2	48-628.03
		10 Omitted		9	71-4832		3	Omitted
		11 Omitted		10	71-4833	LB 1057	§ 1	46-2,140
		12 Omitted		11	71-4834		2	46-2,141
LB 1014	§ 1	79-309.01		12	71-4835		3	46-2,137
		2 79-1018.01		13	71-4836		4	46-753
		3 79-1028.01		14	71-4837		5	Omitted
		4 79-1035		15	71-4838		6	Omitted
		5 Omitted		16	71-4839	LB 1063	§ 1	82-326
		6 Omitted		17	71-4840		2	82-329
LB 1018	§ 1	77-1001		18	71-4841		3	82-331
		2 77-1002		19	71-4842		4	Omitted
		3 77-1003		20	71-4843	LB 1065	§ 1	60-2401
		4 77-1004		21	71-4844		2	60-2401.01
		5 77-1005		22	71-4845		3	60-2403
		6 77-1006		23	23-1825		4	60-2404
		7 77-1007		24	23-1826		5	60-2405
		8 77-1008		25	23-1827		6	60-2406
		9 77-1009		26	23-1828		7	60-2407
		10 77-1010		27	23-1829		8	60-2408
		11 77-1011		28	23-1830		9	60-2409
		12 77-1012		29	23-1831		10	60-2410
		13 77-1013		30	23-1832		11	60-2411
		14 77-1014		31	60-493		12	Omitted
		15 77-1015		32	60-494	LB 1070	§ 1	32-546.01
		16 77-1016		33	60-495		2	70-651.04
		17 77-1017		34	60-2907		3	77-1736.06
		18 77-1018		35	71-531		4	77-3442
		19 77-1019		36	71-4813		5	79-527
		20 77-1020		37	71-4814		6	79-528
		21 77-1021		38	71-4816		7	79-1007.05
		22 77-1022		39	71-4822		8	79-1036
		23 77-1023		40	Omitted		9	79-1073
		24 77-1024		41	Omitted		10	79-1073.01
		25 77-1025		42	Omitted		11	79-1241.03
		26 77-1026	LB 1047	§ 1	30-2342.02		12	79-1242
		27 77-1027		2	Omitted		13	79-2104
		28 77-1028	LB 1048	§ 1	13-518		14	79-2110

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	15	79-2111		42	86-520.01		3	Omitted
	16	79-2112		43	86-5,100		4	Omitted
	17	79-2104.02		44	Omitted		5	Omitted
	18	79-2115		45	Omitted	LB 1091	§ 1	Omitted
	19	Omitted		46	Omitted	LB 1094	§ 1	25-3301
	20	Omitted		47	Omitted		2	25-3302
	21	Omitted		48	Omitted		3	25-3303
LB 1071	§ 1	13-509		49	Omitted		4	25-3304
	2	79-201	LB 1072	§ 1	13-518		5	25-3305
	3	79-215		2	13-519		6	25-3306
	4	79-2,136		3	77-3442		7	25-3307
	5	79-318		4	85-1416		8	25-3308
	6	79-4,108		5	85-1418		9	25-3309
	7	79-776		6	85-1502		10	84-907.03
	8	79-8,137.01		7	85-1503		11	Omitted
	9	79-8,137.02		8	85-1511	LB 1094A		Omitted
	10	79-8,137.03		9	85-1517	LB 1103	§ 1	28-3,102
	11	79-8,137.04		10	90-517		2	28-3,103
	12	79-1003		11	85-2230		3	28-3,104
	13	79-1003.01		12	Omitted		4	28-3,105
	14	79-1007.04		13	Omitted		5	28-3,106
	15	79-1007.05	LB 1081	§ 1	48-3001		6	28-3,107
	16	79-1007.23		2	48-3002		7	28-3,108
	17	79-1013		3	48-3003		8	28-3,109
	18	79-1014		4	48-3004		9	28-3,110
	19	79-1022		5	48-3005		10	28-3,111
	20	79-1023		6	48-3006		11	28-101
	21	79-1026.01		7	48-3007		12	38-2021
	22	79-1027		8	48-3008		13	Omitted
	23	79-1030		9	48-3009		14	Omitted
	24	79-1031.01		10	48-3010	LB 1106	§ 1	68-901
	25	79-10,110		11	48-3011		2	68-907
	26	79-1103		12	81-1201.21		3	68-908
	27	79-1233		13	Omitted		4	68-968
	28	79-1241.01		14	Omitted		5	68-969
	29	79-1245	LB 1085	§ 1	25-1011		6	Omitted
	30	79-1247		2	Omitted		7	Omitted
	31	79-1248	LB 1087	§ 1	79-215	LB 1106A		Omitted
	32	79-1249		2	79-1110	LB 1109	§ 1	48-2801
	33	79-2110.01		3	79-1113		2	48-2802
	34	85-110		4	79-1119.01		3	48-2803
	35	85-309		5	79-1124		4	48-2804
	36	85-1511		6	79-1125.01		5	48-2805
	37	86-501		7	79-1142		6	81-12,105.01
	38	86-505		8	Omitted		7	Omitted
	39	86-506		9	Omitted		8	Omitted
	40	86-516	LB 1090	§ 1	Omitted	LB 1109A		Omitted
	41	86-520		2	Omitted			

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Legislative Bills, One Hundred First Legislature
Second Session, 2010

Showing the date each act went into effect.
Convened January 6, 2010, and adjourned April 14, 2010.

LB No.	Effective Date	LB No.	Effective Date
139	July 15, 2010	594	July 15, 2010
147	January 1, 2012 (operative date)	643	July 15, 2010
181	July 15, 2010	650	January 1, 2011 (operative date)
183	July 15, 2010	650A	July 15, 2010
190	July 15, 2010	667	July 15, 2010
190A	July 15, 2010	682	July 15, 2010
197	July 1, 2010 (operative date)	683	July 15, 2010
210	July 1, 2010 (operative date)	684	July 15, 2010
216	July 15, 2010	689	July 15, 2010
226	March 4, 2010	690	July 15, 2010
235	February 12, 2010	691	July 15, 2010
252	July 15, 2010	695	July 1, 2010 (operative date)
254	May 1, 2010 (operative date)	696	July 15, 2010
258	July 15, 2010	698	March 4, 2010
261	July 15, 2010	701	April 14, 2010
279	July 15, 2010	705	July 15, 2010
317	July 15, 2010	706	July 15, 2010
325	July 15, 2010	708	January 1, 2011 (operative date)
373	July 15, 2010	711	February 26, 2010
411	July 15, 2010	712	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, and 48 of this act become operative on July 15, 2010. Section 23 of this act becomes operative on January 1, 2011. The other sections of this act become operative on April 14, 2010.
475	January 1, 2011 (operative date)	713	July 15, 2010
507	Sections 2, 3, and 5 of this act become operative on July 15, 2010. The other sections of this act become operative on April 14, 2010.	721	July 15, 2010
507A	April 14, 2010	722	July 15, 2010
510	July 15, 2010	723	July 15, 2010
510A	July 15, 2010	725	July 15, 2010
512	July 15, 2010	727	July 15, 2010
522	July 15, 2010	728	July 15, 2010
550	July 15, 2010	731	July 15, 2010
552	October 1, 2010 (operative date)	732	July 15, 2010
563	July 15, 2010	735	July 15, 2010
563A	July 15, 2010	736	March 4, 2010
571	July 15, 2010	738	March 4, 2010
579	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of this act become operative on January 1, 2012. The other sections of this act become operative on July 15, 2010.	742	July 15, 2010

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LB No.	Effective Date	LB No.	Effective Date
743	March 4, 2010	872	July 15, 2010
746	July 15, 2010	873	July 15, 2010
749	July 15, 2010	877	April 14, 2010
751	March 4, 2010	879	Sections 2, 22, 23, 28, and 30 of this act become operative on April 6, 2010. Sections 1, 21, and 27 of this act become operative on July 1, 2010.
758	July 15, 2010		Sections 8, 10, 15, 16, and 26 of this act become operative on October 1, 2010. Sections 7, 11, 12, 13, 14, 24, and 29 of this act become operative on January 1, 2011. The other sections of this act become operative on July 15, 2010.
759	July 15, 2010		
760	July 15, 2010		
762	March 4, 2010		
763	July 15, 2010		
764	July 15, 2010		
768	July 15, 2010		
770	March 18, 2010		
771	July 15, 2010		
779	July 1, 2010 (operative date)		
779A	July 15, 2010		
780	July 15, 2010		
787	July 15, 2010	880	October 1, 2010 (operative date)
788	July 15, 2010	880A	July 15, 2010
789	July 15, 2010	882	October 1, 2010 (operative date)
791	July 15, 2010		
792	July 15, 2010	884	July 15, 2010
797	July 15, 2010	888	January 1, 2011 (operative date)
798	July 15, 2010	888A	July 15, 2010
799	July 15, 2010	890	Sections 1, 2, 3, 4, 5, 7, 9, 10, 11, 12, 13, and 16 of this act become operative on July 15, 2010. The other sections of this act become operative on March 4, 2010.
800	July 15, 2010		
800A	July 15, 2010		
801	July 15, 2010		
805	July 15, 2010		
806	July 15, 2010		
809	July 15, 2010		
813	July 15, 2010	891	March 4, 2010
814	July 15, 2010	892	March 4, 2010
816	March 4, 2010	894	July 15, 2010
817	July 15, 2010	901	July 1, 2010 (operative date)
820	July 15, 2010		
821	July 15, 2010	907	July 15, 2010
829	April 13, 2010	908	July 15, 2010
832	July 15, 2010	910	July 15, 2010
836	July 15, 2010	910A	July 15, 2010
842	July 15, 2010	911	March 4, 2010
844	July 15, 2010	914	July 15, 2010
848	July 15, 2010	918	July 15, 2010
849	Sections 24, 26, 36, and 40 of this act become operative on July 1, 2010. Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 27, 30, 31, 32, 33, 34, 35, and 39 of this act become operative on July 15, 2010. The other sections of this act become operative on April 14, 2010.	918A	July 15, 2010
		919	April 2, 2010
		924	July 15, 2010
		926	July 15, 2010
		931	April 15, 2010
		933	July 15, 2010
		934	July 15, 2010
		935	April 2, 2010
		937	April 6, 2010
		937A	April 6, 2010
852	January 1, 2011 (operative date)	943	April 2, 2010
		945	July 15, 2010
861	July 15, 2010	947	July 15, 2010
862	July 15, 2010	950	July 1, 2010 (operative date)
864	July 15, 2010		
865	July 15, 2010	951	July 15, 2010
867	July 15, 2010	951A	July 15, 2010
871	July 15, 2010		

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LB No.	Effective Date	LB No.	Effective Date
956	July 1, 2010 (operative date)	1055	July 15, 2010
961	July 15, 2010	1057	April 6, 2010
965	July 15, 2010	1063	July 15, 2010
970	July 15, 2010	1065	July 15, 2010
975	July 15, 2010	1070	April 6, 2010
978	July 15, 2010	1071	Sections 1, 2, 3, 4, 6, 12, 13, 14, 15, 16, 17, 18, 23, 25, 26, 33, and 47 of this act become operative on July 15, 2010. The other sections of this act become operative on April 15, 2010.
986	July 15, 2010		
987	July 15, 2010		
987A	April 15, 2010	1072	April 15, 2010
993	July 15, 2010	1081	April 8, 2010
997	July 15, 2010	1085	July 15, 2010
999	April 15, 2010	1087	August 1, 2010 (operative date)
1002	July 15, 2010	1090	April 2, 2010
1002A	July 15, 2010	1091	July 15, 2010
1006	July 15, 2010	1094	July 15, 2010
1010	April 14, 2010	1094A	July 15, 2010
1014	July 15, 2010	1103	October 15, 2010 (operative date)
1018	July 15, 2010	1106	April 2, 2010
1020	July 1, 2011 (operative date)	1106A	July 15, 2010
1036	January 1, 2011 (operative date)	1109	April 13, 2010
1047	April 13, 2010	1109A	April 13, 2010
1048	July 15, 2010		
1048A	July 15, 2010		
1051	April 2, 2010		



APPENDIX

APPENDIX

SCHEDULES OF LIFE EXPECTANCIES

EXPECTANCY TABLES

EXPECTANCY OF LIFE FROM 10 TO 95 YEARS

Age	Actuaries'	American	1941 Commissioners
10	48.36	48.72	55.47
11	47.68	48.08	54.58
12	47.01	47.45	53.68
13	46.33	46.80	52.78
14	45.64	46.16	51.89
15	44.96	45.50	50.99
16	44.27	44.85	50.10
17	43.58	44.19	49.21
18	42.88	43.53	48.32
19	42.19	42.87	47.43
20	41.49	42.20	46.54
21	40.70	41.53	45.66
22	40.09	40.85	44.77
23	39.39	40.17	43.88
24	38.68	39.49	43.00
25	37.98	38.81	42.12
26	37.27	38.12	41.24
27	36.56	37.43	40.36
28	35.86	36.73	39.49
29	35.15	36.03	38.61
30	34.43	35.33	37.74
31	33.72	34.63	36.88
32	33.01	33.92	36.01
33	32.30	33.21	35.15
34	31.58	32.50	34.29
35	30.87	31.78	33.44
36	30.15	31.07	32.59
37	29.44	30.35	31.75
38	28.72	29.62	30.91
39	28.00	28.90	30.08
40	27.28	28.18	29.25
41	26.56	27.45	28.43
42	25.84	26.72	27.62
43	25.12	26.00	26.81
44	24.40	25.27	26.01
45	23.69	24.54	25.21
46	22.97	23.81	24.43
47	22.27	23.08	23.65
48	21.56	22.36	22.88
49	20.87	21.63	22.12
50	20.18	20.91	21.37
51	19.50	20.20	20.64
52	18.82	19.49	19.91
53	18.16	18.79	19.19

APPENDIX

Age	Actuaries'	American	1941 Commissioners
54	17.50	18.09	18.48
55	16.86	17.40	17.78
56	16.22	16.72	17.10
57	15.59	16.05	16.43
58	14.97	15.39	15.77
59	14.37	14.74	15.13
60	13.77	14.10	14.50
61	13.18	13.47	13.88
62	12.61	12.86	13.27
63	12.05	12.26	12.69
64	11.51	11.67	12.11
65	10.97	11.10	11.55
66	10.46	10.54	11.01
67	9.96	10.00	10.48
68	9.47	9.47	9.97
69	9.00	8.97	9.47
70	8.54	8.48	8.99
71	8.10	8.00	8.52
72	7.67	7.55	8.08
73	7.26	7.11	7.64
74	6.86	6.68	7.23
75	6.48	6.27	6.82
76	6.11	5.88	6.44
77	5.76	5.49	6.07
78	5.42	5.11	5.72
79	5.09	4.74	5.38
80	4.78	4.39	5.06
81	4.48	4.05	4.75
82	4.18	3.71	4.46
83	3.90	3.39	4.18
84	3.63	3.08	3.91
85	3.36	2.77	3.66
86	3.10	2.47	3.42
87	2.84	2.18	3.19
88	2.59	1.91	2.98
89	2.35	1.66	2.77
90	2.11	1.42	2.58
91	1.89	1.19	2.39
92	1.67	.98	2.21
93	1.47	.80	2.03
94	1.28	.64	1.84
95	1.12	.50	1.63

APPENDIX

COMMISSIONERS

1958

STANDARD ORDINARY MORTALITY TABLE

Complete Expectation of Life

Age	Years	Age	Years	Age	Years	Age	Years
0	68.30	25	45.82	50	23.63	75	7.81
1	67.78	26	44.90	51	22.82	76	7.39
2	66.90	27	43.99	52	22.03	77	6.98
3	66.00	28	43.08	53	21.25	78	6.59
4	65.10	29	42.16	54	20.47	79	6.21
5	64.19	30	41.25	55	19.71	80	5.85
6	63.27	31	40.34	56	18.97	81	5.51
7	62.35	32	39.43	57	18.23	82	5.19
8	61.43	33	38.51	58	17.51	83	4.89
9	60.51	34	37.60	59	16.81	84	4.60
10	59.58	35	36.69	60	16.12	85	4.32
11	58.65	36	35.78	61	15.44	86	4.06
12	57.72	37	34.88	62	14.78	87	3.80
13	56.80	38	33.97	63	14.14	88	3.55
14	55.87	39	33.07	64	13.51	89	3.31
15	54.95	40	32.18	65	12.90	90	3.06
16	54.03	41	31.39	66	12.31	91	2.82
17	53.11	42	30.41	67	11.73	92	2.58
18	52.19	43	29.54	68	11.17	93	2.33
19	51.28	44	28.67	69	10.64	94	2.07
20	50.37	45	27.81	70	10.12	95	1.80
21	49.46	46	26.95	71	9.63	96	1.51
22	48.55	47	26.11	72	9.15	97	1.18
23	47.64	48	25.27	73	8.69	98	.83
24	46.73	49	24.45	74	8.24	99	.50

APPENDIX

COMMISSIONERS

1980

STANDARD ORDINARY MORTALITY TABLE

Complete Expectation of Life

<u>Age</u>	<u>Male</u> <u>Expectancy</u>	<u>Female</u> <u>Expectancy</u>	<u>Age</u>	<u>Male</u> <u>Expectancy</u>	<u>Female</u> <u>Expectancy</u>	<u>Age</u>	<u>Male</u> <u>Expectancy</u>	<u>Female</u> <u>Expectancy</u>
0	70.48	75.44	34	39.08	43.44	67	12.46	15.47
1	69.67	74.58	35	38.16	42.51	68	11.85	14.75
2	68.74	73.64	36	37.24	41.58	69	11.26	14.03
3	67.81	72.70	37	36.32	40.66	70	10.68	13.32
4	66.87	71.76	38	35.41	39.74	71	10.12	12.63
5	65.93	70.81	39	34.51	38.82	72	9.58	11.95
6	64.99	69.86	40	33.61	37.91	73	9.06	11.28
7	64.04	68.91	41	32.71	37.01	74	8.56	10.64
8	63.09	67.96	42	31.82	36.11	75	8.08	10.02
9	62.14	67.01	43	30.94	35.21	76	7.63	9.42
10	61.19	66.05	44	30.06	34.33	77	7.19	8.84
11	60.23	65.10	45	29.19	33.44	78	6.78	8.29
12	59.28	64.14	46	28.33	32.56	79	6.38	7.75
13	58.33	63.19	47	27.47	31.69	80	6.00	7.24
14	57.40	62.24	48	26.62	30.82	81	5.63	6.74
15	56.47	61.29	49	25.78	29.96	82	5.27	6.27
16	55.55	60.34	50	24.94	29.10	83	4.94	5.82
17	54.63	59.40	51	24.11	28.25	84	4.63	5.40
18	53.73	58.46	52	23.30	27.40	85	4.33	5.00
19	52.82	57.51	53	22.49	26.56	86	4.06	4.63
20	51.92	56.57	54	21.69	25.73	87	3.80	4.28
21	51.02	55.63	55	20.90	24.90	88	3.55	3.94
22	50.12	54.69	56	20.13	24.08	89	3.31	3.63
23	49.21	53.75	57	19.37	23.27	90	3.07	3.32
24	48.30	52.81	58	18.62	22.46	91	2.83	3.02
25	47.39	51.87	59	17.88	21.65	92	2.59	2.72
26	46.47	50.93	60	17.15	20.85	93	2.33	2.41
27	45.55	49.99	61	16.43	20.05	94	2.05	2.10
28	44.62	49.05	62	15.73	19.26	95	1.74	1.77
29	43.70	48.12	63	15.04	18.47	96	1.41	1.43
30	42.77	47.18	64	14.37	17.70	97	1.08	1.08
31	41.85	46.24	65	13.72	16.95	98	.75	.76
32	40.92	45.31	66	13.08	16.20	99	.50	.50
33	40.00	44.38						

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